AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

S. HRG. 112–562

MEDICATION AND PERFORMANCE-ENHANCING DRUGS IN HORSE RACING

HEARING

BEFORE THE

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION UNITED STATES SENATE

ONE HUNDRED TWELFTH CONGRESS

SECOND SESSION

JULY 12, 2012

Printed for the use of the Committee on Commerce, Science, and Transportation

U.S. GOVERNMENT PRINTING OFFICE

76–248 PDF WASHINGTON : 2012

For sale by the Superintendent of Documents, U.S. Government Printing Office
Internet: bookstore.gpo.gov Phone: toll free (866) 512–1800; DC area (202) 512–1800
Fax: (202) 512–2104 Mail: Stop IDCC, Washington, DC 20402–0001

SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ONE HUNDRED TWELFTH CONGRESS

SECOND SESSION

JOHN D. ROCKEFELLER IV, West Virginia, *Chairman*

DANIEL K. INOUYE, Hawaii
JOHN F. KERRY, Massachusetts
BARBARA BOXER, California
BILL NELSON, Florida
MARIA CANTWELL, Washington
FRANK R. LAUTENBERG, New Jersey
MARK PRYOR, Arkansas
CLAIRE MCCASKILL, Missouri
AMY KLOBUCHAR, Minnesota
TOM UDALL, New Mexico
MARK WARNER, Virginia
MARK BEGICH, Alaska

KAY BAILEY HUTCHISON, Texas, *Ranking*
OLYMPIA J. SNOWE, Maine
JIM DEMINT, South Carolina
JOHN THUNE, South Dakota
ROGER F. WICKER, Mississippi
JOHNNY ISAKSON, Georgia
ROY BLUNT, Missouri
JOHN BOOZMAN, Arkansas
PATRICK J. TOOMEY, Pennsylvania
MARCO RUBIO, Florida
KELLY AYOTTE, New Hampshire
DEAN HELLER, Nevada

ELLEN L. DONESKI, *Staff Director*
JAMES REID, *Deputy Staff Director*
JOHN WILLIAMS, *General Counsel*
RICHARD M. RUSSELL, *Republican Staff Director*
DAVID QUINALTY, *Republican Deputy Staff Director*
REBECCA SEIDEL, *Republican General Counsel and Chief Investigator*

CONTENTS

	Page
Hearing held on July 12, 2012	1
Statement of Senator Udall	1
Statement of Senator Lautenberg	28
Statement of Senator Thune	30

WITNESSES

Barry Irwin, Chief Executive Officer, Team Valor International, LLC	3
Prepared statement	5
Kent Stirling, Executive Director, Florida Horsemen's Benevolent and Protective Association; Chairman, Medication Committee, National Horsemen's Benevolent and Protective Association	10
Prepared statement	13
Jeffrey Gural, Chairman, Newmark Grubb Knight Frank; Chairman and Managing Partner, American Racing and Entertainment, LLC	17
Prepared statement	21
James Gagliano, President and Chief Operating Officer, The Jockey Club	24
Prepared statement	26
Matthew Witman, National Director, American Quarter Horse Association	41
Prepared statement	43
Marc S. Paulhus, Former Director, Equine Protection and Vice President, Humane Society	46
Prepared statement	49
Edward J. Martin, President and CEO, Association of Racing Commissioners International	51
Prepared statement	53
Sheila Lyons, DVM, Founder and Director, The American College of Veterinary Sports Medicine and Rehabilitation	56
Prepared statement	58

APPENDIX

Response to written questions submitted by Hon. Amy Klobuchar to Edward J. Martin	81
Response to written questions submitted by Hon. Tom Udall to:	
Barry Irwin	82
Kent Stirling	83
James Gagliano	97
Matthew Witman	102
Marc S. Paulhus	104
Edward J. Martin	108
Sheila Lyons	112
Editorial, published June 16, 2012 from *The NY Times,* entitled, "Stronger Medicine for What Ails Horse Racing"	116
Multimedia feature dated March 30, 2012 from *The New York Times* entitled, "Breakdown—Death and disarray at America's racetracks"	117
Article dated March 25, 2012 from *The New York Times,* entitled, "Mangled Horses, Maimed Jockeys"	117
Article dated April 30, 2012 from *The New York Times* entitled, "Big Purses, Sore Horses, and Death"	126
Article dated April 30, 2012 from *The New York Times* entitled, "How the Data Was Analyzed"	132
Article dated July 11, 2012 from *The New York Times* entitled, "Records Show Triple Crown Contender Had History of Ailments"	133

Page

Article dated August 9, 2012 from *Miami New Times* entitled, "Cheaters Prosper at Calder Race Course" 134

Letter dated July 12, 2012 to Hon. John D. Rockefeller IV from Wayne Pacelle, President and CEO, The Humane Society of the United States and Nicolas Dodman, BVMS, DVA, DACVA, DACVB, Leadership Council Member, Humane Society Veterinary Medical Association 142

Letter dated July 12, 2012 to Hon. John D. Rockefeller IV from Sam Kerr, Interim Executive Director, Bladerunners: National Horse Racing Commission Movement 143

Nancy Perry, Senior Vice President, Government Relations, ASPCA, prepared statement 147

MEDICATION AND PERFORMANCE-ENHANCING DRUGS IN HORSE RACING

THURSDAY, JULY 12, 2012

U.S. SENATE,
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
Washington, DC.

The Committee met, pursuant to notice, at 1:59 p.m. in Room SR–253, Russell Senate Office Building, Hon. Tom Udall, presiding.

OPENING STATEMENT OF HON. TOM UDALL, U.S. SENATOR FROM NEW MEXICO

Senator UDALL. The hearing will come to order. And let me, first of all, thank you all for being here. And just tell you, we have the best intentions around here in terms of organizing our committee work with votes. Andwe've ended up now there will be a vote going off momentarily. And I will have to get over there to vote on these three votes, probably around 2:30.

So what I'm going to do is give my opening statement and then cut it off right promptly at 2:20 wherever we are on the witness panels. And then I will come back right after votes. It'll probably be right a little bit after 3 o'clock. And then we'll complete through both panels and all the questioning, and we'll get through it.

I apologize to you. We thought we had been correct in moving it at 2 o'clock, that we weren't going to be interrupted in votes. But things just sometimes turn out that way, so thank you very much.

And good afternoon. It's great having you here today.

And I first want to thank Senator Rockefeller and Senator Hutchinson for their support in holding this hearing, and also thanks to our very knowledgeable and distinguished panelists that we have before us. I'm very much looking forward to the testimony.

Horseracing has a proud heritage. It's a majestic sport, but the sport has run off the rails. The chronic abuse of horses with painkillers and other drugs is just plain wrong, and it's dangerous.

An injured horse feeling no pain continues to charge down the track. This endangers every horse. It endangers every rider. And in the long run, it endangers the sport itself.

Unlike other sports, horseracing lacks a commission or a league office that can issue uniform rules. State racing commissions routinely impose small fines and short suspensions. There is minimal deterrence, and chronic doping continues unabated.

Meanwhile, horseracing enjoys a privilege that no other sport does—simulcast gambling across state lines. Congress passed the Interstate Horseracing Act of 1978, the IHA, to allow betting across state lines for horseracing. This statute was amended in 2000 at

the request of the racing industry to allow Internet and telephone betting. And in 2006 when Congress passed legislation to prohibit online gaming, it granted a special exemption for horseracing.

This year, Americans bet over $130 million in wagers involving the outcome of a single race, the Kentucky Derby. Today, nearly 90 percent of the $11 billion bet annually on horseracing is from off-track wagers permitted by the IHA.

Congress should not tolerate doping and cheating in interstate horseracing. But the record is discouraging.

This great sport has reached a terrible level of corruption and exploitation. In a 2006 Federal case involving a thoroughbred trainer with ties to organized crime, a judge ruled that milkshaking a horse could constitute wire fraud. Yet this year, thoroughbred racing celebrated a Kentucky Derby and Preakness winner trainer who has racked up numerous medication violations, including four for total carbon dioxide or milkshaking.

This year, Federal agents raided two tracks in my home State of New Mexico. They arrested trainers with alleged ties to the Sinaloa and Zetas drug cartels. According to a warrant, one of the accused boasted of fixing the 2010 All-American Futurity, one of the richest races in the world.

Horseracing used to be the number one spectator sport in America. That's no longer the case. Attendance is down. With a loss of fans comes a loss of revenue, affecting a $40 billion industry with 400,000 jobs nationwide.

In my home state of New Mexico, horseracing is a $400 million a year industry supporting 10,000 jobs. And I believe, as a result of the situation we have here, jobs are at risk.

Promises of reform have been made and broken many times. Congress considered legislation in the 1980s, and industry groups insisted that congressional action was not needed. Well, it was needed then. And over 30 years later, the need has only increased.

American horseracing stands apart from the rest of the world in its permissive medication rules and in its tolerance for doping. To tackle these problems affecting this important and historic American industry, Congressman Ed Whitfield and I introduced the Interstate Horseracing Improvement Act.

Our legislation would do three things: Number one, ban race-day medication and horses from racing under the influence of performance enhancing drugs. Number two, kick the cheaters out of the sport after three violations of the rules. And three, require drug testing of racehorses by independent labs.

Our bill doesn't create any new Federal bureaucracy. It keeps responsibility for enforcing these rules with State commissions. In the absence of adequate enforcement, the Federal Trade Commission could enforce doping violations and could shut down off-track betting.

Time and again, Congress has passed legislation to expand gambling on horseracing, and now it's time to end the abuse. It's time to restore integrity to this sport.

The safety of these majestic animals and their jockeys are at stake. So are jobs in places like New Mexico and other racing states around the country.

Those who play fair in the sport should no longer be at the mercy of those who do not.

So thank you again for being here. I'm hopeful that we can work together on this. After 30 years of hand wringing and talk, it's time for action. It's time to put American horseracing back on the right track, no pun intended there.

Senator Thune is going to join me. I think he is going to come in after we finish this series of votes, so let me just quickly introduce our first panel here.

We have our first witness, starting from the left here, Mr. Barry Irwin, Chief Executive Officer, Team Valor International. He has reported on and written about horseracing for many years, and he also owns some very fast horses.

Mr. Kent Stirling, Executive Director, Florida Horsemen's Benevolent and Protective Association; chairman, Medication Committee, National Horsemen's Benevolent and Protective Association.

Mr. Jeffrey Gural, Chairman, Newmark Grubb Knight Frank; Chairman and Managing Partner, American Racing and Entertainment, LLC.

And Mr. Jim Gagliano, President of the Jockey Club.

So welcome.

And, Mr. Irwin, please you begin.

I want to tell all the witnesses, all of your statements that you have there today will be submitted formally in the record. You should not feel that you in any way have to read your statement. But you can proceed reading from the statement or however you wish to proceed. We're going to try to work through here with roughly 5-minute statements on each of you. And when we hit 2:20, you'll see me just take a quick recess.

So please, Mr. Irwin, please begin.

Please turn on your mike there. There you go. Everybody can hear you now.

Mr. IRWIN. Thank you.

Senator UDALL. Just ignore all those bells.

STATEMENT OF BARRY IRWIN, CHIEF EXECUTIVE OFFICER, TEAM VALOR INTERNATIONAL, LLC

Mr. IRWIN. Senator Udall, members of the Committee, good afternoon and thank you for the opportunity to speak at this important hearing.

My name is Barry Irwin. I am Chief Executive Officer of Team Valor International, LLC. For the last 26 years, I have operated a stable of thoroughbred horses that compete in races all over the world. We have our own physical barn just up the road in Elkton, Maryland, where we stable between 30 and 35 horses.

We also have horses that regularly race in England, France, Germany, Italy, as well as South Africa. Horses racing in our name and colors have won many important races throughout the world, most recognizably the Kentucky Derby last year with a horse named Animal Kingdom.

Animal Kingdom is a good example of how I choose to run my operation. His sire was bred in Brazil. I bought him for a client. His dam was bred in Germany. I bought her at a sale in Germany and raced her in America.

Animal Kingdom was bred by my partnership. He was offered for sale at Keeneland, a public auction, where I bought him and formed a syndicate to race him.

So we had a hand in acquiring the sire and the dam. We bred Animal Kingdom, and we still race him.

I prefer to buy and breed from stock prospected in foreign countries where horses do not race on drugs and generally represent generations of ancestors that did not race on drugs.

Horseracing is in crisis. The public perceives racing to be out of control. Our image can be resuscitated, but before we can offer a race day program worthy of public trust, steps need to be taken to improve the integrity of the game. The Federal Government can help.

Horseracing is a sport. It began when an owner thought his horse was faster than another fellow's. To settle it, a race was held.

It came to pass that if these contests were sufficiently appealing, interest could be generated from the public, which would attend and bet on the outcome. If enough contests were arranged, a racing association could be formed to regularly offer races.

Benefits for the public included new jobs and taxes that could be levied by governments. In order for governments to justify taxing bets on races, States set up commissions to safeguard the integrity of the sport.

This is the basis of racing as we know it today, but the grand bargain has been broken. State governments have let down their constituents.

For racing to thrive, it must give the public enough confidence to place a bet. State commissions must guarantee a sport that is conducted on a level playing field. Because commissions fail at this, the fabric of the sport has unraveled, and the public has lost faith in our product.

Before the public can be won back, our industry must be able to improve its product. The steps that need to be taken, however, seem beyond the grasp of the State racing commissions. This is why we need Federal assistance.

Racing has two drug problems, one of its own making, another foisted upon it. Some 40 years ago, State commissions were sold a rotten bill of goods by the name of "permissive medication," a failed experiment that has served to devalue our horses and bloodlines and to isolate us among all major racing centers of the world.

Just as insidious is a group of cheaters that have hurt the sports image and tied racing commissions in knots. State racing commissions, with few exceptions, do a lousy job of identifying cheaters, investigating them, and adjudicating them. Reasons include lack of will, lack of sufficient funding, lack of qualified personnel, and failure to prevail in court against cheaters.

So cheaters cheat. Sometimes they get caught. But too many that do wriggle off the hook by hiring private sector defenders that beat their civil service counterparts.

We need new and tougher Federal law to rid our sports of miscreants.

Adding to the confusion is that since race day drugs were legalized in 1970, the public cannot distinguish between positives for

therapeutic medications and ones considered to be illegal. As a result, the public cannot tell the good guys from the bad guys.

Making matters worse is an absence of cooperation or uniformity between the states. Instead, we have a crazy quilt of drug rules that differ from state to state. This causes confusion for innocent trainers and regularly leads to positive tests that could have been avoided if uniformity of rules existed on a national level.

States are more interested in maximizing tax revenue than providing a level playing field. Much of what ails horseracing and prevents the industry from being able to right itself can be blamed directly on a lack of uniform rules. But some states like it this way.

States are in competition with each other. Racetracks are in direct competition with racetracks in other states for top horses. So trainers place states against one another, lobbying for more lax drug rules. States that appease trainers, get the horses. The other states don't.

It is unfair for states that take a tough approach to drug rules to suffer because rival or neighboring states ease their rules in order to get trainers to send horses their way.

I live in Kentucky, the thoroughbred racing and breeding capital of America, and our state recently passed a rule that will eliminate race day drugs. Kentucky figures to lose business because it took a progressive stance.

It is unfair for Kentucky to lose business and revenue for doing the right thing. And it is outrageous for states and racetracks that will allow drug use to prosper.

Each state has serious conflicts of interest that combine to weaken racing as a whole. If there was a national policy providing uniform drug rules for every racing jurisdiction, all states would be on a level playing field, which is as it should be.

Putting horses at risk and mistreating them by juicing them with drugs is no way for states to line their coffers, for racetracks to improve their bottom line, or for trainers to make a better living.

We need to stop drugging thoroughbred racehorses in order to make them the beast of burden that will carry our industry on its back. We should be celebrating this glorious athlete, not trashing it.

[The prepared statement of Mr. Irwin follows:]

PREPARED STATEMENT OF BARRY IRWIN, CHIEF EXECUTIVE OFFICER, TEAM VALOR INTERNATIONAL, LLC

Horse racing in the United States is in crisis. The public perception of racing is that of an industry out of control. Racing's image can be resuscitated and successfully marketed anew. Before the industry is able to properly present a race day program worthy of the public's trust, however, certain steps need to be taken to improve the integrity of the game. And that is where the Federal government can help.

Horse racing is a sport. It began simply enough with an owner thinking his horse was faster than another fellow's horse. To settle the dispute, a race was held. It came to pass that if these contests were sufficiently appealing, interest could be generated from the public, which would attend races and bet on the outcome. If enough contests were arranged, a racing association could be established to regularly offer races. Benefits to the public included the addition of jobs to the workforce and taxes that could be levied by governments. In order for governmental bodies to justify taxing money bet on races, states set up commissions to safeguard the public by insuring the integrity of the sport. This is the basis of horse racing as we know it today.

But the grand bargain has been broken. Actually, it has been shattered. The state governments have let down their constituents.

For the enterprise to thrive in a manner that gives the public confidence to place bets, racing commissions appointed by governors of states that conduct horse racing must do an adequate job in making sure the sport is played on a level field.

Because many racing commissions do not do a good job, the fabric of the sport is unraveling and the public has lost faith in the quality of the product.

Before the public's interest in horse racing can be reignited, the industry must be able to improve the product it offers. The steps that need to be taken, however, seem beyond the grasp of the state racing commissions. This is why our industry needs Federal assistance.

State racing commissions, with few exceptions, do an inadequate job of identifying cheaters, investigating them, policing them and adjudicating them. Reasons include lack of will, lack of sufficient funding, lack of qualified personnel and failure to prevail in court against cheaters. So cheaters cheat, sometimes they get caught and many times when they do, they wriggle off the hook by hiring private sector defenders that are better lawyers than their civil service counterparts.

Adding to the confusion is that since race day drugs were legalized in 1970, the public has had a difficult time drawing a distinction between drug positives for so-called therapeutic medications, versus ones considered to be illegal. As a result the public cannot tell the difference between the good guys and the bad guys.

Making matters worse is an absence of cooperation, uniformity or coordination between the states. There is a crazy quilt pattern in which rules relating to improper drug use differ from state to state. This causes confusion among trainers, both the innocents and the cheats alike, and regularly leads to positive drug tests that could have been avoided if uniformity of rules existed on a national level.

It is endemic to horse racing as in other contests of speed from cycling to human racing that a certain number of participants are going to seek ways to take unfair advantage of their opponents by illegally using performance enhancing drugs.

In human sports the World Anti-Doping Association (WADA) has a set of elaborate rules and guidelines under which races are conducted. Horse racing has no comparable body. Horse racing has no central control with real authority for anything, other than The Jockey Club, which is charged with registering the breed in the Stud Book.

Although the United States is not a member, horse racing has its own world-wide authority on drugs and medication, called the International Federation of Horseracing Authorities (IFHA). The IFHA rules are very strict. They do not allow race day medication and they have established drug testing programs that insure compliance.

For the United States not to be in compliance with IFHA rules is a show of arrogance that has called into question the credibility of the performance of American horses. It is imperative to have as part of any new law our compliance with the IFHA rules, so that America is a legitimate member in good standing with the rest of the horse racing world.

When this is done, the thoroughbred breeding industry, which employs more than 100,000 agricultural workers, will expand its international market. Then, for the first time, our Thoroughbred races will have credibility with fans and bettors around the world. This is good business.

The vast majority of trainers and veterinarians that participate in horse racing are honest, law-abiding citizens that love their animals, respect their clients and devote every waking hour to their sport.

But there are and always will be those few rotten apples that want to cheat. In horse racing there is a clear pattern showing that these trainers are chronic cheaters, because even when they are caught and adjudicated, they invariably turn out to be repeat offenders. And, under the current law and state-by-state system, cheaters have been successful not only in tilting the playing field to their advantage, but by and large have been just as successful in skirting the law.

Where racing has failed miserably in dealing with these miscreants is that they have been unable to root the repeat offenders from the game.

For a long, long time, the prevailing feeling among those charged with operating horse racing was that it was a bad idea to publicly identify cheaters, based on a notion that negative publicity would only serve to hurt the sport.

This attitude reached a crescendo in California between 1994 and 2004 when the administrative head of the horse racing board circumvented the spirit and letter of the law by cutting deals behind closed doors with drug abusers, which had the chilling impact of sending exactly the wrong message to trainers with a bent for taking an edge. Trainers soon figured out that a small fine or slap on the wrist was a good trade off for being able to continue cheating with their horses.

In California, a climate for trainers that wanted to cheat was created by the racing commission. Sadly, this important state continues to suffer from it even today.

Just this year, when the trainer of the Kentucky Derby and Preakness Stakes winner was suspended and fined for a third violation for the same offense, the commission failed to bring the full force of the law to bear against the horseman, who was preparing to start his horse in the Belmont Stakes and possibly become the first winner since 1978 of the Triple Crown.

A deal was struck between the trainer and the racing commission prior to the final hearing, in which the officer in charge appeared to very nearly exonerate the trainer, although recommending a suspension and fine.

The head of the racing commission, a gubernatorial appointee, exhibited exactly how much of a conflict of interest he had, when he wished the trainer the best of luck in the Triple Crown, because he perceived that a Triple Crown win would be a feather in the cap of the state, as well as being good for local business. The political appointee expected to experience "great, great enjoyment in seeing those connections bring home the Triple Crown." After the hearing, a commission-generated press release bent over backwards to put the offending trainer in the best possible light.

There is no precedent I know of in any other sport where a participant is fined and suspended for cheating for a third time for the same offense and then sent on his way with good luck wishes and the prospects of bringing glory to the jurisdiction.

The Olympic sports of cycling and track and field have organizations that conduct the sport on a national level and maintain tight control by paying strict attention to WADA's guidelines and implementing them in a serious manner to bolster the integrity of their sport. Drugs used on racehorses are banned for humans by WADA, which also regularly conducts out-of-competition testing, a practice that horse racing has been reluctant to embrace, but one which is mandatory for catching cheaters, because some drugs are given to horses several weeks or even months prior to races.

In the United States, horse racing has a set of rules and a racing commission in each state that conducts racing. There is no single national body; there is no uniformity and precious little understanding of the powerful impact of certain drugs that in some states are considered legal, safe and beneficial for the horses and the sport.

A problem exists with the structure of racing in the United States, because state racing commissions basically are more interested in maximizing tax revenue than in providing a level playing field. They have a huge conflict of interest and they abuse their position.

It behooves each state to attract the best horses to make races more interesting for horseplayers betting their racetracks at off-track sites. Trainers realize this and play the states against each other and only race in states that allow them to use the drugs and medication under the most permissive rules.

New York, for example, was the last state trying to maintain strict drug laws, but trainers moved their horses to other states and brought New York racing to its knees. Once New York cried uncle and changed its rules to allow certain drugs, the trainers returned to race there.

States compete with each other by lowering the bar on drugs. States with the most permissive drug rules win this game. This vicious cycle can be terminated by establishing uniform national guidelines that would end the competitive struggle of the states by establishing a level playing field that will benefit bettors and the welfare of the horse. It will allow the state to concentrate on doing its real job, which is to safeguard the health of the horse and provide the best sport possible for its constituents.

States, by and large, have taken a position, propagated by organizations made up of horse trainers and veterinarians, that the use of so-called legal therapeutic drugs allow horses to run more often, insuring larger fields, which in theory generates more tax revenue because gamblers bet more money on large fields.

Unless a horseman began training more than 40 years ago, he has practiced his trade only during an era when drugs have been a major part of horse racing. Because of this, trainers to a much greater extent than at any time in the history of sport rely on veterinarians. Vets used to be consultants; today some of them are as involved in the training of a horse as much as the trainer itself.

Contrast this with a 78-year-old horseman I employ in South Africa that in 7 years has never sent me a vet bill, instead relying on old fashioned horsemanship to work through problems. He not only is one of the most successful trainers in the history of the world, but also mentored one of the most successful trainers currently plying his trade on an international scale.

Currently in the United States, at least two so-called legal drugs are abused by horse trainers. They are Salix, a diuretic, and Ventipulmin, a bronchodilator. Both are considered to be illegal by WADA for use in human athletes. The first is not

allowed, for one reason, because it can mask or interfere with testing for illegal drugs. Veterinarians and trainers like to discount this notion, saying that this may have been true in an earlier era, but that testing methods have improved so much that this is no longer the case. Yet WADA considers it significant enough to make it part of its drug guidelines.

As for Ventipulmin (clenbuterol), WADA recognizes that it is used for respiratory ailments, but also is fully aware that the main reason athletes want to use it is that it acts like a steroid in adding muscle mass. Horse trainers know this as well, which is why they like to use it. Veterinarians insist that its main use is as a valuable tool in treating respiratory problems.

State racing commissions on a daily basis have their hands full. Because Salix is approved for use on race day and used by about 95 percent of all racehorses nationwide, they need to keep close tabs on this drug. They also test for levels on a myriad of other drugs. Additionally they have to be on the lookout for illegal drugs (drugs not approved for use). In many states they also test for levels of TCO_2 (total carbon dioxide.)

In a situation without parallel in any other sport, 95 percent or more of all racehorses competing in every race in the United States are drugged with Salix. The justification offered by trainers and veterinarians is that about 5 percent of horses experience Exercise Induced Pulmonary Hemorrhaging. How can any sport, at any level from grade school through college and into the professional level justify the drugging of 95 percent of its athletes in order to prevent the possible adverse impact from an exercise induced insult that might occur among 5 percent of the players? This is the tail wagging the dog.

How would any parent feel about having to medicate 95 percent of their children before a game or match because 5 percent of the other children might suffer from some malady? Very few I would imagine. A better response would be to keep those 5 percent of children on the bench where they belong! Not all children are allowed to play all sports because of medical issues. This is a normal practice in a caring society.

If we need to drug 95 percent of our athletes just to be able to present a day's racing, I humbly suggest to you that racing is not viable as a sport. But I firmly believe that racing can be conducted drug free and would in fact thrive in the absence of race day drugs. Proponents of race day drugs will point to the "science" that they claim supports the use of Salix for example. First of all, many of these same people are the very ones that laugh when the word "science" is trotted out to support the theory of global warming. One can find a doctor or a scientist to support or denounce any point of view.

But in the instance of Salix, I will be the first to admit that while it does have serious side effects, it is an effective drug. But whether the science is correct or not and whether the drug works or not is not the issue. The issue is that healthy horses should not and do not need to race on drugs. The rest of the world gets along without it just fine. America is the odd man out in this regard and our image as breeders and caretakers of horses has suffered around the globe because of it.

Racing in the United States, not unlike some other sports, has been and is currently plagued by participants that consistently circumvent the rules of the game by cheating. Their preferred method is administering drugs or foreign substances.

There are four basic ways to enhance the performance of a horse illegally. They are managing pain, adding muscle mass, increasing oxygen delivery and buffering lactic acid. Pain can be managed by using drugs and substances to mask soreness. Muscle mass can be added by using animal or synthetic steroids or Ventipulmin. Oxygen can be increased by administering drugs originally developed for humans to enhance the production of red blood cells. Lactic acid can be buffered by administering substances into the system in various forms from tubes through the nostrils directly into the digestive system to a paste introduced through the mouth.

A horse that runs pain free, has more muscle definition, gets more oxygen and has its lactic acid buffered, runs faster than its rivals, because its skeletal structure feels fine, its body is stronger, it has more oxygen to be able to run faster and farther and the build up of lactic acid is delayed so that it doesn't get tired. This is the gold standard of cheating.

Horses that are not healthy and are illegally treated with drugs to make them feel no pain are candidates to over-extend themselves and suffer catastrophic injury as a result of trusting the integrity of their own bones and sinew. If a horse's pain is not masked, the animal will protect itself. Illegal drug use can make a horse vulnerable to death.

There also is a Pandora's Box of drugs that are suspected to be in use, but are not readily identifiable, because they are unknown or not enough is known about them. Falling under this class would be so-called designer drugs of the ilk made fa-

mous in the BALCO scandal, in which synthetic drugs are created that offer the same benefits as known drugs, but have a molecular structure that has been altered to make their detection difficult to identify.

In this same Pandora's Box are surely other drugs developed for human beings that are so new or in experimental stages of development that racing officials are unaware of their existence.

In recent times, two pain killers have found their way into the general news stream, one of which comes from a frog and another from a sea snail. It is obvious that the number of ways to cheat and the availability of products to be employed for cheating are never going to dry up, nor are those unscrupulous individuals that will make these substances available to horse trainers or veterinarians. That is the given.

This is exactly why those trainers and veterinarians that chronically look for an edge over their honest rivals need to be identified, prosecuted and sent packing.

The reason some trainers have become chronic cheaters is that illegal drugs work. And once a cheating trainer has experienced amazing success by cheating with illegal substances, they develop self doubt that anything natural they can do will never match the power of illegal drugs. That is why, try as they might, trainers that become hooked on the power of drugs find it difficult to get the monkey off their back.

Cheaters will always be a step ahead of law enforcement. But if the FBI were brought into the equation and stiffer penalties for cheaters were enacted, this would provide a provocative deterrent to stop some would-be rule breakers.

The FBI, by employing investigative methods used in its crusade against members of organized crime, should be able to get to the bottom of the illegal drug trade and usage in the tiny world of horse racing. This would be a welcome addition to our industry.

The challenges presented to racing commissions from these various corners cannot be minimized. In some cases, the most effective way to deal with the problem is not through testing, because a lab can only test for what it is specifically looking for. The best way is through good old fashioned police work, the kind specialized in by the FBI.

Right now, horse racing in the United States is out of step with the major racing centers throughout the world, where racing on drugs on race day is not allowed. It is allowed in America because of our structure of each state being in charge of the sport in its own locale. In these locales, racing associations, horsemen and veterinarians have successfully lobbied for the use of drugs, convincing the states that the use of drugs will allow horses to race more often, thereby generating more revenue for the states and creating more jobs for residents.

This, in the face of plenty of evidence to the contrary that shows since the introduction of race day meds that the number of starts per animal has steadily decreased.

And this, in spite of the fact that companies that conduct public auctions for the sale of horses in Europe could be on the verge of downgrading the quality of races in the United States in their sales catalogues because races in this country are the only ones listed in which the participants race on drugs.

All of the arguments on behalf of horsemen, racing associations and veterinarians that racing on drugs is required for the health of a racehorse is refuted on a daily basis by the same type of horses racing medication free on the race courses of Europe and the United Kingdom. And make no mistake, the top-rated horses in the world compete in these countries, not in the United States.

Racing horses is meant to be a sport. The reason racing associations can hold races and conduct betting on racing is due to the fact that it is a sport. Racing is not meant to be a provider of jobs or a vehicle to beef up the coffers of state governments.

Racing can provide jobs and tax revenue. But, ultimately, it can only do that if it is a sport first. And by the act of racing horses on drugs, it renders it not a sport, because no enterprise that presents racing with horses that are drugged can by any definition be classified as a sport.

If we do not stop drugging our horses, we do not have a viable sport. And if we do not have a viable sport, the public will not watch it and will not bet on it and there will be a loss of jobs and tax revenue.

No sport, no trust. No trust, no support from the public.

The racing industry has been unable to regulate itself, mostly because there is no national cohesiveness. The system of individual state-operated commissions has been a failure because of the conflicted nature of the political appointees that run the show.

Racing jurisdictions were sold a bill of goods by some well-meaning veterinarians in the 1970s that truly believed these drugs would help the sport to grow and

thrive. They were wrong and some will freely admit it today. They only proceeded to lead us down a path that has devalued and diminished our once proud American-bred horse that had been the envy of the world in the 1970s, the last time we saw Triple Crown winners like Secretariat, Seattle Slew and Affirmed.

Horse racing needs some assistance from the Federal government that will aid the industry in ridding the sport of drugs on race day.

First, a national drug policy needs to be instituted in which no drugs are allowed to be used on race day. An organization needs to be named by the Federal government that has the power to set threshold limits on therapeutic medications.

Secondly, the Federal government should pass legislation to strengthen the hand of racing against drug abusers found guilty of breaking the law. This legislation must be strong enough to be a better deterrent than the ones now on the books and it must include expulsion from the sport of those parties found guilty for multiple offenses. The chronic cheaters must be rooted out of the game, because they are criminals that have put the entire industry in jeopardy with the public and have abused their right to due process by making a mockery of the system.

The Federal Government, through the Interstate Horseracing Act of 1978 has the standing to help horse racing by amending the law.

I daresay a majority of those people that derive their livelihood from horse racing live in mortal fear of a Washington-based politician tampering with the IHA. These people would rather deal with the devil they know, no matter how debilitating and frustrating it is.

My response to them is as follows: racing is fighting for its very survival right now and because of that, I would gladly risk opening up the IHA to amendments on the chance that something beneficial might arise from it, because the sport is heading to extinction as it now stands. People in horse racing by their very nature are gamblers. I am willing to gamble that something good can come out of amending the law in hopes for a better future.

Senator UDALL. Thank you very much for that testimony, Mr. Irwin.

And, Mr. Stirling, you can proceed now.

STATEMENT OF KENT STIRLING, EXECUTIVE DIRECTOR, FLORIDA HORSEMEN'S BENEVOLENT AND PROTECTIVE ASSOCIATION; CHAIRMAN, MEDICATION COMMITTEE, NATIONAL HORSEMEN'S BENEVOLENT AND PROTECTIVE ASSOCIATION

Mr. STIRLING. My name is Kent Stirling. I am the Chairman of the Medication Commission of the National Horseman's Benevolent and Protection Association. With over 30,000 members in the United States and Canada, the National HBPA is the largest organization in the United States representing owners and trainers of thoroughbred racehorses. I am also the Executive Director of the Florida HBPA. And before that, I trained horses for 20 years.

I appreciate very much the opportunity to appear before this committee on behalf of the National HBPA and its members to give testimony on the use of performance enhancing drugs in American thoroughbred horseracing.

Let me start by stating unequivocally the national HBPA's position on performance enhancing drugs: Owners and trainers who cheat by administering drugs that have no legitimate use in horses in an attempt to win races should be kicked out of racing.

The use of drugs like snake venom and recently reported opiates made from a South American frog skin is doping, plain and simple. Doping should be severely penalized by State regulatory authorities.

But let me quickly add, data compiled by State racing authorities shows conclusively that doping of thoroughbred racehorses in the United States is rare.

As you may know, after each thoroughbred horserace, State racing commissions test at least two horses in every race, the winner and another selected by the State's stewards, usually the second place finisher or a beaten favorite. That's a 25 percent sample of all horses racing in the United States.

Over the 3-year period from 2009 through 2011, there were nearly 300,000 post-race tests of blood and urine. Only 82 were positive for drugs that had no business being in a horse other than to enhance performance or to cheat.

To put it plainly, more than 99.9 percent of all tests were negative for doping substances. During that same 3-year period, on average, 5,800 trainers were licensed annually by State racing authorities. On average, 12 trainers per year were guilty of illegally doping horses, according to State regulatory data. That means that more than 99.8 percent of all trainers did not dope horses.

These statistics should be the envy of every other sport that tests for drugs, like professional football, baseball, cycling, to name but a few. Horseracing in the United States spends about $35 million a year on its drug-testing program. That contrasts with the World Anti-Doping Agency, which earmarks an annual $1.6 million for testing in human sports.

Despite objective evidence demonstrating there is no widespread misuse of drugs in thoroughbred racing, many industry voices, perhaps motivated by sensational and inaccurate media reports, have called for a ban on all raceday medication. Those who do so labor under the belief that race-day medication is routinely permitted and that it causes injuries to horses. That's not true.

The only race-day medication allowed in the United States, with minor exception, is Lasix, a safe and effective therapeutic drug that has been used for 40 years to help prevent horses from bleeding in their lungs during a race. And Lasix's use is clearly noted in every racetrack daily program by a capital "L" next to the horse's name.

Unfortunately, Lasix has been swept up in media claims of illegal doping. Lasix has become the poster child for those who are arguing in favor of a ban on all medications and has obscured some basic scientific and medical facts about Lasix, including the following: racing hard causes nearly all horses to bleed in their lungs, some more severely than others. Bleeding robs horses of oxygen, causes progressive and irreversible scarring in the lungs, makes breathing more difficult, and can cause instant death on the racetrack.

Lasix prevents and lessens bleeding and is the only medication that does so. It is safe and has been used effectively for nearly 40 years. Its use does not prevent the post-race detection of other drugs.

Lasix is not performance enhancing. It does not make a horse run faster than its God-given natural talent. On the other hand, bleeding in the lungs does make a horse run slower and may stop a horse outright.

Lasix has never caused a horse to be injured when racing. However, horses racing without Lasix have collapsed and died from acute pulmonary bleeding causing injuries to fallen jockeys.

Opponents of race day Lasix do not dispute its effectiveness in preventing pulmonary hemorrhaging in horses, nor could they

credibly do so. A landmark 2009 study in South Africa of 167 thoroughbred horses and racetrack conditions, funded in great part by the United States Jockey Club and other international organizations, conclusively proved the effectiveness of Lasix in preventing and lessening the severity of pulmonary bleeding.

Though this definitive study proved once and for all to all doubters that Lasix is efficacious in treating pulmonary bleeding, some countries in Europe and Asia opted not to change their policy of no Lasix on race day, because doing so would involve significant regulatory expenses.

Critics of Lasix say administering it on race day creates a bad impression because it appears horses are being illegally drugged. If there is a perception problem created by the public not knowing why Lasix is necessary for horses welfare, it should be dealt with by educating the public and not by an inhumane policy of withholding treatment.

Race day use of Lasix should not be confused with lawful therapeutic medication used in training in the days and weeks before a race. Common remedies including anti-inflammatory medication to ease sore muscles, much like we use aspirin, Advil and Aleve for our aches and pains.

State racing commissions set regulatory threshold levels in post-race tests for that sort of therapeutic medication to ensure residual levels from training use have no effect on race day. Without such threshold levels———

Senator UDALL. I apologize. We'll come back and you can start a paragraph or two before, but I'm going to have to—they've notified me, if I don't get to the floor, they're going to close the vote.

Mr. STIRLING. Yes, Sir.

Senator UDALL. So I apologize to all of you. I'll be back here, probably just a little bit after 3 o'clock.

But the staff here will keep you notified. Thank you.

The Committee is in recess.

[Recess.]

Senator UDALL. The Committee will come back into session, and let me just welcome Senator Lautenberg.

He showed me a figure about New Jersey and horses, which was an impressive one.

Senator Lautenberg, we're right in the middle of this panel and so we're going to roll on through this panel, and then we'll get directly into questions. And I hope if you have an opening statement, you'll give it then too.

Mr. Irwin has already testified. We're almost through with Mr. Stirling, but I wanted to give him a chance to kind of sum up and get through his testimony. And then we'll proceed with the rest of the panel.

Thank you for your indulgence. We were held up a little bit by a normal Senate tradition of recognizing Senators and the numbers of votes. And I didn't realize that would happen.

Senator Collins from Maine had taken 5,000 votes, so that's a tradition we recognize. It took us a little bit longer.

But thank you very much for indulging us and for being here. And I'm still very excited about hearing the testimony and the discussion. Thank you.

Mr. STIRLING. Thank you, sir.

Critics of Lasix say administering it on race day creates a bad public impression because it appears horses are being illegally drugged. If there's a perception problem created by the public not knowing why Lasix is necessary for horses' welfare, it should be dealt with by educating the public and not by an inhumane policy of withholding treatment.

Race day use of Lasix should not be confused with lawful therapeutic medication used in training in the days and weeks before a race.

Common remedies include anti-inflammatory medication to ease sore muscles, much like we use aspirin, Advil and Aleve for our aches and pains.

State racing commissions set regulatory threshold levels and post-race tests for that sort of therapeutic medication to ensure residual levels from training use have no effect on race day.

Without such threshold levels, post-race testing would result in many false positives because of the extreme sensitivity of modern testing equipment, which can detect concentrations smaller than one-trillionth of a gram.

Proponents of a ban on all medication point to Europe and Asia as places where horses are drug-free. That's both inaccurate and misleading.

Horses training in other countries like England, Ireland, Japan, Australia, use the same therapeutic medication, including Lasix and the anti-inflammatories used by American horsemen.

Those countries, too, have a race day threshold level that must be followed to ensure there is no effective training medication on race day, just like the U.S.

The main difference between the United States and Europe is that we allow Lasix on race day. Europe does not.

Considering the welfare of horses, it makes little sense to use Lasix in training to stop harmful bleeding in horses' lungs as Europe does, but not use it on race day as we do in America, Canada, and South America.

In closing, I wanted to restate the National HBPA's opposition to the use of performance enhancing drugs. They have no place in horseracing. Offenders should be severely penalized and kicked out of the business.

Thank you.

[The prepared statement of Mr. Stirling follows:]

PREPARED STATEMENT OF KENT STIRLING, EXECUTIVE DIRECTOR, FLORIDA HORSEMEN'S BENEVOLENT AND PROTECTIVE ASSOCIATION; CHAIRMAN, MEDICATION COMMITTEE, NATIONAL HORSEMEN'S BENEVOLENT AND PROTECTIVE ASSOCIATION

Mr. Chairman and other distinguished members of the Committee, I appreciate having this opportunity to testify today on behalf of the National Horsemen's Benevolent and Protective Association ("NHBPA"). The NHBPA has been representing the interests of thoroughbred horse owners and trainers racing in North America since 1940. There are over 30,000 owner and trainer members of the NHBPA throughout the United States and Canada focused on a twofold common goal: safe and fair horse racing on all levels and an unwavering commitment to the well being of race horses. From 2009 through 2011 owners spent over $2 billion to purchase race horses. They spent on average an additional $25,000 annually for the training and care of each horse.

The NHBPA has 30 affiliates across the United States and Canada, including: Alabama, Arizona, Arkansas, Canada, Charles Town, WV, Colorado, Finger Lakes, NY, Florida, Idaho, Illinois, Indiana, Iowa, Kentucky, Louisiana, Michigan, Minnesota, Montana, Mountaineer Park, WV, Nebraska, New England, New Mexico, Ohio, Oklahoma, Ontario, Oregon, Pennsylvania, Tampa Bay, FL, Texas, Virginia and Washington. Membership is open without restriction to all owners and trainers licensed by state racing authorities. The leadership of the NHBPA and its affiliates is democratically elected by the members.

Other organizations that purport to speak for thoroughbred owners and trainers are not as representative or as inclusive as the NHBPA. The Jockey Club, headquartered in New York, is an invitation only organization that has approximately 100 members. The Thoroughbred Owners & Breeders Association ("TOBA"), located in Kentucky, has about 2,500 members, most of whom are horse breeders.

The NHBPA believes it helpful to unequivocally state its position on the use of performance enhancing drugs in horse racing. Owners and trainers who cheat by administering drugs that have no legitimate use in horses in an attempt to win races should be kicked out of horse racing. Dermorphin, an opiate like substance derived from the skin of a South American frog that has been the subject of recent publicity, is one such drug. Using dermorphin is doping and all doping should be penalized severely.

However, the NHBPA does not oppose the controlled use of truly therapeutic medication that has long been used in horse racing to treat injuries and infirmities. Medication, like furosemide (commonly called "Lasix") that acts to prevent pulmonary hemorrhaging ("bleeding in the lungs") during racing, is necessary to keep a horse healthy. Lasix use is not doping, and no one can reasonably conclude otherwise. It has been routinely administered by veterinarians for the past 40 years in their treatment of horses and is noted beside a horse's name in racing programs as L for racing with "Lasix".

The NHBPA strongly takes issue with on-going misstatements in the public media regarding the alleged misuse of racing medication in the horse racing industry. A feature article in the March 25, 2012 *New York Times* (*"NYT"*), *"Mangled Horses, Maimed Jockeys; A Nationwide Toll,"* lumped everything together and claimed there was rampant illegal use of drugs in horse racing that was causing injuries to both horses and jockeys. The *NYT* reported from 2009 through 2011 trainers were *"caught illegally drugging horses 3,800 times, a figure that vastly understates the problem because only a small percentage of horses are actually tested."* The article cited this as evidence of regulatory failure by the states to stop *"cheating."*

The *NYT's* article prompted a call by some for Federal regulation of the use of medication in horse racing and others for a ban on all medication including Lasix. However, an analysis of regulatory data in thoroughbred racing states shows the *NYT's* assertions are badly flawed and seriously misleading. Likewise, the call for a medication ban is premised on misconceptions by industry participants who put their own agenda ahead of the welfare of horses and jockeys.

From 2009 through 2011, the average field size in 139,920 thoroughbred races run throughout the United States was 8.17 horses. Because at least two horses in every race, the winner and another horse selected by the stewards, are routinely tested for drugs nearly 25 percent of all horses (2 out of every 8) were tested. Statistically speaking, that is a representative sample of all horses racing in the 3-year period. At the outset it is thus fair to say the *NYT* was wrong in claiming post race testing *"vastly understates"* the extent of *"cheating."*

What then were the results of drug testing in the *NYT's* three year period? Do they show rampant *"illegal drugging"*? The answer is a resounding no. Based on data maintained by state racing commissions and compiled by the Association of Racing Commissioners International, 99.27 percent of 279,922 post race tests were negative for drug use. Those percentages are not by any stretch of the imagination evidence of rampant drug use. They should be the envy of every other sport that tests for drugs.

Horse racing in the United States spends about $35 million a year on drug testing. The Association of Racing Commissioners International notes the World Anti-doping Agency, which conducts testing in other sports, in contrast earmarks $1.6 million per year for testing fees. Laboratories conducting testing for the horse racing industry include those at the University of California/Davis, the University of Florida, the University of Illinois, Iowa State University, Louisiana State University, West Chester University, and Morrisville State College. Also involved are private ISO accredited laboratories like Dalare Associates (Philadelphia, PA), HFL Sport Science (Lexington, KY), and Truesdail Labs (Tustin, CA).

Granted in the 3 years surveyed by the news article there were positive post race test results, but only about half the 3,800 claimed by the *NYT*. Even so, nearly all

were for drug concentrations above regulatory levels of permitted therapeutic medication, like common anti-inflammatory drugs (*e.g.,* phenylbutazone or "bute") similar to Aspirin, Advil, and Aleve taken by humans.

Only a handful of drug test positives (82 out of 279,922 tests, or less than 3/100ths of 1 percent) were for illegal substances like dermorphin generally having no purpose other than cheating, and only a handful of trainers were responsible for those positives. Specifically, during the 3-year period on average 5,800 thoroughbred horse trainers were licensed annually by state regulators. Only 12 trainers (2/10ths of 1 percent of all trainers) "doped" horses, according to regulatory data.

The following chart summarizes the drug testing results for the period 2009–2011. Class 1 and 2 positives are "cheater" drugs or "doping" classified as such by the Association of Racing Commissioners International. Those drugs have the highest potential for affecting performance and have no generally accepted medical use in race horses. Class 3, 4, 5, and Lasix positives, on the other hand, generally indicate overdoses of therapeutic medication. Therapeutics are permitted in race horses and have little or no likelihood of affecting performance. Threshold limits for therapeutics are set by state regulation with the intent that on race day no horse should be under the direct influence of therapeutic medication, except for the permitted race day use of Lasix.

Racing Medication Data
2009–2011

State	Races	Starts	Avg. Field	Drug tests	Class 1	Class 2	Class 3	Class 4	Class 5	Lasix	% Neg.	% Pos.
AZ	4,888	38,993	7.97	9,776	0	3	6	42	0	0	99.48	0.52
AR	1,526	14,058	9.21	3,052	0	0	0	13	0	5	99.42	0.58
CA	13,369	100,656	7.52	26,738	0	0	38	130	0	0	99.38	0.62
DE	2,901	21,799	7.51	5,802	0	0	4	28	1	0	99.44	0.56
FL	9,872	86,116	8.72	19,744	0	14	38	95	15	0	99.18	0.82
IA	1,838	14,112	7.67	3,676	2	0	1	1	0	0	99.90	0.10
IL	6,797	54,573	8.02	13,594	0	0	22	26	1	10	99.57	0.43
IN	3,343	28,701	8.58	6,686	1	0	6	20	0	8	99.48	0.52
KY	6,439	56,568	8.78	12,986	1	7	32	82	32	7	98.80	1.20
LA	10,337	94,178	9.11	20,674	0	0	26	237	1	11	98.70	1.30
MA	2,518	19,768	7.85	5,036	0	3	7	2	0	0	99.77	0.23
MD	4,178	31,966	7.65	8,356	0	2	8	19	3	3	99.59	0.41
MI	1,315	9,316	7.08	2,630	0	0	0	12	0	0	99.55	0.45
MN	1,392	10,790	7.75	27,84	0	3	13	163	0	1	93.60	6.40
ND	205	1,550	7.56	410	0	0	0	18	0	1	95.70	4.30
NE	2,491	20,399	8.18	4,982	2	0	26	59	0	0	98.30	1.70
NH					0	0	0	1	0	0		
NJ	3,105	25,083	8.07	6,210	0	0	4	3	0	0	99.89	0.11
NM	5,180	43,302	8.35	10,360	1	2	7	13	0	2	99.76	0.24
NV	131	664	5.06	236	0	0	0	2	0	0	99.30	0.70
NY	11,256	87,317	7.75	22,512	0	2	15	14	0	4	99.85	0.15
OH	7,876	60,915	7.73	15,752	0	5	25	113	34	4	98.90	1.10
OK	3,466	32,869	9.48	6,932	2	0	0	17	2	1	99.69	0.31
OR	2,196	16,014	7.29	4,392	0	0	1	33	0	0	99.30	0.70
PA	13,568	10,9878	8.09	27,136	8	9	22	194	5	1	99.20	0.80
SD					0	0	0	3	0	0		
TX	3,538	31,227	8.82	7,076	1	12	12	46	8	12	98.80	1.20
VA	1,210	10,213	8.44	2,420	0	1	5	10	0	0	99.30	0.70
WA	2,538	17,887	7.04	5,076	0	0	0	3	0	1	99.93	0.07
WV	12,433	105,470	8.48	24,866	0	1	9	84	0	0	99.63	0.37
WY	14	113	8.07	28	0	0	0	1	0	0	96.43	3.57
Total	*139,920*	*1,144,495*	*8.17*	*279,922*	*18*	*64*	*327*	*1,484*	*102*	*71*	*99.27*	*0.73*

Clearly the above state racing commission data disproves the *NYT's* dramatic allegations of widespread drug misuse. It also demonstrates that race day administration of Lasix is well regulated, with only 71 instances (2/100ths of 1 percent) in the 3-year period where Lasix was administered in an incorrect dosage or too close to post time. Even so, to avoid the appearance of any impropriety the National HBPA believes only state regulatory veterinarians, and not private veterinarians, should be permitted to administer lasix on race day.

Unfortunately, Lasix is being swept up in the media hysteria over alleged doping of horses with illegal drugs, aided and abetted by organizations that should know better. This has obscured some basic scientific and medical facts supporting continued use of Lasix:

- The extreme physical stress of hard running causes nearly all horses to bleed in their lungs, some more severely than others. Bleeding robs horses of oxygen, causes progressive and irreversible scarring in the lungs, makes breathing more difficult, and can cause instant death on the race track.
- Nearly all bleeding remains internal and is only detectable by endoscopic examination. Detection by an externally visible nose bleed is the rare exception, but

is usually the standard in other countries in Europe and Asia for determining whether a horse is a "bleeder."

- Lasix prevents and lessens bleeding. It is safe and has been used effectively for nearly forty years. Its use does not prevent the post-race detection of other drugs.
- Lasix is not performance enhancing. It does not make a horse run faster than its natural talent. On the other hand, bleeding does make a horse run slower and can stop a horse outright.

The *NYT* piece also claimed drug use is the main cause of horse injuries in races. Based on a purported analysis of Equibase charts the *NYT* reported an *"incident rate"* of 5.2 per thousand starts for 2009–2011, which included both quarter horses and thoroughbreds. A subsequent *Thoroughbred Times* analysis of the same charts found a 4.03 per thousand incident rate for thoroughbreds.

Once again the facts are other than what the *NYT* asserted. In 2009–2011, the data shows an overall drug positive rate of 1.8 per thousand starts. Assuming for the sake of discussion the highly doubtful and unsupported premise that all drug use, whether illegal or therapeutic, causes injuries and fatalities the *"incident rate"* in the 3-year period should be closer to 1.8, and not 4.03 or 5.2 per thousand starts, depending on which analysis, if any, is correct. Simply put, the actual data suggests something beside drug use is primarily responsible for racing injuries. For that reason the horse racing industry is conducting scientific research and analysis on racing surfaces to better understand the role surfaces play in racing injuries in order to further improve the safety of horse racing for both horses and jockeys.

The *NYT* and many of those industry voices calling for a ban on race day medication appear to labor under the misconception that race day medication, in addition to Lasix, is routinely permitted in numerous racing jurisdictions. The *NYT* says *"horses are permitted to run on some dose of pain medication, usually bute."* But that is not true. The *"some dose"* the *NYT* article hangs its hat on is not active medication, but rather a trace regulatory threshold limit set for post race test screening purposes. Thresholds are set to make sure lawful therapeutic medication used during training in the days that precede a race has no pharmacologic effect on race day.

For example, in Virginia the current threshold for phenylbutazone ("bute") is 2 micrograms per milliliter of plasma in post race testing. On race day that small concentration has no medicinal effect on a horse and a test showing that amount or less is regarded as negative. However, the increasing sensitivity of drug testing equipment makes threshold limits like this necessary to avoid having positive test results based upon residual concentrations of therapeutic medication lawfully administered in training that have no effect on race day. "Zero tolerance" testing without threshold screening limits results in false positives.

The *NYT* compounded its error by implying an increase in racing fatalities at Colonial Downs in 2005 was caused by the Virginia Racing Commission increasing the bute threshold from 2 to 5 micrograms. But a study conducted with the assistance of the Virginia Racing Commission demonstrated there was no statistically significant difference in fatality rates tied to bute threshold levels.

Proponents of a ban on medication point to Britain as an example the United States should emulate. The *NYT* claims *"breakdown rates are half of what they are in the United States* [and] *horses may not race on any drugs."* None of that is true. According to the British Horseracing Authority ("BHA"), the central body that regulates racing in Britain, the fatality rate in 2011 was about 2 in every thousand starts. In the United States the Jockey Club calculated a 2011 fatality rate of 1.88 per thousand starts. Both rates include steeplechase racing.

Furthermore, horsemen in England are allowed to and do administer the same therapeutic medication used by American horsemen, including bute and Lasix. But on race day, like American horses (except for lasix), those in England may not compete under the influence of active medication. Like the U.S. the BHA uses threshold screening levels, in its case levels for 22 therapeutic drugs established by the International Federation of Horseracing Authorities, and post race testing to ensure that is so. The following chart, comparing 3 years of post race testing in England (based on the most recent data published by BHA) with the most recent U.S data compiled by the Association of Racing Commissioners International, shows no significant difference in drug positive results between the two countries. Both are essentially drug free.

	Starts	Tests	Negative tests	Positive tests
Britain (2006–08)	286,343	27,753	99.84%	0.16% (44)
United States (2009–11)	1,144,495	279,922	99.27%	0.73% (2066)

The slight variance between countries may be accounted for by the fact that less than 10 percent of British starters are tested while the U.S. tests nearly 25 percent of all starters, and the U.S. has four times the number of starts. Also, the British select a horse for post race testing subjectively based on performance in a race or "intelligence" available to the race stewards. In the U.S. selection in each race of two horses for testing is more or less random at the outset. In Britain only urine is routinely tested while in the U.S. both urine and blood are examined, with blood being the more accurate indicator of the presence of medication.

The main difference in medication policy between the United States and Britain (as well as the rest of Europe) is the use of Lasix. In Britain Lasix is used in daily training to prevent or lessen pulmonary hemorrhaging, but not on race day. From a horse welfare standpoint that makes no sense. No one disputes that Lasix prevents rather than causes injuries or fatalities in race horses, and thereby protects jockeys as well.

We conclude by stating our position regarding regulation of racing medication:

(A) The National HBPA's focus has always been, and remains, the health and safety of the horse, the safety of the jockey, and the safety of all individuals coming into contact with the horse (e. g. grooms, hot walkers, trainers and veterinarians).

(B) The National HBPA believes a truly independent Racing Medication and Testing Consortium ("RMTC") of industry stakeholders (including NHBPA, the Jockey Club, and TOBA, among others) not dominated by any individual organization, with input from appropriate medical and veterinary professional bodies such as the American Association of Equine Practitioners, must be the final evaluator of medical and veterinary science.

(C) RMTC approved medication rules should be reviewed by the Association of Racing Commissioners International on behalf of state racing commissions, and following an evaluation based on science and medical research with all industry stakeholders being heard, the rules should be adopted or rejected by a majority vote.

(D) The resultant Uniform National Medication Rules should be implemented by means of a National Compact among the states, and not imposed by the Federal Government, which has no experience or expertise in horse racing.

(E) Uniform National Medication Rules must be based solely on published scientifically determined regulatory thresholds, with published scientifically determined withdrawal time guidelines, all based on and supported by data published in the scientific literature.

(F) RMTC and ISO–17025 accredited laboratories should perform all medication testing.

(G) Repeat offenders should be severely penalized, including permanent exclusion from the industry.

For further information:

Phil Hanrahan
CEO
National HBPA

Senator UDALL. Mr. Stirling, thank you very much for your testimony.

And we'll proceed now with Mr. Gural.

STATEMENT OF JEFFREY GURAL, CHAIRMAN, NEWMARK GRUBB KNIGHT FRANK; CHAIRMAN AND MANAGING PARTNER, AMERICAN RACING AND ENTERTAINMENT, LLC

Mr. GURAL. Thank you. My name is Jeff Gural. I grew up on Long Island and started attending racetracks as a teenager over 50 years ago. I currently own two standardbred breeding farms, one in Upstate New York and the other in northeast Pennsylvania.

Together I have approximately 40 broodmares and yearlings and weanlings and all of that stuff. And I also have interest in about 15 racehorses that are currently racing or trying to race, I guess.

But if that wasn't bad enough, 6 years ago I got into the racetrack ownership business and reopened two bankrupt racetracks in Upstate New York, which are now operating as racinos with harness racing and slot machines.

At the end of last year, I headed up a group of investors that leased the Meadowlands Racetrack from the State of New Jersey with the hope of, hopefully, revitalizing the sport there, as the Meadowlands is still considered the number one standardbred track in North America and probably the world.

Before discussing the medication problem, I thought the Committee should be aware of the fact that the current business model for horseracing almost guarantees a bleak future for the sport, as we do almost everything wrong as a business.

Some examples are: We have no marketable stars because any horse that excels at 3 and creates some hype is almost always retired as soon as possible to the breeding shed. Occasionally, a filly, like Zenyatta, will race an extra year, but it's very hard to market a spectator sport that does not have marketable stars.

It would be as if the NBA asked Lebron James to retire; the NFL asking Tom Brady to retire in his prime; and, in baseball, if they asked their current rookie sensations Mike Trout and Bryce Harper to retire in a year or two. Obviously, from a marketing standpoint, it is the exact opposite of what any other industry does.

Another area in which we have a problem, we have no season other than the 5 weeks of the Triple Crown for thoroughbreds. Quite a few standardbred tracks race year-round in front of a handful of people. By racing year-round, we fail to capture the excitement that other sports have when opening day arrives and it ends with the Super Bowl or the World Series.

With the exception of the three most successful tracks, Saratoga, Keeneland and Del Mar, most other tracks have no beginning and no end.

Three, and a major problem, despite receiving hundreds of millions of dollars from other forms of gambling to supplement our purses, virtually none of that money is spent marketing the sport or paying for additional drug testing.

While I believe the great majority of the horseman would gladly agree to take 5 percent of this money and use it for marketing and additional drug testing, their leaders seem to be opposed and, as a result, nothing gets done.

Since the average age of our customers is 52 and 2 percent of our fans die each year, not spending some of the slots money on marketing to attract younger people is very shortsighted. Where would NASCAR be if they didn't spend money on marketing?

Last, before I get to the drug issue, our biggest customers, from a betting standpoint, typically do not wager at or with a racetrack. These customers typically wager with either offshore or small companies with a computer in Oregon, because those companies can afford to give their customers back generous rebates.

In the past, this money was bet at a racetrack and the track and horseman typically shared a 20 percent commission. Today, the track only receives between 3 and 7 percent of wagers from big betters.

In essence, the track has the cost of putting on the races and maintaining the facilities, and their biggest customers, in many cases, are actually at the track with a cell phone betting elsewhere. It would be the equivalent of someone going to a movie theater, watching the movie, and paying someone else the cost of admission.

The last problem relates to the medication issue, which is the reason I was asked to come here. While standardbred racing does not have the problem that other breeds have as far as fatal injuries, both on and off the track, due to the fact that standardbreds always have two feet on the ground and a sturdier breed.

I believe in the last 5 years, in my tracks, there have been less than five fatalities, most of which were heart attacks or some other ailment.

The big problem we do have in standardbred racing, however, is we have the perception, rightly or wrongly, that any trainer who wins consistently is probably using some sort of illegal medication or "juice," as it is called.

I think the best way to explain this in laymen's terms is to describe what happened when I took over operating the Meadowlands at the end of last year.

In an effort to show my customers that I was very serious about this issue, I sat down with my racing staff and went over a list of all of the trainers who had applied to race at the Meadowlands, in order to determine which ones were suitable to participate and which trainers would hurt my business if I allowed them to participate.

Together we reviewed a list of fines and suspensions for all of the trainers applying to race and took into account other factors as well. When there was a gray area, we typically put the trainer on probation with the understanding that any new violation relating to illegal medication would be grounds for being added to our list of excluded participants.

One of the trainers that we elected to exclude was a gentleman from California named Luis Pena. In reviewing Mr. Pena's record, we discovered that he had 12 fines or suspensions back to 1991. It was also noted that Mr. Pena had trained horses in California from 1991 to 2009, and during that 18-year period, his average yearly winnings were approximately $400,000. And at no time did the horses that he trained win over more than $950,000.

Mr. Pena moved his training operation to New Jersey at the beginning of 2010 and arrived on the scene with no horses. And, amazingly, by the end of the year, his horses had won $7,263,000, and he was the leading training at the Meadowlands, Yonkers, Pocono Downs, and Chester, all four of the major racetracks in the Northeast.

In 2011, he, once again, duplicated this amazing feat and his horses won $7,120,000.

In essence, Mr. Pena had gone from a run-of-the-mill trainer in California for 20 years to the greatest trainer that ever lived, since no trainer had ever been close to being the leading trainer at all four area tracks.

Horses claimed by Mr. Pena often improved 2 seconds overnight. And it was fairly common to see the comment "first time, Pena" in the newspapers or by the handicappers.

Mr. Pena sued us and asked the court for a temporary restraining order on the grounds that our decision to bar him was a violation of his due process rights under the 14th Amendment of the United States Constitution. Fortunately, the courts ruled in our favor and affirmed our rights of exclusion.

Our legal fees to defend this action came to about $65,000, and many people were surprised that we won.

Not surprisingly, Mr. Pena continued to be allowed to race at the other three racetracks in the area.

I actually agreed to meet with Mr. Pena to discuss the situation in late May when I learned that the New York State Racing and Wagering Board had suspended him for illegally drugging horses in nearly 700 races in New York State with more than 1,700 equine drug violations.

Initially, I thought I was vindicated in my decision. But, shockingly, over the next few days, I was contacted by various people in the industry, who I respected, advising me that if the same standards that Mr. Pena was being suspended for were to be applied to all of the other trainers at the Meadowlands, there would probably not be enough horses left to race, as a vast majority of the trainers were also in violation of some of these rules.

It should be noted that while that may sound like Mr. Pena is a victim, that is not the case. For example, one of the drugs he used, Factrel, off-label on many occasions, is a drug used to enhance ovulation in cows. The only reason to give such a drug to a gelding, apparently, would be produce a small increase in testosterone designed to make the horse feel better for racing—in other words, to cheat.

Mr. Pena or his vet in many cases injected some horses with up to five different medications within 24 hours of a race. When I investigated further, I discovered that the rules of which drugs are allowable and when are different in every state.

New York uses specific time requirements for various medications while Pennsylvania, New Jersey, and Delaware only use recommended withdrawal times. I reached out to Ed Martin at ARCI and, with his help, we arranged a meeting at the Meadowlands in June with all of the regulators from these four states. We invited some respected veterinarians and a handful of trainers to discuss the problem.

Clearly, with different rules in every state, it is possible that a trainer can make a mistake, but why should the rules be different in all four states?

It was agreed by the regulators that they would try to work together to come up with a uniform standard, but everyone agreed that getting anything done would be difficult and require public hearings, comments, et cetera, and no one was quite sure whether we would be able to accomplish our goal.

I checked back and so far nothing has gotten done. But I saw Ed a little while ago, and he thinks that we are moving in the right direction.

The other thing you should be aware of is that when someone is caught cheating, the penalties in most cases are a joke. It is not uncommon for a trainer to receive a suspension; get a stay as a result of an appeal; if need be, go to court to get a stay; and, finally,

2 or 3 years later, agree to accept a 6-month suspension provided it can begin in November and end in April, allowing the trainer to simply go down to Florida, avoid the cold winter in the Northeast and train newly purchased yearlings.

Occasionally, the trainer will simply take his 6 months and go on vacation. The horses he was training were put in his assistant trainer's name for the winter, so, in essence, there are no penalties at all, other than a forced vacation in Florida or cruise on the Mediterranean.

In any case, standardbred racing does have a problem, and one suggestion that I've heard is to send a message to the states that Congress would like to see the states adopt the interstate compact concept, which would allow all of the states to use the same rules and regulations.

Unfortunately, in states like New York, it would be almost impossible to pass this, since the leader of the horsemen's association, Joe Faraldo, has made it clear that he is opposed to this approach.

He is also opposed to the use of out-of-competition testing, which is important because most standardbreds are trained on farms, and that would allow inspectors to visit the farms where the horses are stabled.

I'm hopeful that Governor Cuomo, who has taken a strong interest in this matter, as a result of the breakdowns at NYRA, will get the state to agree to pass this legislation. And I'm confident that the Governor takes this matter seriously.

In short, our industry needs change, if we're going to survive long-term. And because, unlike other sports, we have no commissioner to set the rules, the fact is medication, both legal and illegal, appear to be so much more prevalent than in other racing jurisdictions, that without an interstate compact, it would seem that the next logical thing must be for the Federal Government to take this over so that the rules are the same in every state.

For me, other than family, there is no bigger thrill than winning a race and going to the track with friends. I would hate to see the sport I love die, but we need a new business plan, and we need to eliminate the chemists if we are going to survive and protect the tens of thousands of jobs that rely on the industry's long-term survival.

Thank you.

[The prepared statement of Mr. Gural follows:]

PREPARED STATEMENT OF JEFFREY GURAL, CHAIRMAN, NEWMARK GRUBB KNIGHT FRANK; CHAIRMAN AND MANAGING PARTNER, AMERICAN RACING AND ENTERTAINMENT, LLC

Thank you for inviting me. My name is Jeffrey Gural. I grew up Long Island and started attending racetracks as a teenager over 50 years ago. I currently own two standardbred breeding farms; one in Upstate New York and the other in Northeast Pennsylvania. Together I have approximately 40 broodmares. I also have interests in about 15 race horses and 6 years ago I reopened two bankrupt racetracks in Upstate New York which are now operating as racinos.

At the end of last year I headed up a group of investors that leased the Meadowlands Racetrack from the state with the intention of hopefully revitalizing the sport there as the Meadowlands is still considered the number one standardbred racetrack in North America and probably the world. Before discussing the medication problem, I thought you should be aware of the fact that the current business model for horse racing almost guarantees a bleak future for the sport as we do almost everything wrong. Some examples are as follows:

1. We have no marketable stars because any horse that excels at three and creates some hype is almost always retired as soon as possible to the breeding shed. Occasionally a filly like Zenyatta will race an extra year but it is very hard to market a spectator sport that does not have marketable stars. It would be as if the NBA asked Lebron James to retire, the NFL asking Tom Brady to retire in his prime and in baseball if they asked their current rookie sensations Mike Trout and Bryce Harper to retire in a year or two. Obviously from a marketing standpoint it is the exact opposite of what any other industry does.
2. We have no season other than the 5-weeks of the Triple Crown for thoroughbreds. Quite a few standardbred tracks race year round in front of a handful of people. By racing year round we fail to capture the excitement that other sports have when opening day arrives and it ends with the Super Bowl or the World Series. With the exception of the three most successful tracks, Saratoga, Keenland and Delmar most other tracks have no beginning and no end.
3. Despite receiving hundreds of millions of dollars from other forms of gambling to supplement our purses virtually none of that money is spent marketing the sport or paying for additional drug testing. While I believe the great majority of the horsemen would gladly agree to take 5 percent of this money and use it for marketing and additional drug testing their leaders seem to be opposed and as a result nothing gets done. Since the average age of our customers is 52 and 2 percent of our fans die each year not spending some of the slots money on marketing to attract younger people is very short sited. Where would NASCAR be if they didn't spend money on marketing?
4. Our biggest customers from a betting standpoint typically do not wager at or with a racetrack. These customers typically wager with either off shore or small companies with a computer in Oregon because those companies can afford to give their customers back generous rebates. In the past this money was bet at a racetrack and the track and the horsemen typically shared a 20 percent commission. Today the track only receives between 3 percent and 7 percent of wages from big bettors. In essence, the track has the costs of putting on the races and maintaining the facilities and their biggest customers in many cases are actually at the track with a cell phone betting elsewhere. It would be the equivalent of someone going to a movie theater, watching the movie and paying someone else the cost of admission.
5. The last problem relates to the medication issue which is the reason I was asked to come here today. While standardbred racing does not have the problem that the other breeds have as far as fatal injuries both on and off the track due to the fact that standardbreds always have two feet on the ground and are a sturdier breed. I believe in the last 5 years at my tracks there have been less than five fatalities most of which were heart attacks or some other ailment. The big problem we do have is the perception rightly or wrongly that any trainer who wins consistently is probably using some sort of illegal medication or juice as it is called. I think the best way to explain this in layman's terms is to describe what happened when I took over operating the Meadowlands at the end of last year. In an effort to show my customers that I was very serious about this issue I sat down with my racing staff and went over a list of all of the trainers who had applied to race at the Meadowlands in order to determine which ones were suitable to participate and which trainers would hurt my business if I allowed them to participate. Together we reviewed a list of fines and suspensions for all of the trainers applying to race and also took into account other factors as well. When it was a gray area we typically put the trainers on probation with the understanding that any new violation relating to illegal medication would be grounds for being added to our list of excluded participants. One of the trainers that we elected to exclude was a gentleman from California named Louis Pena. In reviewing Mr. Pena's record we discovered that he had 12 fines and or suspensions dating back to 1991. It was also noted that Mr. Pena had trained horses in California from 1991to 2009 and during that 18 years his average yearly winnings were approximately $400,000 and in no time did the horses that he trained ever win more than $950,000. Mr. Pena moved his training operation to New Jersey at the beginning of 2010 and arrived on the scene with no horses and amazingly by the end of the year his horses had won $7,263,295 and he was the leading trainer at the Meadowlands, Yonkers, Pocono Downs and Chester. In 2011 he once again duplicated this amazing feat and his horses won $7,120,984. In essence Mr. Pena had gone from a run of the mill trainer in California to the greatest

trainer that ever lived since no trainer had ever been close to being the leading trainer at all four area tracks. Horses claimed by Mr. Pena often improved 2 seconds overnight. Mr. Pena sued and asked the court for a temporary restraining order on the grounds that our decision to bar him was a violation of his due process rights under the 14th amendment of the United States Constitution. Fortunately, the courts ruled in our favor and affirmed our rights of exclusion. Our legal fees to defend this action came to about $65,000 and many people were surprised that we won. Mr. Pena continued to be allowed to race at the other three area tracks. I had actually agreed to meet with Mr. Pena to discuss the situation in late May when I learned that the New York State Racing and Wagering Board had suspended him for illegally drugging horses in nearly 700 races in New York State and more than 1,700 equine drug violations. Initially I thought I was vindicated in my decision but shockingly over the next few days I was contacted by various people in the industry who I respected advising me that if the same standards that Mr. Pena was being suspended for were applied to all of the other trainers at the Meadowlands there would probably not be enough horses left to race as a vast majority of the trainers were also in violation of some of these rules. It should be noted that while that may sound like Mr. Pena is a victim that is not the case. For example; one of the drugs he used, Factrel"off label on many occasions" is a drug used to enhance ovulation in cows. The only reason to give such a drug to a gelding apparently would be to produce a small increase in testosterone designed to make the horse "feel better" for racing. In other words to cheat. Mr. Pena or his vet in many cases injected some horses with up to five different medications within 24 hours of a race. When I investigated further I discovered that the rules of which drugs are allowable and when are different in every state. New York uses specific time requirements for various medications while Pennsylvania, New Jersey and Delaware only use recommended withdrawal times. I reached out to Ed Martin at ARCI and with his help we arranged a meeting at the Meadowlands in June with all of the regulators from these four states, along with some respected veterinarians and a handful of trainers to discuss the problem. Clearly with different rules in every state it is possible that a trainer could make a mistake but why should the rules be different. It was agreed by the regulators that they would try to work together to come up with uniform standards but everyone agreed that getting anything done would be difficult and require public hearings, comments, etc. and no one was quite sure whether we would be able to accomplish our goal. I checked back and as expected nothing has gotten done.

The other thing you should be aware of is that even when someone is caught cheating the penalties in most cases is a joke. It is not uncommon for a trainer to receive a suspension, get a stay as a result of an appeal, if need be go to court to get a stay and finally two or 3 years later agree to accept a 6-month suspension provided it can begin in November and end in April allowing the trainer to simply go down to Florida and avoid the cold winters in the Northeast and train newly purchased yearlings on a farm. Occasionally the trainer will simply take 6 months and go on vacation. The horses he was training are put in the assistant trainer's name for the winter so in essence there are no penalties at all other than a forced vacation in Florida or a cruise in the Mediterranean.

In any case, standardbred racing does have a problem and one suggestion that I have heard is to send a message to the states that Congress would like to see the states adopt the Interstate Compact Concept which would allow all of the states to use the same rules and regulations. Unfortunately, in states like New York it would be almost impossible to pass since the leader of the horsemen,Joe Faraldo had made it clear that he is opposed to this approach. He is also opposed to the use of out of competition testing which would allow inspectors to visit the farms where the horses are stabled in order to determine if there are any rules being violated. I am hopeful that Governor Cuomo who has taken a strong interest in this matter as a result of the many breakdowns in the thoroughbred racing will get the state to agree to pass legislation allowing New York to join in the Interstate Compact. I am confident that Governor Cuomo takes this matter very seriously and I am cautiously optimistic that over the next few months we will see legislation to address the problems.

In short, our industry needs change if we are going to survive long term and because unlike other sports we have no commissioner to set the rules. The fact is medications both legal and illegal appear to be so much more prevalent than in other racing jurisdictions and without an Interstate Compact it would seem that the next logical thing would be for the Federal Government to take this over so that

the rules are the same in every state. For me, other than family, there is no bigger thrill than winning a race and going to the track with friends. I would hate to see the sport I love die but we need a new business plan and we need to eliminate the chemists if we are going to survive and protect the tens of thousands of jobs that rely on this industry's long term survival.

Senator UDALL. Thank you.

Mr. Gagliano, please proceed.

STATEMENT OF JAMES GAGLIANO, PRESIDENT AND CHIEF OPERATING OFFICER, THE JOCKEY CLUB

Mr. GAGLIANO. Mr. Chairman, Senator, on behalf of the stewards of The Jockey Club, I thank you for this opportunity to testify today.

My written testimony provides several documents that paint a clear picture showing The Jockey Club's deep commitment to its core belief: Horses should compete only when they are free from the influence of medication.

The Committee obviously shares that view. Shared views give us the opportunity to work together to achieve an important goal.

As you saw in my written testimony, in 2001, The Jockey Club retained McKinsey & Company to study our sport. One of McKinsey's core findings was that animal safety, welfare, and medication are among the most consistent concerns expressed by the public and one of the factors in the sport's steady decline of its customer base.

A very important initiative of The Jockey Club was its drafting last year of the Reformed Racing Medication Rules. The rules were announced at The Jockey Club's Roundtable Conference in Saratoga Springs last August and updated earlier this year.

The proposed rules provide for new medication categorizations, clearly defined regulatory limits, dramatically enhanced and remodeled penalties, and heightened testing. This includes out-of-competition testing, such as that used in track and field and cycling, two other sports that have battled similar problems with performance-enhancing drugs.

The proposed penalty system is cumulative. It increases fines, disqualifications, and suspensions, and provides for lifetime bans for repeat offenders.

The Jockey Club considers the reform rules necessary to clean up racing. We work vigorously to promote their adoption in all 30 states with commissions and other industry bodies.

The proposed rules would prohibit the performance-enhancing drug called Lasix, which is certainly a hot button issue. Lasix is injected into virtually every horse running in the United States shortly before competition, whether or not there is any medical reason. The rest of the world bans the use of Lasix on race day, with rare exception.

In another critical Jockey Club initiative, 2 months ago, we created an advocacy website called *cleanhorseracing.org*. It focuses solely on medication rule reform and offers news, scientific studies, and commentaries. It also makes it easy for readers to petition State racing commissions to adopt the Jockey Club's proposed reform medication rules.

Over the last few years, there has been some progress. Some regulations have been improved and made more uniform across racing jurisdictions. For example, anabolic steroids are virtually banned across all pari-mutuel states.

Kentucky is on the road to eliminating the use of Lasix, as was discussed earlier. New Mexico and California now more strictly regulate Clenbuterol. And the Jockey Club has actively supported all of these efforts.

But that is not enough. The time has come to act. Regulations vary too widely in racing States. There is no central authority or set rules. Rigorous enforcement is lacking.

The Jockey Club will support any reasonable means to adopt, implement, and enforce its proposed reform racing medication rules, or something very close to it. That includes support by state-by-state adoption, the interstate racing compacts, or by Federal legislation.

The Jockey Club has carefully studied the proposed Interstate Horseracing Improvement Act, and we applaud its very important goals. We also have some areas of concern.

First, the definition of performance-enhancing drugs is too vague, unscientific, and fails to differentiate between truly therapeutic drugs administered only for therapeutic reasons, and drugs with no use except performance enhancement.

The reform racing medication rules, on the other hand, classify 25, but only 25, therapeutic drugs for use, and only if they are withdrawn well before a race. This is based on significant veterinary consensus. All other medications are always prohibited.

Second, that those requirements that violations be known introduces a new, unnecessary, and unduly high prosecutorial standard of proof in proceeding against trainers who violate the law.

Third, the bill creates a right of private action. We believe this medication issue is about regulation and enforcement. Private litigation only will serve, in our view, to distract from achieving this law's goal.

Fourth, it is our respectful recommendation that the bill not be adopted through an amendment on the Interstate Horseracing Act. Instead, it should be undertaken on a standalone basis. Otherwise, we believe that crucial medications issues will have a much more difficult chance of gaining consensus and potentially will get lost in a welter of unrelated issues.

Last, the penalties in the bill may not go far enough. And I'll end my oral testimony with a real-time, real-life example.

No doubt you all heard or read about the recent outbreak of test positives for dermorphin, a drug that is 40 times more powerful than morphine.

Our rules, the reform racing medication rules, would trigger a minimum fine for the trainer that is 7½ times greater than, and a minimum suspension that is twice as long, as what the bill would allow.

We think substantial penalties along with a coordinated prosecution are necessary to have a real effect on medication misuse in horseracing.

So again, thank you for the opportunity to appear before you today. We are pleased to devote our time, our energy, and our in-

sights to a cooperative effort to reform racing's medication rules, however that is done best.

Thank you.

[The prepared statement of Mr. Gagliano follows:]

PREPARED STATEMENT OF JAMES GAGLIANO, PRESIDENT AND CHIEF OPERATING OFFICER, THE JOCKEY CLUB

As the President and Chief Operating Officer of The Jockey Club, I welcome the opportunity to participate in today's hearing on "Medication and Performance-Enhancing Drugs in Horse Racing." We appreciate the Committee's attention to issues that we view as critically important to our industry.

The Jockey Club has voiced its concern that the improper use and overuse of medication in racing endangers our human and equine athletes, threatens the integrity of our sport and erodes consumer confidence in our game. We strongly believe that our sport needs uniform rules, tough new penalties, and effective enforcement to ensure clean competition and improvements in racing safety. This is consistent with our core belief that *horses should compete only when they are free from the influence of medication.*

In this testimony, we will briefly describe the role of The Jockey Club in the Thoroughbred industry and the major initiatives spearheaded by The Jockey Club to improve the health and safety of jockeys and Thoroughbreds, as well as to comment on efforts to bring forward improved medication rules, standards and penalties.

The Jockey Club is the breed registry for Thoroughbreds in North America. The organization was formed in 1894 to maintain the integrity of *The American Stud Book* and ensure that all foals are the descendants of a sire (father) and dam (mother) that were registered Thoroughbreds. To register a Thoroughbred in North America, breeders must comply with the rules of registration as set forth in the *Principal Rules and Requirements of The American Stud Book.* You can learn more about The Jockey Club here: *jockeyclub.com*.

Over many years, The Jockey Club has devoted significant resources—financial, technological and human—to equine medication and drug testing issues. Our efforts have included:

- The Jockey Club funded "Building a World-Class Drug Detection System for the Racing Industry," a benchmark study conducted by McKinsey & Company in 1991 that is still used as a primary planning document for North American drug labs.
- Since its formation in 2008, The Jockey Club's Thoroughbred Safety Committee has issued numerous recommendations to state racing commissions regarding the adoption of rules related to medication and drug testing (*jockeyclub.com/tsc.asp*), several of which have been adopted and incorporated into regulation, racetrack "house rules" or national standards.
- The Jockey Club engaged McKinsey & Company in 2011 to study the Thoroughbred racing and breeding industry ("Driving Sustainable Growth for Thoroughbred Racing and Breeding"), which led The Jockey Club to undertake several medication-and safety-related initiatives. Those initiatives include the creation of the Reformed Racing Medication Rules (*jockeyclub.com/pdfs/reformed_rules.pdf*) and the launch of two websites: an advocacy website for medication reform, (*cleanhorseracing.org*), which includes a series of essays and statements from The Jockey Club, several of which are attached to this letter, and a searchable online database of rulings on Thoroughbred trainers from racing regulatory authorities, (*thoroughbredrulings.com*).
- The Jockey Club has also funded the Racing Medication and Testing Consortium's Drug Testing Initiative, an industry-led effort to set laboratory standards and accreditation criteria (*jockeyclub.com/mediacenter.asp?story=349*).

The Jockey Club has also developed and promoted many initiatives that improve the safety and welfare of Thoroughbred horses and jockeys during racing as well as the proper treatment and care of Thoroughbreds following the conclusion of their racing or breeding careers. Specifically:

- The Jockey Club has developed and maintained the Equine Injury Database, the Jockey Health Information System (*jockeyclub.com/safetyinitiatives.asp*) and the pre-race examination software module (*jockeyclub.com/mediaCenter.asp?story=428*).

- The Jockey Club has developed the Jockey Injury Database, maintained by the Jockeys' Guild (*jockeysguild.com/pressreleases.html*).
- The Jockey Club has conducted biannual Welfare and Safety of the Racehorse Summits (*grayson-jockeyclub.org/summitDisplay.asp*).
- The Jockey Club has established the Thoroughbred Incentive Program, Thoroughbred Connect, the Retirement Checkoff Program and Tattoo Identification Services (*tjctip.com, thoroughbredconnect.com, registry.jockeyclub.com*).
- The Jockey Club has contributed to the work of the Thoroughbred Aftercare Alliance Foundation Inc. (*thoroughbredaftercare.com*).

These significant activities demonstrate progress in improving the safety and integrity of the sport of Thoroughbred racing. In addition to the much-needed ban on anabolic steroids a few years ago, we also have seen evidence of state regulatory authorities' efforts toward reform, in particular Kentucky's movement to eliminate Lasix in some races and New Mexico and California regulators' tightening rules on the use of Clenbuterol.

But the changes have not been fast or comprehensive enough in The Jockey Club's view.

For that reason, The Jockey Club drafted last year, and revised earlier this year, a document called, "Reformed Racing Medication Rules," with the goal of having it serve as the basis for new regulations and laws. This effort was undertaken with the input and guidance of a broad range of industry stakeholders, including regulators, trainers, breeders, owners, veterinarians, track operators and bettors.

Since that time, The Jockey Club has actively advocated for the adoption of the Reformed Racing Medication Rules by the state racing commissions in the states that conduct pari-mutuel racing and has promoted it through the media and our advocacy website, *cleanhorseracing.org*.

In addition, it is the position of The Jockey Club that we will support the adoption of the Reformed Racing Medication Rules as a Federal law if an inter-state compact or action by states continues to prove unattainable.

On the matter of the Interstate Horseracing Improvement Act, The Jockey Club has carefully studied this proposed legislation. The Jockey Club applauds the goals and effort to coalesce very complex subjects into a unified law. We wish to point out, however, areas of concern to The Jockey Club.

First, the bill's definition of "performance-enhancing drug" is extremely vague and is overly broad, encompassing almost anything, and seeking the technically impossible "zero tolerance."

By contrast, the Reformed Racing Medication Rules strictly prohibit all medications except for just 25 appropriate therapeutic drugs allowed for use but withdrawn well before a race.

Second, the bill contains prohibitions only against "knowingly" providing horses with performance-enhancing drugs. This would introduce a new and extremely high prosecutorial hurdle that currently does not exist in racing. The Reformed Racing Medication Rules adopt the current standard of the strict liability of the trainer, the responsible party. We believe this will be far more effective.

Third, the bill includes a right of private action. We believe the medication issue is a regulatory one and that private litigation will serve only as a significant distraction from achieving the aims of this law.

Fourth, the bill seeks to achieve its ends by amending the Interstate Horseracing Act. We believe this will engender significant resistance by many industry stakeholders. We urge that if uniform medication reform is enacted at the Federal level, it is undertaken on a *stand-alone* basis, and with a comprehensive funding solution and a coordinated prosecution structure.

Lastly, we are concerned that the penalties of the bill do not go far enough in some cases. In fact, there is a timely example that concisely illustrates this point:

Under the Reformed Racing Medication Rules, the recent outbreak of Dermorphin positives (a drug 40 times more powerful than morphine) would have triggered a minimum fine for the trainer seven and one-half times larger than the bill's and a minimum suspension twice greater than the bill's.

The Jockey Club's determination to enhance the welfare and safety of horses and riders is longstanding and well documented. We will continue to devote our human, financial and technological resources toward improving the safety and welfare of Thoroughbreds and their riders. We look forward to working with this Committee and other state or Federal agencies or lawmakers interested in reform.

Thank you again for the opportunity to share The Jockey Club's perspective on important issues that have direct impact on the future of Thoroughbred racing.

JAMES L. GAGLIANO,
President and Chief Operating Officer.

Senator UDALL. Thank you.

And, Senator Lautenberg, I'm ready to allow you to speak.

STATEMENT OF HON. FRANK R. LAUTENBERG, U.S. SENATOR FROM NEW JERSEY

Senator LAUTENBERG. Thanks very much, Mr. Chairman.

And welcome to the witnesses.

And Mr. Gural, I want you to know that this was a very generous Chairman, in terms of allotting you time to make the presentation. It was worthwhile hearing, but usually the hammer comes down at an earlier time.

So we welcome you, in particular, because we've known each other indirectly for a lot of years.

And I thank all of you for the work that you are doing.

And I appreciate, Mr. Chairman, that you've called this hearing on horseracing, an issue important to the country and to my home state of New Jersey, as you've heard. It's critical that we find a solution to the widespread problem of performance-enhancing drugs in horseracing.

In New Jersey, our state animal is the horse. And we're proud of our four racetracks in Freehold, Atlantic City, Monmouth, and the Meadowlands.

And people are kind of struck when New Jersey, as the most densely populated state in the country, with over 9 million people, to know that we have more horses per square mile than any other state in the country. So it's just people are crowded; apparently, there's room for horses. But it works out very well.

And horseracing in my home state generates $780 million each year, provides upwards of 7,000 jobs. Americans have been racing horses for more than 200 years. And for the most part, they have done so without the use of performance-enhancing drugs.

In recent years, however, increased drug use has emerged as a serious problem. It needs to be addressed. The New York Times reports now that an average of 24 horses die each week at racetracks. And in 2009, trainers were caught doping horses 3,800 times. So there's lots of monkey business going around with the horses.

And since the thoroughbred filly Eight Belles broke her ankle at the 2008 Kentucky Derby and needed to be euthanized on the spot, the industry has promised to get its act together and make the sport safer. But despite promises and assurances, state and industry groups have been unable to come together to develop consistent and effective regulation. And a patchwork of state regulations continues to undermine safety.

The fact is, some states, like New Jersey, have strong regulations in place to ensure the safety and integrity of horseracing. But those states are effectively punished when other jurisdictions have less regulatory commitment that lures more racing business to their states.

So to avoid this race to the bottom, it's crucial that we work together to provide safety and consistency across the country.

And we've heard the witnesses' statements, Mr. Chairman. They're important, and we look forward to having a chance to ask some questions.

Senator UDALL. Would you please proceed with your questions, Senator Lautenberg?

Senator LAUTENBERG. Thank you.

Mr. Gural, as the owner and operator of Meadowlands racetrack, you've taken steps to ensure that trainers with dubious backgrounds—you went into some detail—do not race at Meadowland. Yet, in other states, trainers with long histories of misconduct are allowed to train and race horses. Could a nationwide ban from the sport be appropriate for these repeat offenders?

Mr. GURAL. I think everyone would like to see that. I think the problem is that they're usually one step ahead of the testing labs, so it's difficult to catch them by using drug testing.

And frankly, the method that I've used, which is using my right of exclusion, is probably the best way to go.

But you run the risk of getting sued. And the right of exclusion is very difficult, because you are making it difficult for someone to make a living, so you don't want to be wrong.

So it's tough, but I think the penalties, clearly, when someone is caught, that should be the end of it. I mean, it shouldn't be three-strikes-and-you're-out. It should be, for a serious drug violation, it should be that's it. That should be the end of it.

And frankly, I think the thing that would solve it the best would be if we took some of these trainers out in handcuffs, because I think if someone was walked out of a barn area in handcuffs, that would be the end of drugging, because why would anybody do it if they thought they could go to jail?

Senator LAUTENBERG. The question about why we couldn't create the mold and the penalties for misbehavior, it seems to me that logic is on that side there. And it could take some adjusting here and there, but it's within our purview to do it. And I think that it would be a marked improvement over a condition that allows kind of sneaky activities to take over and challenge even the results of the race. As well, it's the safety of the horses and the jockeys.

Many states allow some use of painkillers in horses on race day. But painkillers can mask injuries and lead to life-threatening situations for horses and jockeys.

And, Mr. Irwin, what level of medication should be permissible for racing horses?

Senator UDALL. Please turn on your mike there and start again.

Mr. IRWIN. I'm not for any kind of race day medication at all, and I think that they should back off on the levels even for the normal drugs like Butazolidin. And I think they should just race as clean as possible on race day.

That's the way they do it everywhere in the world. I don't think we should be any different.

Senator LAUTENBERG. Mr. Gural, states like New Jersey, New York, have more important horseracing laws on the books than many others. What prevents someone from taking their horse out

of New Jersey, racing it somewhere where the penalties aren't as stiff and the laws are more lenient, and attract the qualified animals, horses, from leaving the state?

Mr. GURAL. Nothing. I mean, it's not unusual.

Like I said, I didn't let Pena race, but the other three tracks did let him race. You know, there is nothing to prevent.

Some states reciprocate. If someone gets a suspension in New York, it'll be recognized. And sometimes they don't. It's hit or miss.

Senator LAUTENBERG. So if a law was established across the country that the standards had to be the same, we could be without these problems constantly confronting us and the damage that comes from what I'll call, again, the monkey business.

Mr. GURAL. Yes, no question about it.

Senator LAUTENBERG. Mr. Gagliano, a recent article in *The New York Times* suggested that a poison from the backs of South American frogs is the latest substance to be used as a performance-enhancing drug in horseracing.

What can we do in science to keep up with horseracing drugs, if scientists aren't even sure which illegal substances they're looking for? Why should that be such a difficult problem?

Mr. GAGLIANO. Well, it's certainly a problem that other sports have as well. It's trying to stay ahead of the cheaters.

Research, properly funded research through the drug labs, is the solution there, where they have funds necessary to go and explore the new and emerging threats, such as the one you cited.

Under our reformed racing medication rules, a requirement of any state testing labs would be that they have a research component to go and spend the time to explore for those emerging threats, like the frog juice that you cited.

Senator UDALL. Thank you very much, Senator Lautenberg.

And, Mr. Gural, your statement about, if you walked out trainers in handcuffs would make a difference I think is very appropriate here, because one of the things that we have learned, just listening to people in the industry, is it's very, very lax in terms of enforcement.

And what you're really saying is, have some rules, enforce them, let people know that cheaters are going to be out of there. Three strikes, you're out, that kind of thing.

So I really believe that you're right on in saying that, you know, walking them out in handcuffs will really send a strong message. And we need strong, effective enforcement in this industry.

Senator Thune, thank you for joining us. Great to have you here.

STATEMENT OF HON. JOHN THUNE, U.S. SENATOR FROM SOUTH DAKOTA

Senator THUNE. Thank you, Mr. Chairman.

I want to thank our witnesses for being here today, and for sharing their insights on this subject.

I think a lot of people assume that South Dakota's horse culture is more confined to ranch horses and rodeo. But interestingly enough, my home state is also home to some Quarter Horseracing. Divided into 3 weekend stretches, both the Stanley County and Brown County fairgrounds host at least a couple of dozen races each weekend during the spring.

And I know it's not as prominent as it is in other parts of the country, in states like Kentucky, Florida and California. One thing is clear, and that is that everyone involved wants to ensure that horses are being treated and cared for in the most humane manner possible.

So I appreciate the hearing. And obviously, the testimony being furnished by the panelists here today, and hearing about what options might be considered in the future.

Let me just ask a general question. If it's already been asked, I apologize. But with everything else, other things being equal, would it be desirable to have a national set of standards for performance-enhancing medication? Is that something that any of you support?

Mr. GAGLIANO. Yes.

Mr. GURAL. Yes.

Mr. STIRLING. Yes.

Senator THUNE. If such as standard is established———

Senator UDALL. All witnesses indicated yes, for the record.

Senator THUNE. I saw some nodding, but thank you for pointing that out, Mr. Chairman.

If such a standard was established, how might enforcement be carried out uniformly?

Mr. GURAL. I think the thing that would help us the most, if the Federal Government got involved, would be to establish a couple of super labs. What we do now is foolish, because every state has their own lab. So the resources are being spread out too thin.

If we had a super lab on the West Coast and a super lab on the East Coast where they would have more money going to them, I think—this is just a money problem. That's why we can't catch them. We don't spend enough money.

Mr. IRWIN. I don't think that the answer is a laboratory. It doesn't work in cycling, and it doesn't work in track and field.

What works is policing and investigating, because you can only test for what you know you're looking for. You can't just test for something that's out there that you don't know about.

So what you need to do is you need to get the FBI or the DEA involved, do some good old-fashioned police work, find out what some of these drugs are that are being used, and then you can test for them.

Mr. GURAL. The problem is, I met with the State police in New Jersey. Actually, I have more ability to police than they do, because for an organization like the state police, they have to have probable cause before they can ask someone to open up the trunk of their car to see what's inside. Whereas, it's private property, so if someone drives their horse van onto my racetrack, I can ask them to open up the trunk of their car.

So surprisingly, I have more ability to catch somebody than the police do. And it's frustrating. But I was shocked. But that's the fact in our Constitution, for a policeman to ask you to open the trunk of your car, he has to have probable cause that you have syringes or illegal medication, whereas I don't have to have probable cause. I could just say open the trunk.

So it's tough. And I agree that drug testing is very difficult, because they're always one step ahead of us. But I've been told by

certain veterinarians, by labs, that if they have more money, that they think they could catch these guys.

The other thing that's frustrating is, nobody ever, you know, rats them out. It seems to be, you know, code of conduct that says, "Don't squeal on these guys." Everybody watches and sees what's going on, but as the owner of a racetrack, when I reach out and say tell me, nobody wants to tell you. It's really frustrating.

Senator THUNE. Go ahead, Mr. Stirling.

Mr. STIRLING. If I could, yes.

I think Mr. Gural hit on it before. Obviously, the drug labs do the best they can. But when we get somebody, he's obviously due his due process, but we have a tendency not to throw the book at them. And that's what needs to be done.

These dermorphins that we were talking about. A person has one of those, one strike and you should be out on something like that. I mean, we have to crack down on those kind of people.

And when you do that, I strongly believe you'll see less and less people trying to have their little chemists on the side and trying to beat the system.

We just don't really take care of the people that do the things that should put them out of the business for good. They're back in 6 months. They're back in a year.

Mr. GAGLIANO. I'd like to add, if I may, onto what Mr. Gural said about the labs. We have about 18 labs in this country that are forensically testing race results, samples from races. Those labs are wildly different at times in their cost per sample, which indicates to us that there are different standards.

We, in the rules I cited earlier, would look for all those labs to reach a certain level of accreditation that's been set by the industry that would be the highest, and based in large measure on what was established by WADA. We believe that having the labs at that much heightened standard would improve the prosecution immensely.

Mr. STIRLING. If I could add on to that, we do have lab accreditation. As long as they're accredited internationally, the ISO 17025 standards, then they're a pretty credible laboratory.

The problem is, a lot of these laboratories, by statute, belong to state universities and things like that. And it's going to be really tough to go in there. I mean, it would almost take the government to do that, to tell the state university they can no longer have that testing lab, because many, many of them and some of our biggest labs are located at state universities.

Senator THUNE. My time has expired, Mr. Chairman.

Senator UDALL. Thank you, Senator Thune. Thank you very much.

Let me ask about this dermorphin.

Mr. Stirling, you mentioned it. I think several others have mentioned it in their testimony. And you've described how States began testing for the syntheticversion of dermorphin. This is, it's my understanding, a tree frog extract that is a painkiller 40 times more powerful than morphine.

Should a trainer who gives a racehorse this drug be permanently banned from race horsing, from racing horses?

Mr. STIRLING. If you're asking me, yes. Yes.

Senator UDALL. Yes. Mr. Gagliano?

Mr. GAGLIANO. I believe so.

Senator UDALL. Mr. Gural?

Mr. GURAL. Absolutely.

Senator UDALL. And, Mr. Irwin?

Mr. IRWIN. I'd say yes. I'd like to know—this is just for my own personal edification—from any of the members of the panel, have you ever heard of a trainer that was making his livelihood as a trainer, that is no longer training because he was "kicked out" of the sport?

Senator UDALL. That's a question I intended on asking, because I've been probing this with everybody. Can somebody tell me? A trainer that's ever been kicked out on a permanent basis here?

Anybody, Mr. Gural?

Mr. GURAL. Yes. There've been a couple.

Senator UDALL. There have been a couple, but it's very, very rare.

Mr. GURAL. It's very rare. And that's when they get caught with like five positives in a week or something, and, basically, they make a deal where they surrender their license. But there's no way of knowing if they don't have a friend who they now get as a beard to front for them.

It's really tough, and it's discouraging. It has happened, but it's rare.

And in most cases, they surface someplace else, or their girlfriend becomes the trainer. We've had that, where we've had to actually look at the addresses of the trainer. We'll note that we kicked the guy out, and now the girl who lives with him is the trainer. So we'll kick her out, too.

But, you know, it's a lot of work to keep track of that.

Senator UDALL. But can any of you think of a name? Can you give me a name?

This is the thing, I keep searching for a name.

Mr. Gagliano?

Mr. GAGLIANO. I recall some from harness racing, but it was quite a while ago. But none in recent memory.

Mr. IRWIN. One would have to look in the harness racing hall of fame to find those names.

Mr. GURAL. That's not nice.

[Laughter.]

Senator UDALL. Mr. Stirling, can you think of anybody? And I think that Mr. Gural hits a very important point here, is that one state, they're told they can't race for a little bit. They just move on to another state and keep on going on.

The flip side of this to me that's remarkable is the number of trainers that have violations that just keep going down the road. I think when Mr. Irwin was running a horse in the Kentucky Derby, the winner of the Kentucky Derby in 2011, his was the only trainer in the entire race that didn't have violations.

Is that correct, Mr. Irwin?

Mr. IRWIN. Yes.

Senator UDALL. I mean, I find that pretty astounding.

Now, Mr. Stirling, you said that doping is rare, and I had the sense you were disagreeing with The New York Times when they

said in their story that 24 horses a week were dying as a result of it.

Mr. Irwin, do you want to respond to that? I know that you felt very strongly about that issue.

Mr. IRWIN. Well, as I said earlier, you can only test for what you know. And Mr. Stirling cited some statistics about what a clean sport we have because there are so few positives. Well, there's probably plenty of positives that we don't know about, because we don't know what drugs are being used so we can't test for them.

These are designer drugs that we'll find out about later that are being used today but that won't come to the surface until later. It's just like the frog thing and the sea snail thing from the Great Barrier Reef. These are things that underground people know about.

And the real problem is, is there are too many enablers in the world. And as long as there are guys that are cheaters there's going to be an appetite for those drugs and treatments, and that's the problem.

So until we actually get rid of these people, we're not going to change the culture.

And as far as how many positives are out there, hidden positives that we don't know about, it's just open to conjecture.

Senator UDALL. Mr. Gural, your thoughts on not much doping going on?

Mr. GURAL. I think there's plenty of doping going on. I just think that, like Barry said, no vet is going to give a horse a drug if he knows that they're testing for it. So my guess is that somebody must have ratted out and gone to a lab and said I got this frog juice thing and that's what they're using. And lo and behold, when they started to test for it, all of the sudden, I saw I think in one Ruidoso Derby or something, half the horses that were in the biggest race in New Mexico came back positive for this frog juice thing.

Like in New York there was Afrin. One day they started to test for Afrin, and they had 20 positives at one racetrack in 1 weekend for Afrin. So, obviously, they hadn't been testing for Afrin. They decided to test for Afrin, and they came up with 20 positives.

So that's what happens. Unless we know what they're using, it's very hard to catch them.

So I disagree. But I'm not an expert in thoroughbred racing, so I'm, unfortunately, speaking for standardbred racing.

Mr. STIRLING. Senator, if I could clarify?

Senator UDALL. Yes.

Mr. STIRLING. What I'm referring to as doping is the dermorphins of the world. That's doping.

A lot of times in the media you'll see doping is———

Lasix is doping, Butazolidin and things like that are doping just because a horse has an overage. I don't consider that doping at all.

I consider doping somebody that is actually using something that should never for any reason be in a horse to try and compromise the outcome of a race. To me, that's doping.

Mr. IRWIN. I'd like to say one other thing. The biggest drug scandal that we've had in this country in the modern era was the BALCO scandal that took place in a Bay Area lab. And that went on for a period of, I think it was, like, 8 or 9 years and the only

way they found out about it is somebody sent a syringe into a lab. They tested for it, and that's how they found out what to test for.

Once they knew what to test for, that's how they started catching these people. When you have a designer drug where they just change one element of it then, and it's just like a steroid or something like that, it's impossible to catch these guys. You have to know what you're testing for.

Senator UDALL. Mr. Stirling, is Clenbuterol, or bute, is that doping?

Mr. STIRLING. Clenbuterol? Clenbuterol's probably the best drug that's come out in the last 30 years. Unfortunately, it has anabolic steroidal properties and people are abusing it. And unfortunately, it's going to probably have a much longer withdrawal time than it does now because of it being misused.

But it's probably the best drug that's come out in 30 years.

Senator UDALL. But you shouldn't have it on race day. You shouldn't be injecting———

Mr. STIRLING. Oh, absolutely not. Should absolutely not.

Senator UDALL. Totally cleared through the system———

Mr. STIRLING. The withdrawal time on that is 4 or 5 days prior to racing.

Senator UDALL. OK.

Then, Senator Lautenberg? Senator Lautenberg, I'm going to do a couple of rounds with these folks, so I'm happy to have you participate with me and then get on with the next panel.

Senator LAUTENBERG. Please do. I wanted to stay with you and the panel, but I've heard enough to tell me where we ought to be going.

Senator UDALL. OK.

Senator LAUTENBERG. That it's a sport that's very attractive for lots of people and not the least of which is the jobs, not the least of which is the revenues for the States and the organizations. And if it can be done without harm to the individual or the horse, by golly, we ought to do it.

We ought to make sure that the horse that wins, wins because they have the strength and the guidance to do it, not pushed by some steroid or whatever it is that they're giving to these horses.

Senator UDALL. Well, you know, Senator Lautenberg, you make a very good point in terms of the jobs.

In my opening statement, I talked about nationwide and New Mexico the numbers of jobs. And I think these jobs are threatened if you have a dirty industry.

I think in some of the descriptions we've already heard, I think we might well hear more, and I hear them privately, the industry is on the way down. And some have even used the term a "dying industry." Well, if you have a dying industry, that isn't a growth industry.

I mean, racing used to be the most popular thing in America, in terms of a spectator sport. But it's hurting now.

And I think the reason for holding this hearing is trying to get us to a place that you have honesty, you have integrity in the industry, and it can come back.

You can have all the different forms of bettors. I mean, a lot of the big bettors I think have left this industry, the big time bettors, because they just don't want to be a part of it.

So anyway, I'm going to ask a few more questions here.

Senator LAUTENBERG. Yes, please.

Senator UDALL. And if you would start thinking of questions, just let me know, OK?

Senator LAUTENBERG. I may gallop off to another hearing.

Senator UDALL. Well, I don't blame you. I don't blame you. It's Thursday, and it's almost 4 o'clock———

Senator LAUTENBERG. Or I shouldn't say gallop, Mr. Gural. You don't do galloping.

Mr. GURAL. Not in harness racing.

Senator UDALL. I'm going to use a couple of charts here.

Mr. Gagliano, in April, a track veterinarian testified to a congressional committee that trainers frequently asked her to provide drugs for improper purposes.

She also said that if she refuses, the trainers can find another track vet or just go online to buy them, some sites like *horseprerace.com*.

But HorsePreRace is an online Canadian pharmacy that advertises anabolic steroids, blood builders, a powerful pain killer, much more powerful than morphine.

And here's a web page for their oral pain peptide, one of their best selling products. It sounds a lot like dermorphin to me, or frog juice.

HorsePreRace describes the key features and benefits of this drug in the following manner, and you can read it here: The oral pain peptide improves the brain levels of endorphins to reduce perception of pain and eliminates it. The oral pain peptide is most effective given orally 4 to 6 hours before the event but can be given 6 to 10 hours out without noticeable effects.

Mr. Gagliano, does an oral pain peptide like this have any legitimate use in horseracing, particularly just hours before a race?

Mr. GAGLIANO. Most certainly not. Certainly not.

Senator UDALL. Should trainers who drug horses with oral pain peptides be permanently banned from racing?

Mr. GAGLIANO. Not knowing a lot about that specifically, but it certainly seems so.

And let me just draw back to our reform racing medication rules, where we authorized the therapeutic use, withdrawn well before a race, of just 25 drugs. Everything else is prohibited, and this would certainly be prohibited.

Senator UDALL. Mr. Irwin, you previously called for a Federal investigation of designer drugs used in horseracing. I'd like to ask you about a designer drug.

Belgium customs agents seized a package of TB–500 destined for a cyclist who later admitted using it to promote muscle growth to maintain fitness.

A newspaper account of the incident describes TB–500 as a, quote, "ultramodern doping product." There is a California company that markets this synthetic peptide for use in racehorses. The company website claims that TB–500s greatest selling point is that it is, quote, "100 percent drug free and does not swab."

This allows the peptide to be used right throughout racing spells in both training and competition, completely free of any banned substance. This product is apparently so popular that other online pharmacies sell cheaper versions of it.

Mr. Irwin, does a designer drug like TB–500 have any legitimate place in horseracing?

Mr. IRWIN. Well, I don't really know if that is a designer drug or not. A designer drug is something that mirrors a normal drug, and you just change it a little bit to try to get—you can't get 100 percent of the same impact as a regular drug but you can get pretty close. That's what we learned in the BALCO.

I'm unfamiliar with this product but, you know, to me, there are very few drugs that I think should even be allowed to be used the week a horserace is, let alone the day a race is.

And Mr. Stirling brought up the drug that he seems to like a lot, Clenbuterol. There is absolutely no justification for a horse, a healthy horse, to be given Clenbuterol, yet a lot of modern racehorses get it all the time.

We need to kick that habit. That's my opinion.

Senator UDALL. And on the issue of designer drugs, do you think they should be stopped? Is there a way to stop them?

Mr. IRWIN. Well, as I said, the only way you can do it is by police work, or getting tips or something like that. That's why I think the FBI and the DEA are probably the best qualified.

State racing commissions, the kind of policing activities that they can do, are not very impressive. We need some serious help from people that do that for a living.

Senator UDALL. Mr. Stirling, you spoke on a panel with Dr. Rich Harden, the equine medical director for the Virginia Racing Commission at the HBPA's 2011 summer convention. And Dr. Harden described trainers medicatinghorses up to the permitted levels to get close to the limit without violating the rules. And he stated that a lot of people medicate and train to the threshold limits rather than using the threshold limits to protect them frominadvertent medication overages.

He also explained how trainers stack medications to make a potent drug cocktail that escapes detection. And he says, "We're seeing a lot of combination drugs. We're seeing prednisone, a corticosteroid, and we're seeing prednisolone. So why do you treat a horse with prednisone and prednisolone? Because you're giving them half a dose of each. That gives half the level that is showing up in the drug kit tests, and yet the horse is getting the benefit of both of them."

I think these charts based on a *New York Times* graphic illustrate Dr. Harden's point. A horse received all these injections of therapeutic medications in the week before its last fatal race. The horse got several types of painkillers instead of just one.

Dr. Sheila Lyons' testimony today argues that disclosing veterinary treatments and reporting drug administrations could go a long way to preventing this potential type of medication abuse.

Would HBPA support public disclosure of veterinary records to prevent medication abuses?

Mr. STIRLING. Well, if we're talking about I'll Have Another, then I'm really not familiar with what has been found there. But from

what I've read, it sounds like it's the banamine, butisol, and things like that.

This horse did compete in two long races—he will never run that long again in his life—in a period of 2 weeks and was expected to do it again in 3 weeks.

You're going to have aches and pains. And if we're talking bute or banamine, something like that, then I would think, yes, he probably would have had some of that. And he wouldn't have it anywhere near the race. I mean, you're talking about cocktails. You're talking about stacking. That has pretty much been stopped in most places.

Stacking would be giving butisol or banamine at the same time and try to get the dual effect.

And Kentucky was pretty wide open a number of years ago, but they've gotten pretty strict in the last number of years.

Senator UDALL. Mr. Irwin, the trainer of your horse in this year's Kentucky Derby and the Preakness Stakes was the only trainer with no medication violations. But the trainer who won those races, Doug O'Neill, has a long history of rule violations, including four milkshaking violations.

Milkshaking involves increasing the horse's total carbon dioxide levels to boost endurance.

Your full written testimony describes the state regulatory body as minimizing the negative publicity of enforcing a violation, particularly for someone competing for the Triple Crown winner.

Should anyone with multiple milkshaking violations be allowed to compete in the first place? How should repeat violators be dealt with by state authorities?

Mr. IRWIN. Well, I would like the "three strikes and you're out" rule. I thought that for this particular trainer, that was his third strike.

Somebody pointed out in The Blood-Horse—I didn't read it—that it was actually his "fourth strike."

I think the problem here is when you have the whole crazy quilt pattern of different rules in each state, that some of these violations can take place in different states.

Like I think the trainer of this horse had some in California, and he had another one in Illinois.

It's up to the state racing commissions to show some cohesiveness and bring that together and make some sort of adjudication that would be best for the sport.

For that particular individual, he has had a long history. And he certainly would be a candidate for someone that I would like to see waved goodbye to, based on his record.

Senator UDALL. Mr. Stirling, the HBPA's position statement says that all testing should be performed by Racing Medication and Testing Committee, RMTC, and ISO-accredited laboratories. How many test labs are RMTC-accredited?

Mr. STIRLING. As Mr. Gagliano says, there are 18 currently, I think 19 now with HFL in Kentucky.

I sit on the Racing Medication Testing board. We thought by making them all get internationally accredited they would drop off, because we knew 18 was way too many.

I couldn't give you the exact number now, but I think it's getting around nine or 10 that have got themselves internationally accredited.

Senator UDALL. And that's out of the total number of how many?

Mr. STIRLING. Well, I think 19 is the number on it.

Mr. GAGLIANO. But none have gotten to the RMTC accreditation level.

Mr. STIRLING. That's what I thought.

Senator UDALL. There are no labs that have gotten to the RMTC accreditation level; is that correct, Mr. Gagliano? That was a promise that was made earlier by the racing industry.

Mr. STIRLING. I'm not aware of that, and I sit on the board, so I should be ashamed, I guess. I don't know that.

Mr. GAGLIANO. I think several are in the process of moving toward it, but it has certainly been slow.

Senator UDALL. Mr. Gural, a track official who presented to the Race Track Industry Program symposium last year described a race-tracker telling him that, "there are people who couldn't be hired to sell hot dogs for our company because of their past, yet they're allowed to participate in racing."

He further explained, and I quote, "It takes scores of rule violations before a trainer gets a 10-year suspension. Then the trainer gets a stay, and we see him at the top of the standings of a high-profile meet with a near 50 percent win percentage."

Mr. Gural, you described how you as a track owner successfully ruled off a harness trainer from your tracks. Could track owners in every state simply rule off certain trainers from racing at their tracks? And are there situations where this might not be possible with other track operators?

Mr. GURAL. If the property is privately owned, then they have the right of exclusion. If it's government-owned, so for example, the Meadowlands, until I took over, it was impossible for them to rule anybody off, because it's public land. But as the lessee, I was able to do it.

So somebody, like in California, for example, or Churchill Downs, or Keeneland, they could do it.

And almost all the time, the courts have backed it up. There have been a couple of questionable decisions, but here in New Jersey, we won that.

And so I think once we won the first case, because it's not just him, I have a long list of trainers that are banned, that are excluded at my three tracks. So once we won the case with Pena, I haven't heard boo from anybody. Whoever is excluded is excluded.

So I think the answer to your question is, as long as it's owned privately, you can exclude that person.

Senator UDALL. And when you took that courageous act, it cost you a pretty penny, too, didn't it, to do the litigation?

Mr. GURAL. $65,000.

Senator UDALL. Thousands of dollars in legal fees.

Mr. GURAL. Yes, which is why a lot of tracks don't bother, because—and had we lost, then where would we have been? We would have been in a real mess.

So we were very fortunate to get a judge who—because a lot of times the trainer will get stay. I would say it's more uncommon

that they don't get a stay. Usually they'll get a stay, because judges are sympathetic.

But in this case, we won the case on the right of exclusion.

Senator UDALL. Mr. Gagliano, this chart quotes from Jockey Club statements to Congress from 1982 until today. When Members of Congress ask about doping problems, the Jockey Club has pretty much said the same thing over the years: We do not need Federal legislation. We are making progress. Just give us some more time.

Your testimony today states that the Jockey Club would support Federal legislation if action by the states continues to prove unattainable.

It seems to me that 30 years is long enough to judge whether there is a need for Federal legislation.

But I would like to ask, in your view, how much more time does the racing industry need before Congress should pass legislation?

Mr. GAGLIANO. Well, as I indicated in my testimony, the time to act on all measures is now. We have a sport that we have evaluated through McKinsey. And, frankly, through our own eyes, that is at a point where it's not a growth industry. And there are steps that we need to take.

And we're proud of our statement here today. We will continue our work on a state-by-state basis. And we will also lend our support for an interstate compact, if that ends up to be the most palatable way to get the reform that we've discussed today.

Senator UDALL. And I, Mr. Gagliano, take from your testimony today that you support Federal legislation that we have before the Committee?

Mr. GAGLIANO. What we said very specifically in our testimony, both written and verbal, is that we would support the use of a Federal mechanism to ensure that the reform racing medication rules or something similar would be adopted.

Senator UDALL. Great. Thank you.

I know we've gone on a bit here, but I very much appreciate this panel. I appreciate your testimony here today. And so we're going to excuse this first panel and call the second panel forward. Thank you.

While we call the second panel forward, I'm just going to introduce them briefly here, as they're getting their seats.

On the second panel, we have Mr. Matthew Witman, National Director, American Quarter Horse Association; Mr. Marc S. Paulhus, former Director of Equine Protection, and Vice President, Humane Society; Mr. Ed Martin, President and CEO, Association of Racing Commissioners International; and Dr. Sheila Lyons, DVM, Doctor of Veterinary Medicine, Founder and Director of the American College of Veterinary Sports Medicine and Rehabilitation, Founder and Director, Homecoming Farm, Inc.

Let me thank you all for being here today. I know that with the break, and with the testimony in the first panel, you've waited a lot. And I very much appreciate that.

And so why don't we start with Mr. Witman, and proceed down the line here with testimony.

STATEMENT OF MATTHEW WITMAN, NATIONAL DIRECTOR, AMERICAN QUARTER HORSE ASSOCIATION

Mr. WITMAN. Mr. Chairman, thank you for the opportunity to testify today on behalf of the American Quarter Horse Association and our industry.

My name is Matt Witman. I'm a horseman, National Director with the American Quarter Horse Association, Chairman of AQHA's Racing Committee and Racing Council.

The American Quarter Horse Association is the world's largest equine breed registry and membership organization, having registered nearly 6 million horses, and has a membership roster of nearly 300,000 members worldwide.

Quarter Horses make up approximately 15 percent of horses raced in the U.S., and account for about 6 percent of the almost $11 billion direct economic impact of racing on the United States.

Slightly more than $301 million was wagered on American Quarter Horseracing last year. That's about 2 percent of the total handle.

As a breed registry and membership organization, AQHA is dependent upon State racing commissions and the various regulatory bodies to enforce the rules of racing, ensure proper drug testing procedures are in place at racetracks, and guard the integrity of racing for the wagering public.

AQHA's rules do not supersede State laws or individual State racing commission rules. Unfortunately, uniform rules do not exist in our sport, and many times, racing jurisdictions that are legislated on the State level are vastly different.

However, American Quarter Horseracing is run under the same regulations in each state as other racing breeds, and we are working toward uniformity and stricter penalties with these jurisdictions.

As a person who has spent his entire life involved in horseracing, I can think of no other time in our sport's history that we have come under the amount and type of scrutiny that we are experiencing today. That's largely due to many articles on horseracing that have sounded an alarm, and where American Quarter Horseracing was characterized as an anything-goes sport, where 2-year-old American Quarter Horses are an expendable commodity, owned and trained by those with a win-at-all-cost attitude.

That's not the industry I know. And to the American Quarter Horse Association, that attitude is unacceptable.

No one wants to have a horse or jockey die, or have a career end as a result of racing, training, inhumane practices, or poor stewardship, which would include using illegal and/or illicit performance-enhancing drugs. AQHA agrees that one incident of illegal doping, or any horse suffering because of unscrupulous individuals involved in our industry, is one too many.

And AQHA steadfastly supports efforts to rid the industry of drugs being performance enhancing, and most certainly of anyone who uses these drugs to harm horses, their riders, or an unsuspecting public.

In October 2008, the AQHA Racing Committee formed the Safety and Welfare Subcommittee, now known as the Equine Health, Welfare, Integrity, and Research Subcommittee, to address issues in

the racing industry, and assist tracks, horsemen, and racing jurisdictions in identifying the testing for illicit substances being used on our horses.

The Equine Health, Welfare, Integrity, and Research Subcommittee is strongly encouraging all AQHA members and horsemen to work with their respective racing stewards and commissions to adopt model rules and stricter penalties for violators.

In 2012, AQHA's enhancement of penalty rule was modified to give AQHA the ability to direct disciplinary action or sanctions against individuals coming under racing commission jurisdictions. Once disciplinary action is imposed by a racing jurisdiction, AQHA now has the ability to level additional fines, suspend AQHA membership privileges, and/or suspend participation privileges in recognized events.

In November 2010, AQHA's efforts to test for the use of forbidden substances were brought to the forefront when the association implemented what it termed "super testing" for horses entered in that year's Bank of America Racing Challenge Championships in New Orleans.

In the same year, the association brought together a large group of industry experts, including horsemen, racing officials, and experts on medication and testing to discuss and address issues. At the top of the list was the rampant use of high doses of Clenbuterol.

In February 2011, AQHA staff met with track owners, breeders, veterinarians, and racing commission staff in Southern California to establish the association's policy regarding Clenbuterol. The association's recommendation,which is provided in our written testimony, has since been adopted by several states, including California, New Mexico, Indiana, and Oklahoma.

Owners and trainers of American Quarter Horses have also taken it upon themselves to address the issue of illegal doping of horses. Several horsemen across the country have obtained samples of alleged illegal substances, and submitted them to AQHA, or directly to the lab for testing and analysis.

Samples of dermorphin, a highly potent painkiller derived from the skin of South American frogs, were sent to the lab by honest horsemen who wanted a level, honest playing field so the substance could be identified and a test developed.

Recognizing that animal welfare is the single most important issue facing the equine industry, last February, the American Quarter Horse Association executive committee established a 14-member animal welfare commission.

AQHA wants the industry to come together, make significant changes, and regulate itself. We know we must do everything we can to protect horses, jockeys, the racing public.

While the industry might have been slow to react, at AQHA, we have observed a transformation taking place, where owners are demanding a level playing field and the best possible care for their horses.

AQHA is demonstrating its leadership role by urging states to adopt stricter guidelines on permitted medications, and stronger, more meaningful penalties forindividuals who use performance-enhancing drugs. Clearly, more must be done, and is being done, not

just because we have the public trust at stake, but because it's the right thing to do for our horses.

The American Quarter Horse Association urges stewards and state regulation authorities in every jurisdiction to levy the maximum penalties allowable against people who are doping horses, endangering horses' lives, the lives of the jockeys, horsemen, and cheating fans.

The horseracing industry must come together, and without question, adopt the current model rules, and, regardless of breed or role in the industry, develop the processes and procedures to address the future situations with the strictest penalties possible.

On behalf of almost 300,000 members, and more than 1 million owners of American Quarter Horses, thank you for the opportunity to speak on this issue and provide this testimony.

[The prepared statement of Mr. Witman follows:]

PREPARED STATEMENT OF MATTHEW WITMAN, NATIONAL DIRECTOR, AMERICAN QUARTER HORSE ASSOCIATION

Mr. Chairman and distinguished members of the Committee, thank you for the opportunity to testify today on behalf of the American Quarter Horse Association and our industry.

My name is Matt Witman, and I am a horseman, AQHA National Director and Chairman of AQHA's Racing Committee and Racing Council. I was born and raised around racehorses and it has always been a part of my life and livelihood. Today, I am here to discuss with you what AQHA is doing and what we feel the industry needs to do for the betterment of our horses, horsemen, and the trust of our fans.

The American Quarter Horse Association is the world's largest equine breed registry and membership organization, having registered nearly six million horses and with a membership roster of nearly 300,000 members worldwide. The mission of the American Quarter Horse Association is to:

- To record and preserve the pedigrees of the American Quarter Horse while maintaining the integrity of the breed.
- To provide beneficial services for its members that enhance and encourage American Quarter Horse ownership and participation.
- To develop diverse educational programs, material and curriculum that will position AQHA as the leading resource organization in the equine industry.
- To generate growth of AQHA membership via the marketing, promotion, advertising and publicity of the American Quarter Horse.

Located in Amarillo, Texas, AQHA functions as the official recordkeeping body of the American Quarter Horse industry. It records all American Quarter Horse ownership, processes approved show and race results, catalogs performance and produce data on all American Quarter Horses, and publicizes the American Quarter Horse industry.

In addition, AQHA maintains current statistics on ownership in each state and country as well as American Quarter Horse population figures.

As a breed registry and membership organization, AQHA is dependent upon state racing commissions and the various regulatory bodies to enforce the rules of racing, ensure proper drug testing procedures are in place at racetracks and guard the integrity of racing for the wagering public. AQHA's rules do not supersede state laws or individual state racing commission rules. Unfortunately, uniform rules do not exist in our sport and many times, racing jurisdiction that are legislated on the state level are vastly different, with no two being alike. However, we are working toward uniformity and stricter penalties.

As a person who has spent his entire life involved in horse racing, I can think of no other time in our sport's history that we have come under the amount and type of scrutiny that we are experiencing today. That's largely due to media articles on horse racing, that have sounded an alarm and where American Quarter Horse racing was characterized as an anything-goes sport, where 2-year-old American Quarter Horses are an expendable commodity owned and trained by those with a "win-at-all-costs" attitude. That's not the industry I know and to the American Quarter Horse Association that attitude is unacceptable.

As a person involved in the industry and as a leader within the American Quarter Horse Association, I can tell you that American Quarter Horse owners look at their horses as extensions of their families, with many taking great pride in seeing their prized horses go on to enjoy success after their racing careers conclude. To characterize the sport as anything less, or to state that owners of the breed are uncaring, unsympathetic or uninvolved is irresponsible and inaccurate. While there might be some in the racing industry who are corrupt, as with any industry, the majority of American Quarter Horse owners are honest people who put the best interests of their horses first.

No one wants to have a horse or jockey die, or have a career end as a result of racing, training, inhumane practices or poor stewardship, which would include using illegal and/or illicit performance-enhancing drugs. AQHA agrees that one incident of illegal doping or any horse suffering because of unscrupulous individuals involved in our industry, is one too many. And AQHA steadfastly supports efforts to rid the industry of drugs deemed performance-enhancing and most certainly of anyone who uses these drugs to harm horses, their riders or an unsuspecting public.

The American Quarter Horse Association continues its longstanding support of the racing industry and its horsemen. This includes racing that is clean, fair and provides a great experience for the horse, jockey, owner and fan base. AQHA continuously works to ensure not only the integrity and welfare of American Quarter Horses, but also the integrity and welfare of the entire horse industry.

Because the welfare of the American Quarter Horse is paramount to all other considerations, AQHA's role in preserving the integrity of the breed is expanding on a daily basis, and the Association has taken a leadership role in numerous areas to improve the welfare of the horse regardless of how it is used and enjoyed.

AQHA advocates for the health and welfare of the racing athlete through rules and through financial support of worthy industry initiatives. These include support of a racing surface research project, support of the industry's Racing Medication and Testing Consortium and national movements through Racing Commissioners International for uniform medication and model rules.

In October 2008, the AQHA Racing Committee formed the Safety and Welfare subcommittee, now known as the Equine Health, Welfare, Integrity and Research subcommittee to address issues in the racing industry and assist tracks, horsemen and racing jurisdictions in identifying and testing for illicit substances being used in our horses. The Equine Health Welfare Integrity and Research subcommittee monitors situations and works with state racing jurisdictions involving drugs, medications, abuse and other issues concerning American Quarter Horse racing. At an appropriate time, the Equine Health, Welfare, Integrity and Research Committee can recommend penalties to the AQHA Executive Committee against offenders. Those penalties would be released and publicized by AQHA.

The Equine Health, Welfare, Integrity and Research Subcommittee also is strongly encouraging all AQHA members and horsemen to work with their respective racing stewards and commissions to adopt model rules and enhanced penalties for violators.

In 2012, AQHA's Enhancement of Penalty Rule was modified to give AQHA the ability to direct disciplinary action or sanctions against individuals coming under racing commission jurisdictions. Once disciplinary action is imposed by a racing jurisdiction, AQHA now has the ability to levy additional fines, suspend AQHA membership privileges and/or suspend participation privileges in recognized events. Should the Association exercise this right to enhance a penalty, the disciplined individual may request a hearing before a hearing committee for the sole purpose of contesting whether AQHA's imposed penalty should be enhanced. The finding of a violation by a Racing Authority is not subject to review at a hearing and is considered final by AQHA.

Through AQHA's Equine Health, Welfare, Integrity and Research Subcommittee, plans are underway to further enhance this rule by developing an administrative penalty chart that would improve our ability to impose sanctions against violators.

In November 2010, AQHA's efforts to test for the use of forbidden substances were brought to the forefront when the Association implemented what it terms "super testing" for horses entered in that year's Bank of America Racing Challenge Championships in New Orleans. That same year, the Association also brought together a large group of industry experts, including horsemen, racing officials and experts on medication and testing to discuss and address issues. At the top of the list of this group was the rampant use of high doses of Clenbuterol, which can have a steroidal effect on horses.

In February 2011, based on information from the November meeting, AQHA staff and Executive Committee members met with track owners, breeders, veterinarians

and racing commission staff in Southern California to establish the Association's policy regarding Clenbuterol.

Specifically, AQHA recommended:

- A 30-day withdrawal of clenbuterol prior to a horse competing in a race. This does not ban clenbuterol. It establishes a 30-day prior-to-racing threshold after which clenbuterol cannot be administered. For training purposes and for horses competing beyond the 30-day window, clenbuterol use would still be allowed in racing American Quarter Horses.
- Threshold levels could be 200 pg/ml or less in urine and 1–2 pg/ml in blood.

AQHA has spent the last 18 months urging state racing authorities to adopt this position with some success. Several states have adopted this position or modified their current rule to address this issue. Those states include California, New Mexico, Indiana and Oklahoma. Other states had existing rules in place regarding Clenbuterol.

Owners and trainers of American Quarter Horses have also taken it upon themselves to address the issue of illegal doping of horses. Several horsemen across the country have obtained samples of alleged illegal substances and submitted them to AQHA or directly to a lab for testing and analysis. AQHA horsemen have been credited by members of the industry's Racing Medication Testing Consortium for bringing dermorphin, a highly potent painkiller derived from the skin of South American frogs to the attention of regulators and pushing for stringent testing standards regarding the drug. Samples of dermorphin were sent to labs by honest horsemen who wanted a level, honest playing field so the substance could be identified and a test developed. If the Federal Government wants to help, AQHA would welcome additional funding to help identify these drugs and develop tests for them in an attempt to stay ahead of people who want to cheat the system.

Speaking of additional funds, an idea that the Equine Health, Welfare, Integrity and Research subcommittee has discussed with owners and racetracks is to add an additional fee to starters in particular races at time of entry. Funds collected from this fee would be used to test all starters in those races or bolster state drug testing in these selected races. While the idea is not yet in place, AQHA has received positive feedback from horsemen who would support this effort. This is the kind of action the industry is initiating on its own.

The Equine Health, Welfare, Integrity and Research subcommittee continues to meet at least once a month on conference calls to address the topics under its charter, including developing penalties for people who repeatedly violate medication rules and/or who are Class 1 and Class 2 first-time offenders.

Recognizing that animal welfare is the single-most important issue facing the equine industry last February, the American Quarter Horse Association Executive Committee established a14-member Animal Welfare Commission.

The Animal Welfare Commission's mission is to provide a framework for its members to

(1) Identify issues negatively affecting the welfare of the American Quarter Horse

(2) Discuss issues, and

(3) Recommend actions that will help protect the American Quarter Horse from inhumane practices and AQHA and its members from the negative impacts associated with those practices.

The AQHA Animal Welfare Commission, in an effort to do right by the horse, is sharing its discussion, action items and recommendations with various industry organizations. While the commission is still in its infancy, it represents AQHA's commitment to the horse and is an example of how the industry is handling issues as they relate to welfare, including illegal doping of horses.

So with all its efforts to keep racing clean, one might be led to believe that AQHA would support the proposed changes to the Interstate Horse Racing Act. In fact, AQHA does not support Federal intervention and is not in favor of this bill. Instead, AQHA wants the industry to come together, make significant changes and regulate itself.

We know we must do everything we can to protect horses, jockeys and the racing public, among others. While the industry might have been slow to react, at AQHA we have observed a transformation taking place where owners are demanding not only a level playing field but the best possible care for their horses. AQHA is demonstrating its leadership role by urging states to adopt stricter guidelines on permitted medications and stronger, meaningful penalties for individuals who use performance-enhancing drugs.

The industry arrived at its current state over the last several decades. Lax oversight, inconsistent rules and non-uniformity all played a role in arriving at this point. Despite what some in Washington think, the industry has been working diligently to address the concerns of Congress and the public. Horse racing is taking all of this serious and initiating industry headed reforms. Those reforms include establishing goals and deadlines, and bringing about what we all agree is much needed change and improvement.

Clearly more must be done—and is being done not just because we have the public trust at stake but because it's the right thing to do for our horses. Rules are coming online and violators are being caught. Industry-driven initiatives in which we respond quicker to threats and find and develop tests for illegal drugs will help. There is nothing in the proposed changes to the Interstate Horse Racing Act that would provide funds for this type of research. Penalties must be swifter and more severe and language proposed in the bill doesn't address new, "designer" drugs properly. Studies on conditionally permitted race-day medications must be undertaken to properly address therapeutic medications. Uniform testing methods and consistent thresholds must be established so that participants understand the rules and trust the system in place. And, proper funding needs to be in place to oversee the industry.

To underscore our commitment to a cohesive, industry driven effort, AQHA is teaming with its counterparts in the both the thoroughbred and harness racing industries to bring about reforms and jointly address the issues facing horse racing.

The American Quarter Horse Association urges stewards and state racing authorities in every jurisdiction to levy the maximum penalties allowable against people who are doping horses, endangering horses' lives, the lives of jockeys and horsemen and cheating fans. The horse racing industry must come together and without question adopt the current model rules, and regardless of breed or role in the industry, develop the processes and procedures to address future situations with the strictest penalties possible.

On behalf of almost 300,000 members and more than one million owners of American Quarter Horses, thank you for the opportunity to speak on this issue and provide this testimony.

AQHA will continue to do everything it can for the racing industry. The issue of illegal drugs and misuse of medications is not about one single breed, association or group. It is about an industry that has been a part of our culture for hundreds of years. With common sense and cooperation, we can restore the public's trust and bring a new generation of fans and owners back to racing.

Senator UDALL. Mr. Witman, thank you very much.

Mr. Paulhus?

STATEMENT OF MARC S. PAULHUS, FORMER DIRECTOR, EQUINE PROTECTION AND VICE PRESIDENT, HUMANE SOCIETY

Mr. PAULHUS. Thank you, Mr. Chairman. My name is Marc Paulhus. I'm semi-retired, living on a small horse farm in North Carolina. During my professional career, I was the former Director of Equine Protection for the Humane Society of the United States, and also Vice President. That was quite some time ago.

I'm here today almost as if out of a time warp. Thirty years ago, I testified before the Senate Judiciary Committee in favor of the Corrupt Horseracing Practices Act, a bill that, quite frankly, had many of the same provisions that are in your legislation.

And it addressed a longstanding problem at that time, and a problem that was not amenable to a state solution, although attempts were made over, and over, and over.

In fact, Mr. Chairman, I attended more than 20 state racing commission hearings in various states, urging stronger rules on prerace medication to protect the horses, going to state after state, with vastly different rules, incompatible with trying to protect the interests of the horses.

The Corrupt Racing Practices Act, which was introduced by David Pryor at that time, came about as a result of frustrating efforts to try to improve the conditions on America's racetracks in order to better protect horses, protect jockeys, and also to protect the wagering public.

What we had found is that the individual racing commissions, and in fact, all the racing organizations proved themselves pretty much incapable of getting together and formulating a workable plan that everybody could agree to.

So the bill that was presented before Congress would have unified the drugging rule, established pre-race soundness examinations for horses, and introduced new measures to better protect and deter the use of illegal race-fixing drugs.

The problem, of course, came about because, after the era when permissive medications were allowed, the number of catastrophic breakdowns had more than doubled as a result.

Now, this makes perfectly good sense if you think about it. When we've got injured animals being given powerful painkilling drugs to enable them to continue racing and training on pre-existing injuries, they go out and they simply compound the injuries. The legs get weaker, the joints get more and more cumulative damage, and eventually you suffer catastrophic breakdown.

If you look at the period before permissive medication was allowed vs. afterwards, you see a severalfold increase in the number of horses suffering catastrophic injuries. That data is available, and I'd be happy to present it to the Committee.

Right now we're talking about—and this has been something that for some bizarre reason, we have come to accept—death on the racetrack. When 25 horses a week—an estimated 25 horses a week—die on American racetracks, that is unbelievably catastrophic. And we sit back and say this is OK, equine athletes can die at this rate.

If one human athlete died in a predictable rate, you know, one a month, we would call for a ban on that sport. We would automatically step forward and try to reform this to prevent such tragedies from occurring.

But we have little regard for the equine athlete. And they can die at phenomenal rates.

In fact, more than 25 a week die, because some of them limp back to the barns, and they're loaded into nice, fancy horse trailers, leave the racetrack, never to be heard from again. It's more than 25 a week—equine athletes are dying every single day all over America.

In addition to that, there are these lads that are top of these horses, these jockeys that go down in these catastrophic spills. I was an expert witness in a wrongful death case at Pimlico, where the family of Robert Pineda brought suit against the Maryland Jockey Club, the Pimlico Race Track, and the trainer, the veterinarian, because a horse by the name of Easy Edith broke down. And thenseveral horses following Easy Edith ran into this horse, a jumble of horses, of human flesh and animal flesh, and Robert Pineda died.

In that particular instance, the case was settled out of court. And the very next day, Maryland banned pre-race medication.

It didn't last very long, but it was a step in the right direction, an attempt at trying to do something.

Today, the number of illegal drugs and legal drugs is vastly increased over this situation that existed 30 years ago. And to speak somewhat to the point, how do we deter the use of these illegal substances that laboratories cannot test for today? The answer's very simple. Frozen samples.

A lot of times chemists realize there's something in that drug sample. They just don't know what it is. If we required those samples, those suspicious samples, to be frozen and set aside until new testing methodologies were adopted, we would find out. And that would also create deterrent. If the people who are using drugs illegally knew that they could be caught a year down the road, or even 2 years down the road, it would provide a powerful deterrent.

Now, this has happened in a couple of instances. I remember a case of 22 apomorphine positives that occurred one day down in Florida when they pulled some frozen samples out of a refrigerator and tested using this new test that had come up for apomorphine and, all of the sudden, bam, 22 positives in one day.

That resulted in a prohibition against the laboratory storing frozen samples. The laboratory director was, in fact, fired a few years later.

That was not the right response in that particular situation.

One of the things that I find most offensive is the new terminology for soundness. There is soundness, which is a horse that is perfectly sound and not injured in any way. And there is racing soundness, which is the condition of the horse after we've given it pain-killing drugs and enabled it to pretend to be perfectly sound and go out on the racetrack and further injure itself.

Thirty years ago, an attempt was made to forestall Federal intervention, and that brought the same groups who are on this panel and in this room together 30 years ago. And the perception, at that time, was that horse drugging was an image problem, and it needed to be dealt with as a PR and marketing problem, and, of course, people like myself who felt very much that it was a real problem.

Senator Charles Mathias, who chaired the Judiciary Committee, put together a deal. We brokered a deal between The Jockey Club, the Humane Society, American Horse Council, a number of other major players, including the National Association of State Racing Commissions, the progenitor group to Racing Commissioners International.

And we all agreed that the elements of the Federal legislation were going to be incorporated by the states. They were going to go forward with a no-drug ruleprohibiting all substances prior to a race. And so that deal, once brokered, ended the Federal legislation.

Now, the sad truth was that I went, together with a couple of other colleagues, to about 20 racing commission meetings urging passage of the new uniform drug standard. The Jockey Club wasn't there. The HBPA didn't favor it. None of the racing organizations that pretend or say that they are in favor of a ban on race day medication really gave much effort.

It was the HBPA, which testified in favor of continuing and, in fact, expanding permissive medication rules vs. me and a couple of

colleagues. I am firmly of the belief that that process will continue if we allow this bill to end up in a negotiated settlement where the industry is, once again, after 30, 40 years, given an opportunity to self-regulate.

They are incapable of doing so, absolutely incapable of coming together for the common purpose of protecting horses, protecting the integrity of racing.

The solution to this problem, Mr. Chairman, is before us. The solution is the Interstate Horseracing Improvement Act. We have to get this passed. It's a very modest proposal to create uniform drug rules and uniform penalties to improve the quality of laboratory testing that we need and to create a vehicle by which all of racing can clean up its image for the long-term.

I applaud you for introducing this bill and I thank you very much.

[The prepared statement of Mr. Paulhus follows:]

PREPARED STATEMENT OF MARC S. PAULHUS, FORMER DIRECTOR, EQUINE PROTECTION AND VICE PRESIDENT, HUMANE SOCIETY

My name is Marc Paulhus. I'm semi-retired and living on a small horse farm in North Carolina. During my professional career I served as Director of Horse Protection and Vice President for the Humane Society of the United States (HSUS). I also served on the governing board of the American Horse Protection Association. My degree is in Animal Science. The care and management of horses is my lifelong passion. I genuinely love the sport of horseracing.

Déjà vu all over again! I am here today as if delivered out of a deep freeze to continue a mission that commenced more than thirty years ago when I appeared before the Senate Judiciary Committee and first implored Congress to protect horses, jockeys and the wagering public. The vehicle then was the Corrupt Horse Racing Practices Act, a comprehensive racing reform bill sponsored by Senator David Pryor. It came about after years of failed efforts to persuade state racing commissions to end their dangerous experiment with permissive pre-race medications and restore some semblance of sanity, integrity and safety to the sport.

So in 1982, I appeared along with colleagues from the American Horse Protection Association and reformists from within the racing industry urging the Federal Government to step forward and do what the individual racing states had proven to be incapable of doing. The legislation proposed that the Federal Government adopt and enforce uniform rules and uniform penalties, enhanced drug testing methodologies, pre-race soundness examinations and measures to better deter the use of illegal race-fixing drugs.

We asked that Congress intervene because the widespread legalization of pre-race medications allowed sore and injured horses to return prematurely to rigorous training and racing, compounding their injuries before they had healed, and more than doubling the rate of catastrophic breakdowns. Action was desperately needed because horseracing had become the single, most dangerous sport in America with horses snapping legs and dying nearly every day before horrified fans on racetracks across America. Hundreds died annually right on the track but many more horses hobbled back to the barn after workouts or races with crippling injuries and debilitating arthritis that ended their brief racing careers and sent them to slaughter.

We begged Congress to act because jockeys were being seriously hurt and sometimes killed in single accidents or multiple horse pile-ups when a leading horse shattered a foreleg and caused those behind it to crash in a jumble of human and animal flesh.

The Corrupt Horse Racing Practices Act was an appropriate response to a crisis that had already claimed too many lives and threatened to escalate even further out of control as horse trainers and track veterinarians demanded ever more powerful pain-killing drugs, corticosteroids, anabolic steroids, diuretics and more. New terminology emerged on the backstretch. A horse limping from injuries a day or two earlier could be deemed "racing sound" after a potent dose of bute or a steroid injection directly into a knee joint. Illegal substances, always a temptation for the unscrupulous trainer looking for an edge, had become ever more sophisticated and difficult to detect. State testing laboratories were and are underfunded and ill-equipped to find the newest designer drugs or enforce quantitative limits on permissive medica-

tion. Penalties imposed for the few drug positives actually discovered were insignificant to deter future violations.

The Corrupt Horse Racing Practices Act galvanized the racing industry and created a commonality of purpose where none had previously existed. All of a sudden, there was recognition of the threat of Federal legislation if the industry failed to adequately self-regulate. Mind you there was not an industry-wide commitment to solve the drug problem. Instead there was a realization that racing had a bad image that begged a coordinated lobbying and PR campaign to improve its appearance. And those in power in state regulatory bodies and industry associations were absolutely determined not to cede any measure of control to a new oversight entity.

Industry alliances were formed, promises were made, a strategy to forestall Federal intervention was developed. In the end, Senator Charles Mathias, Chair of the Senate Judiciary Committee, brokered a deal between all major stakeholders including the Jockey Club, the National Association of State Racing Commissioners, the American Horse Council, the American Association of Equine Practitioners and The Humane Society of the United States, et al. The deal was simple. The state regulators and the scions of racing would be given a final chance to prevent Federal intervention. But they had to act quickly, they had to demonstrate a resolve to work together and better protect the horses, jockeys and the wagering public. Senator Mathias warned that failure would leave no reasonable option but to place horse racing under the direct oversight of the Federal Government. That was thirty years ago.

The issues then were quite the same as the issues are now—only today things have gotten so much worse because, despite many years of empty promises and seemingly endless analyses, state racing jurisdictions have failed to put the safety of the horse and rider above petty intramural squabbling and self-interest. They can't agree on an industry solution to the medication and drug abuse problem. The protective elements of the Federal bill were never adopted by the states. Efforts to enact and enforce a strict uniform medication policy prohibiting race-day painkillers were short lived and fell apart as one racing jurisdiction after another strayed from the uniform policy soon after Federal pressure subsided.

What you will hear from the various leaders in the racing industry is that they absolutely agree that there is a "perception of drug abuse" but that the issue is blown out of proportion. They will tell you that their state regulatory mechanisms are working, but they need more time and money and perhaps some Federal stimulus dollars. They'll tell you they have a plan to phase in reforms over several years so that trainers can adjust to the new and stricter rules. They'll say that the racing labs will be better funded, ISO accredited, and have to meet higher standards of competency with a quality assurance program. Some might even believe what they hear and what they say at industry conferences and roundtable panels. But for those of us who have been around a few years, and heard all this stuff again and again without any substantial action over time, it all sounds like a bunch of horse manure.

The truth is that over decades of declining regard for the health and safety of racehorses, the industry had come to accept what to outsiders remains an unconscionable outrage. The fact that horses are dying on American racetracks in record numbers is common knowledge. The New York Times reports that an average 24 horses per week die on racetracks as a direct result of racing injuries. In any human sport, if even *one* athlete died at predictable intervals, there would be an enormous demand that the sport be made safer or the activity ended. Why does the racing industry have such callous disregard for the lives of these magnificent equine athletes?

What the racing industry will never admit is that the weekly death rate of horses is at least triple the number acknowledged. The vast majority of horses injured in training workouts, or horses that are pulled up lame before the end of the race, or horses condemned when another joint injection simply won't render them "racing sound" any longer are also horses that are slated to die. They may leave the racetrack in a fancy horse van, but you will never hear of them again.

We can do better. We can save the horses and we can save the racing industry, but only if we quit pandering to those who make hollow promises of reforms to come. They lack the will and the authority to pull it off, and they most certainly lack the determination to persevere beyond this immediate threat of Federal intervention.

Mr. Chairman, let me say that I support all provisions of the proposed legislation and I'd be happy to answer any questions you or members of the Committee might have to the best of my ability. I would definitely recommend requiring the retention of frozen test samples that are deemed suspicious by the testing laboratories to enable samples to be retested as chemists develop new testing methodologies.

The solution to racing's image problem is genuine action. The solution is Federal intervention. The solution is the Interstate Horse Racing Improvement Act.

Senator UDALL. Thank you.

Mr. Martin?

STATEMENT OF EDWARD J. MARTIN, PRESIDENT AND CEO, ASSOCIATION OF RACING COMMISSIONERS INTERNATIONAL

Mr. MARTIN. Thank you, Senator. I know I've only got 5 minutes, and if I talk a little fast, I apologize, because there's so much to say on this.

We very much appreciate your interest and the interest of this committee, and I think there's general agreement. What we're trying to do is we're trying to strengthen the policing of racing to better protect our horses and to better protect our fans.

First, let me say that there are drugs in racing in the same way there are drugs in humans. Pharmaceutical advancements have made treatments possible to address pretty much whatever ails us, and it's the same for our animals.

This is a challenge. Unlike other sports like the Olympics, horseracing does not allow participants to compete with performance enhancing drugs in their system. There is an exception for furosemide. It mitigates the severity of EIPH and is regarded by the American Association of Equine Practitioners as a good thing for the horse.

Furosemide can affect performance, and that's why State regulators require its use be disclosed and printed in the program for the world to see. EIPH is the only condition where an exception has been made for race day treatment. And we're in the process of reassessing that, to see if there are other potential side effects that ought to be considered in whether or not we should continue that policy.

Racing does not allow therapeutics to be in a horse at levels that could affect performance, and we do not have a back door to enable people to use prohibitive substances like the Olympics does.

They have something called a therapeutic use exemption. Now, a lot of people don't know about it because those athletes who get it are not disclosed, as they are allowed to compete under the influence of prohibited substances.

We don't allow anything like that in a horserace. We don't allow a horse to have an exemption for stimulants, narcotics, corticosteroids, hormones, or any of these other things these Olympians quietly request exemptions for. Nobody knows about that because it's all kept private.

It doesn't work that way in horseracing. The States do not allow performance enhancing therapeutics that nobody knows about to be in a horse when it races. And when we find them, the trainer is sanctioned.

It's not a horse doping. It may not even be an attempt to cheat, but it is a violation.

We will argue that horseracing has the most aggressive drug testing program of any professional sport. We test for more substances at deeper levels than anybody else.

Of the 320,000-plus biological samples taken from racing horses in 2010, 99.5 percent of those were found to have contained no for-

eign or prohibited substances. And when something is found, it's usually a legal therapeutic.

On repeat offenders, how big a problem is it? Well, from 2000 through 2010, there were 37,382 individuals licensed as horse trainers. During those 11 years, there were 47 who had had three or more class 1 or 2 violations. That's less than 1/10 of 1 percent.

It's a problem, but it's a small percentage. If you throw in class 3 violations, it's still only ½ of 1 percent.

Now, I think we can agree that there shouldn't be any. Every sport has its scoundrels, and they seem to not go away sometimes, like Donte Stallworth of the Washington Redskins drove drunk and killed a guy. He served 24 days and everyone here in D.C. was cheering him when he caught that touchdown pass to put the game with Dallas into OT last year.

The NBA's got them, the NHL, now maybe even cycling with Lance Armstrong, and racing has some, too.

In those 11 years I cited, only 1 percent of all trainers had a violation that could be described as a horse doping. Talk to anybody in racing and they will say, and we hear a lot of it today, we need uniformity. Well, we're all for it. We agree with that.

But uniformity is not going to stop people from trying to use new and exotic substances. It's not going to do anything about drug money laundering that's been found to occur in the unregulated breeding and horse sale industry. And uniformity is not going to fund needed investigators or research to develop tests for emerging drugs.

Uniformity may make it easier for honest people to avoid tripping a wire and getting a violation, and that's a good thing.

To really protect our horses and those who ride them, it might be a good idea to provide more oversight about what is going on with these animals leading up to a race, specifically the ailments they have, how they are treated, and whether it's all appropriate.

The racing commissions, for the most part, do not have jurisdiction over the practice of veterinary medicine. It might be a good idea to expand the jurisdiction of the racing commissions and give them the resources to do this and to do it right.

With regard to the proposal that's pending before the Committee, first we note that the determination of equine medication policy is proposed to be put in the hands of the Federal Trade Commission. It's an agency whose public affairs office has noted to us that there are no veterinarians on-staff. That would be a major departure from the extensive involvement with the veterinary and pharmacological community that's involved with development of State rules.

Second, there's no meaningful funding mechanism for the FTC to assume the responsibilities that are envisioned for them.

And, last, the bill's "three strikes, you're out" approach applies to all medication rule violations regardless of the ability to affect performance.

Just as one would not remove a driver's license for three parking tickets, we would urge that you reconsider that language. When I met with your staff in 2011, I was informed that you'd like to assist the racing commissions in what they're doing.

We very much appreciate that. To do so, we encourage reforms that will generate resources to dedicate investigative boots on the ground, ensure the best testing, and support the never-ending need for research into new and exotic substances that's been articulated by other witnesses today.

We also encourage proposals to provide dedicated assistance from the DEA, the FBI, the FDA, and the DOJ. When a state racing commission needs help dealing with substances coming across the border or a drug compounding lab generating illegal substances that are ending up on the backstretch, it would be helpful if these Federal agencies would provide timely assistance.

The states have considerable experience in regulating this sport. Certainly, the recent detection of a new substance, dermorphin, is indicative of the current system working. But after dermorphin, there's going to be something else, unfortunately. There always is.

That challenge will remain, regardless of whether the proposed legislation becomes law. Drugs in racing, just like drugs in our schools, will not go away without vigilant investigation and detection.

The bill that has been proposed does not deliver the resources for that. And in failing to do that, it does not address, in my opinion, the problem or the need.

There are a lot of things that have been said by various witnesses here today, Senator, that I'm very much in agreement with. And I think that we are certainly willing to try—the partnership is between the states and the Federal Government if the Federal Government decides to get into this.

A lot of people talk about the industry making promises. I'm not sure the industry can deliver on those promises.

The state regulators can do what they can do with the funds and the resources they have available to them.

It's kind of like you can only drive the car with as much fuel as you have in the tank.

I appreciate the opportunity to be here. Thank you.

[The prepared statement of Mr. Martin follows:]

PREPARED STATEMENT OF EDWARD J. MARTIN, PRESIDENT AND CEO, ASSOCIATION OF RACING COMMISSIONERS INTERNATIONAL

Senator Udall, thank you for holding this meeting to examine issues surrounding your proposal, Senate Bill 886, and for giving me the opportunity to participate.

The Association of Racing Commissioners International (RCI) is a not-for-profit trade association of the government regulators of horse and greyhound racing and all associated pari-mutuel wagering. Our members include Federal regulatory entities in Canada, Mexico, and throughout the Caribbean as well as most state racing commissions in the United States and the Mobile County Racing Commission in Alabama.

RCI works to develop model rules, drug classifications, testing laboratory standards, and wagering system technology standards. We also provide limited data management and information services to our members. Some states, like California, have legislatively incorporated by reference portions of the RCI Model Rules into their statutes.

Horse racing and its associated gambling have historically been regulated by the States. Collectively, those states fund and conduct the most aggressive drug testing program of any professional sport, testing for more substances at deeper levels than anyone else.

Yes, there are people who cheat—just like in any enterprise. Thankfully they are the minority, although the actions of a few can be misinterpreted as representative of an entire sport or industry.

That, I fear is what has happened to racing.

State racing commissions focus on maintaining a level playing field in the race. Even the current policy concerning raceday furosemide permits its almost ubiquitous use under controlled circumstances to ensure that no one horse is given an unfair advantage over another.

That is not to say that the overuse of certain medications cannot be interpreted as an attempt to cheat—or worse yet—to mask a condition that should preclude a horse from participating in a race. This is where I believe public policymakers need to focus.

The substances contained in a horse on raceday are within the purview of the racing commissions. In 2010, 320,179 biological samples were taken from racing horses and sent to the various laboratories to be tested. 99.5 percent of those samples were found to contain no foreign or prohibited substance.

In those relatively rare instances when a violation of a medication rule did occur, most were associated with a legal substance administered in the normal course of equine care by a licensed veterinarian.

State racing commissions do not have jurisdiction over the practice of veterinary medicine. As such, most are not empowered or resourced to assess the propriety of veterinary care and treatments given to horses in training, particularly those training away from the physical locations under the jurisdiction of the racing commission. That responsibility often rests with other state entities.

At the RCI Annual Meeting in Oklahoma City in April, I proposed that the jurisdiction of racing commissions be expanded and resources provided so there can be a qualified review of treatments given to horses. If commissions had the ability to call into question an individual's license to practice veterinary medicine in the same way a State Veterinary Board can, those who might facilitate the abuse of a medication to enable a horse to run that should not be running might think twice.

Racing commissions can take away the racing license, but there is nothing preventing a racehorse from being treated by a vet without a racing license away from the grounds of the racetrack. The ability to take or suspend the vet license could be quite a deterrent.

There has been much talk about the need for uniformity. While uniformity is certainly desirable and RCI will continue to advocate for it, I must clearly say that it is not the major challenge facing the integrity of racing.

We certainly understand the temptation to set uniform national standards. But we must clearly understand that in so doing nothing will be done to address the real need to commit additional resources to racing investigations, surveillance, research and testing development.

Nor will such standards deal with the infiltration into the horse breeding business and sales arenas by those connected to the Mexican drug cartels as has been recently revealed. The breeding industry and associated horse sales do not fall under the jurisdiction of the state racing commissions. Given the recent developments concerning the drug cartel, this may be an area this committee may want to focus on.

As the Members of this Committee know well, government finances at all levels have been "challenged" in these economic times. When I met with your staff in 2011, I was informed that you would like to assist the racing commissions in what they are doing. We sincerely appreciate this.

To do so, we encourage reforms that will generate funding to dedicate investigative "boots on the ground", ensure the best testing, and support the never-ending need for research necessary to detect and confirm the use of new and exotic substances.

We also encourage proposals to provide dedicated assistance to state racing commissions from the DEA, FBI, FDA and DOJ. When a state racing commission needs Federal assistance dealing with substances coming across the border, or a drug compounding lab generating illegal substances that work their way to the racetrack, it would be helpful if the Federal agencies empowered to deal with these areas would provide timely and aggressive assistance through a dedicated office or unit responsible for coordinating these matters with the racing commissions.

For the better part of the past year two state racing commissions quietly assisted the Federal efforts that resulted in the recent charges brought against Jose Morales involving the laundering of money in Quarter Horse racing. It would be good if the Federal Government could reciprocate and pick up the ball when a matter within your jurisdiction is brought to you by a state racing commission because it impacts things going on in racing.

As one who managed a state racing commission for 9 years of my life, I can report that while trying to stay ahead of those who would dope a horse is a never-ending challenge, it is not the only one. In New York we investigated and broke the case of the computer hackers who compromised the wagering system to turn losing tick-

ets into winning tickets. We also launched the investigation that resulted in the New York Racing Association having to stand in front of a Federal judge and admit to a conspiracy to defraud the government.

We know this committee will consider the proposal that has been embodied in S. 886. While RCI has not yet taken a position on this proposal, I must note that we do believe the creation of an Interstate Racing Regulatory Compact would be the preferred path to avoid government redundancy and associated cost that could result from creation or expansion of a Federal agency.

We believe a compact would advance uniformity by creating a new way for state racing commissions to promulgate rules and implement and fund regulatory programs. In conjunction with the Council of State Governments, RCI has developed recommended state legislation creating such a compact. This proposal has received the endorsement of the National Council of Legislators from Gaming States, The Jockey Club (US), the National HBPA, and the American Association of Equine Practitioners. As you know, entry to such a compact can only be authorized by state statute. The Commonwealth of Kentucky has passed this legislation and statutes enacted in Colorado and Virginia have authorized their racing commissions to enter into such a compact once created. Five additional states need to enact this legislation before the Compact can be created. We have been asked if Congress could require or encourage the states to create a compact. We refer that question to you.

Having said this, I would like to make some specific observations about the proposal before this committee, S. 886 and ask that you consider them before moving forward:

1. First, we have received questions as to why the determination of equine medication policy in racing is proposed to be assigned to the Federal Trade Commission (FTC).

State regulators currently rely on the Racing Medication and Testing Consortium, the RCI Regulatory Veterinarian Committee, input from the American Association of Equine Practitioners, and the Veterinary Pharmacology Subcommittee of the RCI Drug Testing Standards and Practices Committee before adopting a public policy that affects the health and wellbeing of racing equines. The FTC traditionally does not handle matters like this. Perhaps the RCI Model Rules could be incorporated by reference if your goal is uniformity of medication policy.

2. Second, S. 886 outlaws the current raceday use of furosemide, a legal medication intended to mitigate exercise induced pulmonary hemorrhage (EIPH). The current policy, enacted on concerns of equine welfare, was implemented approximately twenty years ago. RCI has opened a reassessment of the issue to determine if the public policy exemption that exists allowing a raceday administration to treat EIPH should continue. The RCI Regulatory Veterinarian Committee is currently assessing issues pertaining to changes in body weight and electrolyte balance resulting from a furosemide administration to determine if there are any adverse effects that might also need to be balanced with concerns over EIPH. The challenge for policymakers, be they state or Federal, must be to make an informed decision on this issue that can be scientifically justified. We appreciate being here with Dr. Lyons. I do note that there are other equally qualified opinions from the veterinary community on this topic who are not here. State regulators are attempting to sort this issue out. In general we do not like the idea of any medication being given a horse on race day. But we must be careful that any public policy change does not adversely affect the health of a generation of horses now racing. S. 886 proposes to decide this issue and we request that your staff share with us any reports the sponsors have based their decision on that have assessed the various research projects that have been done in this area. Perhaps we have yet to see what you have seen.

There are strong positions on all sides of this issue but we note that there is no requirement that a horse run in a race on furosemide. Later this month, the RCI model rules committee will consider a modification of our Model Rules that would facilitate the creation of lasix-free racing opportunities for those owners who do not believe in its use yet use it anyway.

3. Third, S. 886 does not contain a sufficient funding mechanism for the FTC to assume the responsibilities you assign to them. In Canada, the Federal agency tasked with the determination and enforcement of racing medication policy and drug testing is the Canadian Pari-Mutuel Agency (CPMA). That agency is funded by an assessment on wagering handle.

4. Finally, RCI agrees that the current penalty structure should be more progressive than it is now. We are currently working with the Racing Medication

and Testing Consortium and the U.S. Jockey Club to reform penalty recommendations to the commissions. S. 886 deploys a "three strikes, you're out" approach to all medication rule violations, regardless of whether the medication has any significant ability to affect the performance of a horse. Just as one would not remove a driver's license for three parking tickets, we urge you to reconsider this aspect of S. 886 to differentiate between relatively minor rule violations involving legal substances that are normal for equine care and those that have no business being in a horse, let alone a race horse.

We welcome this review by the Commerce Committee. This is an issue we believe is not adequately understood by racing fans and the general public.

We caution the Committee that these are not simple issues. The States have considerable experience in this matter and although you may disagree with how a particular issue is handled, the states have worked diligently for a long time to balance the health needs of our horses and riders, provide an equal playing field necessary for participants and fans, and to keep up with and catch those who cheat. Certainly the recent detection of a new substance, dermorphin, is indicative of the current system working. But after dermorphin there will be something else. There always is.

Thank you for the opportunity to be part of today's discussion.

Senator UDALL. Thank you very much for your testimony.

Dr. Lyons, please proceed.

STATEMENT OF SHEILA LYONS, DVM, FOUNDER AND DIRECTOR, THE AMERICAN COLLEGE OF VETERINARY SPORTS MEDICINE AND REHABILITATION

Dr. LYONS. Thank you, Chairman Udall, for allowing me to testify today. I ask that my full written remarks be included in the hearing record.

If I could be permitted, I would appreciate an opportunity to speak to some of the specific points that I've heard in testimony earlier today.

My name is Sheila Lyons, and I'm a veterinarian who specializes in equine sports medicine and physical medicine and rehabilitation. My private veterinary consulting practice is both national and international in scope, which provides me with a view of the horseracing industry and the veterinary profession that includes distinct regulatory jurisdictions.

I'm the Founder of the American College of Veterinary Sports Medicine and Rehabilitation, and am a Member of the American Academy of Physical Medicine and Rehabilitation. My patients have included some of the world's best racehorses, but I have regularly provided veterinary services to horses at every level of this sport for nearly 30 years.

I see this review of the standards and practice in the horseracing industry and for the veterinary profession as having lifesaving potential for the horses and riders, and for the industry itself. We need this legislation to compel compliance with veterinary board regulations.

The key to understanding the effect of drugs on these animals, and the key to answering important questions about responsible drug use in horseracing safety and integrity, has escaped many recent discussions. It is the context in which a drug is used that determines its fate as either appropriate therapy or to enable recovery, or is injury-masking and a performance enhancing agent.

The unique authority and privilege that veterinarians have to administer, prescribe, and dispense drugs is granted not through racing commissions, but through veterinary boards.

Once licensed, veterinarians are required to strictly adhere to the standards of practice that regulate our profession. We are required to keep comprehensive patient records, which demonstrate adherence to these strictly defined standards of practice for each dose of every drug. And we must make these records available to our clients upon request.

But this is not what is happening at these racetracks. And this is the real drug problem that underlies the intolerable rate of permanent injury and death of racehorses and their riders.

To illustrate this betrayal of standards and practice, about 10 years ago, I provided expert witness testimony for a state attorney general's office in a case that began with DEA violations for a few racetrack veterinarians who had failed to maintain proper drug inventory, patient records, and storage conditions for controlled substances.

The veterinarians, in their interview the DEA, reportedly defended their suspiciously large purchase history for the controlled drug by declaring: racetrack vets are simply drug whores for the trainers.

The asserted that they were not required to have a veterinarian-patient relationship, a working diagnosis or a record of physical examination, and they stated that they only needed to abide by racing industry regulations, because their patients were racehorses. They were wrong.

What followed was a reaction of the racing industry to look at the issue. In California, within weeks of the decision, an industry association led by a racetrack veterinarian introduced legislation proposing that sports horses and their veterinarians be exempt from the requirement for meeting these strict standards of practice regarding the administration and prescription of drugs. Fortunately, it was defeated.

What this showed is that some of the real clout when it comes to getting rid of the illegal, non-therapeutic, use of drugs in racehorses lies in the agency that conditionally grants licensed veterinarians the authority to prescribe, dispense, and administer drugs to horses in the first place.

If the regulations are enforced by these state veterinary boards, we could end all discussion about drugs in sport horses, as it would be moot because it could not occur.

I was disappointed when at the conclusion of your hearing in 2008, in response to a final question from a committee member, not one member of the panel placed the responsibility on the only participant who has the authority to provide the drugs in the first place. It is strictly the veterinarian who is absolutely and solely responsible. We can say no.

Instead of abiding by the standards and practice, we have a situation where veterinarians and horsemen look to the limits set by racing commissions for drug levels and dosing schedules as permission to administer them non-herapeutically, and outside of the standards and practice that regulate the veterinary profession as long as they do not exceed those limits.

Conducting a thorough physical examination of a patient, keeping comprehensive medical records in accordance with State licensing regulations, having a working diagnosis that must be supported

by those examination findings, recording a therapeutic plan, and reassessing the patient to determine the success or failure of these treatments while under a veterinarian's care, should all be enforced.

If these horses are acutely unwell and in need of drug therapy, then on this basis alone, they should not be allowed to race. And if they are not unwell, they cannot be given medication under the law which regulates my profession. Race horse is not a diagnosis. And a veterinarian must meet a higher standard of care in practice before administering medication.

I believe that if your committee expands its review to include the government oversight that licensing boards are designed to provide, it will find a partner in the power it seeks to end this practice by enforcing the regulation that govern veterinary professions and change the industry as it must.

For over 2 decades, I have provided free veterinary care to retired horses that end up in shelters after their racing careers are over. And if anyone has any doubt about the long-term consequences of this non-therapeutic, indiscriminate, reckless, and illegal use of drugs in racehorses, I can provide records to prove that the evidence is overwhelming that these horses are systematically and permanently harmed. And these are the lucky one that were not shuttled off to slaughter.

The solution for these problems is in this legislation. It provides the framework for uniform rules and penalties. It achieves better compliance and enhanced testing. It reinforces the existing regulation of veterinary practice by boards of veterinary medicine.

One suggestion that I have is that we need to require the submission in real-time of all veterinary records for horses that are attended to in racing jurisdictions. The only way that we will know, not only what drugs they received, but whether or not these horses had received the necessary physical examination, whether or not it's truly therapeutic or injury-masking, is if we keep all these records on every single horse that is licensed as a racehorse in this country.

It's very easy today to keep a database that can follow these horses. And we have to remember that horseracing today is a national sport for each individual horse. It's rare today to have a horse that races only in one state.

So this legislation, in my opinion, would provide the critical structure for enforcing the standards and practice, and so that we can be sure that only appropriate veterinary attention in drug use is used.

And I also fully support that there should be absolutely no drugs in effect in that horse's body when it races.

Thank you.

[The prepared statement of Dr. Lyons follows:]

PREPARED STATEMENT OF SHEILA LYONS, DVM, FOUNDER AND DIRECTOR, THE AMERICAN COLLEGE OF VETERINARY SPORTS MEDICINE AND REHABILITATION

Thank you Chairman Rockefeller, Ranking Member Hutchinson, and members of the Committee for allowing me to testify today. I ask that my full written remarks be included in the hearing record.

My name is Sheila Lyons and I am a veterinarian who specializes in equine sports medicine and physical medicine and rehabilitation. My private veterinary consulting

practice is both national and international in scope which provides me with a view of the horse racing industry and the veterinary profession that includes many distinct regulatory jurisdictions. I am the founder of the American College of Veterinary Sports Medicine and Rehabilitation®, a member of The American Academy of Physical Medicine and Rehabilitation, and a member of the International Federation of Sports Medicine. My patients have included some of the world's best racehorses but I have regularly provided veterinary services to horses at every level of this sport for nearly thirty years.

I want to thank Senator Udall and Congressman Whitfield for responding to the concerns of the American people regarding horse racing safety and integrity. I fully support this legislation and its attachment of the condition of drug-free horse racing to the existing Interstate Horseracing Act. The Interstate Horseracing Improvement Act will save the lives of horses and riders and also protect them from permanent injury sustained during both training and racing. This no-drug rule will promote the public's confidence and the interests of ethics and integrity by insisting that the safety of horses and riders is paramount in this multibillion dollar Pari-Mutuel industry.

My experience as a veterinary consultant in other countries reveals that when drug use is prohibited during racing, drug abuse also declines during training. When drugs cannot be used to mask injury on race day it disincentivizes the training of unsound horses. This is in contrast to our current system where the recklessly permissive use of drugs has encouraged horsemen to drug-to-train and then drug-to-race. We need this legislation to end the prevalent injury-masking and performance-enhancing drugging of horses because the horse racing industry has demonstrated an inability or unwillingness to regulate itself. In addition, state veterinary boards often lack the resources, mechanisms or will to intervene in areas that come under the jurisdiction of horse racing regulators.

As a veterinarian with broad interest in policies affecting racehorse safety, I have witnessed this prolonged drugging debate for more than three decades. But these issues are more than academic for me as I continuously confront the entrenched racehorse drugging culture on behalf of each and every one of my racing patients. Some of the questions that have been debated and discussed by horse owners, trainers and state racing commissions but obfuscated by vested interests for many years include—Is this or that particular drug performance-enhancing? What drugs—individually or in combinations—are really being used in these horses? Is that one safe at the current dosages permitted by racing commissions? What are the risks associated with a particular drug or other therapy? Is any drug's use humane? What we haven't heard from the horse racing authorities are any realistic guiding principles to understanding the effect of drugs on these animals which would help to answer these questions about responsible drug use and horse racing safety and integrity. Here is one principle I would like to offer: It is the context in which a drug is administered that determines its fate as either appropriate therapy to enable recovery or as an injury-masking or performance-enhancing agent.

The unique authority and privilege that veterinarians have to administer, prescribe and dispense drugs is granted not through racing commissions but through licensure by state veterinary boards. Once licensed, veterinarians are required by law to strictly adhere to the standards of practice that regulate our profession. There are no exemptions for veterinarians who work with racehorses. We are required by law to keep comprehensive patient records which document adherence to these strictly defined standards of practice for every patient, and for each dose of every drug. We must also make these records available to our clients upon request. But this is not what is happening at these race tracks. And this is the real drug problem that underlies the intolerable rate of permanent injury and death of racehorses and their riders.

As a pre-veterinary student and throughout veterinary school at Tufts I worked at a racetrack in Boston for a veterinarian who had the largest practice there. It was my job to stay with his car and take drug orders all morning from the horsemen while dispensing medications at the trainer's request. The only requests that were to be denied were those from clients who had not paid their bills. Then I spent the day filling syringes with the requested drugs, I would find the right horse and hand the veterinarian the syringes. I had to tell him what was in them so that he would know if they had to be injected into the horse's muscle or the vein. This colleague later became the president of the American Association of Equine Practitioners ("AAEP") which is the largest trade association for equine veterinarians in the world. Of historical significance is the fact that this association originally formed when a small number of horse racing veterinarians got together specifically to provide a united veterinary response to assuage public concern about the welfare of horses in racing. The more things change, the more they remain the same. This

practice of veterinarians administering drugs per order of the trainer is still the prevalent standard at race tracks in this country.

In another example which evidences the prevalence of this practice, about 10 years ago I provided expert witness testimony for a state attorney general's office in a case that began with DEA violations for a few race track veterinarians who had failed to maintain proper drug inventory, patient records and storage conditions for controlled substances. The veterinarians, in their interview with the DEA, reportedly defended their suspicious purchase history for the controlled drug, by declaring that "Race track vets are simply drug whores for the trainers." Contrary to the oath they took as veterinarians, they asserted that they were not required to have a veterinarian-client-patient relationship, a working diagnosis or a record of physical examination and they stated that they only needed to abide by racing industry regulations because their patients were race horses. They were wrong.

I was the only veterinarian with expertise in equine sports medicine willing to testify on behalf of the Attorney General's prosecutor and the State Veterinary Board. I tried to get colleagues to help but despite agreeing with the seriousness of the violations of standards of practice, not one would publicly take the only professionally defensible position because they would not speak out against the racing industry's wishes and the veterinary profession's commercial interests. Each colleague warned that by doing so I would invite professional and political difficulties for myself. What followed was a reaction of the racing industry to "look at the issue". In California, shortly after the decision, an industry association led by a race track veterinarian introduced legislation proposing that sport horses and their veterinarians be exempted from this requirement for meeting the strict standards of practice regarding the administration and prescription of drugs. Fortunately it failed. What this showed is that some real clout when it comes to getting rid of illegal anti-therapeutic and indiscriminate use of drugs in racehorses lies in the agency that *conditionally* grants licensed veterinarians the authority to prescribe, dispense and administer drugs to horses in the first place. If the regulations are enforced by these state veterinary licensing boards, we could end all discussion about drugs and racehorses as it would be moot because it could not occur.

Conducting a thorough physical examination of a patient; keeping comprehensive medical records in accordance with state veterinary licensing regulations; having a working diagnosis that must be supported by examination findings; recording a therapeutic plan; and reassessing the patient to determine the success or failure of these treatments while under a veterinarian's care should all be enforced. And if horses are unwell and in need of drug therapy, then on this basis alone, they should not be allowed to race. If they are well, they cannot be given medication under the law which regulates my profession. *"Racehorse" is not a diagnosis,* and a veterinarian must meet a higher standard of care in practice before administering medication.

I once proposed, in a devil's advocacy position, that if at race tracks the veterinary profession wishes to waive the condition of necessitating the veterinarian-client-patient relationship then we should simply designate veterinary technicians to administer drugs at the trainers' request and stay out of this non-medical practice, and of course, not benefit financially from this "business". My colleagues disagreed.

I was disappointed when at the conclusion of your hearing in 2008, in response to a final question from a Committee Member, not one member of the panel placed the responsibility on the only participant who has the authority to provide the drugs in the first place—it is strictly the veterinarian who is absolutely and solely responsible. We can say no.

I believe that the Interstate Horseracing Improvement Act will support the authority and government oversight that state veterinary licensing boards are in place to provide. The solution to ending the current industry practice of illegal and indiscriminate drugging of racehorses by trainer request is already available through the enforcement of regulations that govern the practice of veterinary medicine. This legislation provides the essential key to returning the absolute authority over the regulation of the practice of veterinary medicine squarely back with each state veterinary board by banning all drugs during racing and through its condition of uniform and effective enforcement through impactful penalties for violators of the no-drug rules. In so doing, the current illusion that racing commissions have any say whatsoever regarding which drugs a veterinarian may administer to a patient will be removed along with any confusion about which regulatory authority is in charge. The state veterinary boards will re-emerge as the effective and sole authorities and regulators over the practice of veterinary medicine in each state. These professional licensing boards already have Veterinary Practice Acts which clearly define and describe the standards of practice. Through their enforcement authority over veterinary licensees these state boards will ensure that without exception the members

of our profession will uphold the *Veterinarian's Oath* and live up to public's expectation for ethics and integrity in the practice of veterinary medicine.

Regulatory agencies are necessary for all sports. But racing industry regulations should simply assert a higher or additional standard when therapeutic drugs are administered responsibly through the authority of licensed veterinarians. Regulations should require that if I have a patient that needed, for example, an anti-inflammatory and pain killing drug for appropriate medical therapy, as the treating veterinarian I should report this treatment along with its therapeutic context and this patient should not be allowed to race until the drug is out of its system. The patient should also be managed in accordance with my prescription until re-examination assures that the horse has fully recovered and is safe to resume regular training. What we have today is a situation that has run amuck where veterinarians and horsemen look to the "limits" set by racing commissions for drug levels and dosing schedules as permission to administer them, anti-therapeutically and outside of the standards of licensed veterinary practice as long as they do not exceed those limits. This illegal practice of drugging horses "up to the limits" is killing our horses and brings shame to the practice of veterinary medicine. It amounts to nothing less than race fixing through animal abuse.

I propose that we require all licensed veterinarians who work with racehorses to submit their veterinary records, in real time, on all patients. This data would be stored in such a manner as to fully protect confidentiality while enabling regulatory veterinarians access to this pertinent medical history for each racehorse. This is essential to the regulatory veterinarians' ability to conduct effective pre-race examinations in order to assure racing soundness and safety in the sport. Currently these veterinarians are operating blindly. Full veterinary record disclosure would also enable us to know what drugs are being administered and to understand the therapeutic context of all treatments.

Another benefit of this required record keeping would be the priceless epidemiological data generated that could begin to answer the more important questions of cause and effect, genetics and weakness or strength of horses for racing, and we would finally begin to understand what impacts equine safety and injury which will enable the development of effective solutions which benefit the horses, the owners and trainers, the riders, and the industry itself.

For an industry that was built upon the collection and distribution of statistics relating to how fast horses run distances measured in fractions of a second and the integration of data related to surface conditions and pedigree, the horse racing industry has been curiously bad at even agreeing to collect the most important data of all—the statistics that relate to the most important factor that affects each horse—its health, injuries and success or failure of veterinary treatments including medications. Medical science advances through the collection of all clinical data on all relevant patients so that critical analysis can reveal patterns that speak to our most basic or sometimes urgent questions regarding the factors that impact, for example, the high injury rate and incidence of catastrophic breakdown of these horses. Not only has the industry itself only recently begun to collect and share data on fatal breakdowns, but most race track practicing veterinarians fail to create or maintain any records whatsoever outside of billing records which simply list the drugs administered along with the date of service and the payment demand to the owner. This violates the standards of practice that veterinarians' licenses are conditioned upon. More egregiously, it fails the veterinary profession's responsibility to advance its understanding of critical equine health related influences, it fails the racing industry and it fails the horse itself because without this essential data we can never begin to apply principles of science to improve our understanding and ability to protect and improve the health and welfare of racehorses.

I have been told by my stakes-horse owning clients that they would be inclined to invest more in the industry if we kept the kind of records on all horses that I have described so that over time the problems that plague the sport and their racing stables could be understood and eliminated through science. The best way to never find something is to never look for it. Once we start creating and keeping all veterinary records on every horse we will have a place to look for the answer to the question about what factors influence catastrophic breakdown and permanently disabling injuries of these horses.

I recommend to my racing clients that they race in Europe or elsewhere since the USA is the only major racing jurisdiction that supports this drug use outside of the standards of licensed veterinary practice. I will not allow them in my patients and yet the playing field is unreasonably unleveled when they must compete against drugged horses. It has been my experience that clients want this better system of preparing their horses scientifically and protecting them from the abuse of drugs and overtraining. Real sports medicine works. Veterinarians can restructure their

practices to strictly provide services that improve the health, athletic fitness, strength and protect racehorses from injury. This approach brings the additional benefit of optimized racing performance through true soundness and fitness as opposed to the false perception of soundness achieved through drug abuse in these athletes. This will only be possible if drugs are banned and enforcement is strong to dissuade horsemen and veterinarians from the prevalent and unethical injury-masking and performance-enhancing drug based practices. The Interstate Horseracing Improvement Act will achieve this.

Through my nonprofit organization, Homecoming Farm, I developed a new specialty and offer educational programs through The American College of Veterinary Sports Medicine and Rehabilitation® (ACVSMR™) in association with physician colleagues who developed the analogous human medical specialty field. Our educational programs partner veterinary student interns with equine retirement facilities where they provide expert rehabilitation services to the horses. This structure enables research and offers priceless education to these students. For over two decades I have provided this free veterinary care to retired horses that end up in shelters after their racing careers are over and if anyone has any doubt about the long term consequences of this anti-therapeutic, reckless and illegal use of drugs in racehorses, I can provide records to prove that the evidence is overwhelming that these horses are systematically and permanently harmed. And these are the lucky ones that were not shuttled off to slaughter.

Not long ago I discussed the state of the horse racing industry with an owner who has been a great asset to the sport for many years. He said that as he saw it, there were only two participants in the horse racing industry that had "skin in the game". They were the horse owners and the race track owners. I agree with his arithmetic because I see exactly two participants as well. But these two are unique because they have their "actual skin in the game". It is the horse and its rider. These participants' lives are put in completely unnecessary and extreme danger through the indiscriminate use of injury-masking and performance-enhancing drugs. If no other voice is heard on the need to eliminate drug use in racing through the Interstate Horseracing Improvement Act, I think it should be theirs. As an expert in the health and welfare of horses and on behalf of my patients, I fully support this legislation.

A few years ago I asked a regulatory veterinarian what the hardest part of the job was. My colleague's answer surprised and impacted me. She said it was the look of terror on the jockey's face in the moments just before the horses are loaded into the starting gate. She said they circle their horses directly in front of her while nervously asking "Is it OK?", "Everything all right?", while knowing that my colleague has the authority to scratch any unsound horse and this is the last chance to detect the signs of lameness and perhaps save their lives. This veterinarian explained that the riders know full well that the horses they are on are often drugged to mask injury and she knows it too but the regulatory veterinarians are not given access to this critical information and the drugging often falls within permitted use under racing commission regulations. Without being able to evaluate the horses' soundness while drug free neither veterinarian nor rider can confidently identify the horses that have a high risk of breakdown. She said that daily occurrence was the hardest part of being a track veterinarian.

Horse racing can be a humane and wonderful sport for the horses and for the horsemen. The good news is that the solution to improved health and safety is already available to every racehorse in this country. It will come when the standards of veterinary practice are adhered to at all times by the veterinarians who serve their needs so that racehorse describes the type of athletic patients we treat as opposed to a diagnosed condition to be treated with drugs. Adherence to these standards and appreciation of the benefits of protecting horses from injury can only emerge if drugs are banned in horse racing. This change can only come through the Interstate Horseracing Improvement Act.

Lasix Drug Use in Race Horses

Lasix (Salix or furosemide) is a powerful diuretic that is administered to racehorses approximately 4 hours before race time. It is used as a presumptive aid to prevent hemorrhage in a horse's lung when it races. Lasix is banned in all other major international racing jurisdictions. This drug is known to have performance-enhancing effects on racehorses. Lasix became popular with trainers not because it prevents bleeding but because it is recognized as a performance enhancing drug.

While only a small percentage of racehorses have ever been definitively diagnosed with severe exercise induced pulmonary hemorrhage ("EIPH"), over 98 percent of horses racing in America today race on this performance-enhancing drug. Despite

its pervasive and continuous use, Lasix has not ended EIPH in the small percentage of horses that are severely affected.

The permissive use of Lasix has however, led to an under-reporting of the true incidence of this condition. Previously when horses had to be examined by regulatory veterinarians to diagnose EIPH in order to be permitted to use the performance-enhancing drug, trainers were eager to report their horses as bleeders and who could blame them? It was a common practice for trainers to illegally take a blood sample from a horse and squirt some of this blood up its nostril after speed work training to make it appear as if the horse had bled from its lungs. Officials upon seeing this evidence would declare the horse a bleeder. Today many horses race on the drug and experience EIPH nevertheless, but the trainers resist reporting this genuine medical condition to authorities because the horse will automatically be placed on the regulatory veterinarian's list and be banned from racing and speed work until time has passed and official veterinary examination and monitoring during training demonstrates fitness to resume racing.

Lasix has contributed to many racehorse health problems including generalized dehydration; electrolyte imbalance and depletion; cardiac arrhythmias; cardiac failure; heat stroke and exhaustion, racing fatigue and poor performance in some animals yet performance enhancement in others. My own pilot study revealed an effect on a horse's blood that closely resembles the known effect of erythropoietin ("EPO"), the well-known and universally banned performance-enhancing drug.

The evidence that we have clearly shows that in the period following the permissive allowance of Lasix and other drugs' administration in all USA racehorses, we have seen an undeniable decline in general health, racing fitness, soundness and career starts for our horses. We have also realized a rapid decline in the international perception or reputation of the USA bred and managed thoroughbred as breeding stock and as athletes. Our equine "product" is universally perceived internationally as being inferior, that they rely on drugs to train and race, that their race records have little meaning due to the use of drugs, and that our thoroughbreds are fundamentally and intrinsically unsound.

EIPH is not a primary disease. It is an event that can occur as a consequence of many underlying problems. One undeniable underlying cause is upper airway obstruction which can be due to an inherited condition called laryngeal hemiplegia (roaring); it can be caused by abnormal positioning of the tongue and subsequent displacement of the soft palate due to harsh riding and the natural avoidance of a bit; it can be the result of lung or bronchial pathologies including infections or allergies; it can be caused by lack of cardiovascular fitness and generalized fatigue, and is associated with many other conditions including musculoskeletal unsoundness and anti-inflammatory drug administration. Until the cause of EIPH is recognized and removed, all treatments are going to be ineffective. Just as we too often see for lameness problems in racehorses—trainers and veterinarians reach for drugs to treat the symptoms of disease while abdicating their responsibility to determine its cause. I see little chance for the incidence of EIPH to be reduced until we observe the legal standards in practice for all veterinarians who work with racehorses on behalf of the individual horses and in professional compliance as the public expects. There is neither a short cut nor an ethical way around the appropriate standards of veterinary care applied to each individual horse.

There is more scientific evidence to suggest that Lasix does not prevent EIPH in a statistically significant way than there is in support of its use as an EIPH preventative. The proposed theory that Lasix advocates promote in support of permitting its use in every racehorse has been clearly disproved and this has been published in the scientific literature. You will find a summary of a scientific paper on page 22 of this testimonial record that evidences this scientific conclusion.

There is also abundant professional literature going back at least thirty years to document many serious health problems linked to Lasix administration. My own review of scientific publications discovered over two hundred scientific papers that suggest a link between Lasix use and—increased risk of fracture; loss of electrolytes leading to cardiac abnormalities and other medical crisis and deaths; pathological fatigue and weakness; poor recovery from exercise; and other performance affecting or life threatening consequences associated with this drug's use. You will find summaries of scientific papers on pages 20; 21 and 26 of this testimonial record supporting these conclusions.

Dehydration and the loss of vital electrolytes is the mechanism of action of this potent diuretic. But until we keep and analyze all veterinary record data on every racehorse, we will never be able to know the true statistics related to the causal effect of Lasix on our racehorses' deteriorating health and deteriorating performance. Horses die of sudden cardiac failure every year, typically following speed work exercise or racing but these cases are typically categorized as "idiopathic" which

means of undetermined cause and yet neither investigations are made, nor statistics kept on the possible relationship between Lasix administration and cardiac failure. The human and general scientific literature and even the package insert that accompanies this drug warn of this potential life threatening complication.

The statistically significant studies that have been conducted and published conclude that Lasix is performance-enhancing in horses. You will find a summary of a scientific paper on page 18 of this testimonial record which revealed this scientific conclusion when it evaluated the performance of over 22,500 racehorses.

Since there are many causes of EIPH there will be no single drug type that will provide a cure. In fact the cure may not come in the form of a drug at all. We have gone too far down this unproductive and unscientific path which has led to the dismal state of safety for horses and riders today. The only solution is to return to a well-being centered business of horse management, breeding and racing. It will not be business as usual and many trainers and owners will not be happy with the enforcement of drug regulations that insist upon standards of practice being adhered to for management of all racehorses. I believe that the true horsemen will rise and prosper in an industry based upon the foundation of the horses' optimal health and intrinsic racing ability.

Anti-Inflammatory Drugs: Corticosteroids and NSAIDS

Anti-inflammatory drugs are often administered by veterinarians at the trainer's request in order to enable training and racing of unfit and unsound horses. These drugs can mask the signs of injury and physical instability thus predisposing horses to catastrophic breakdown. They should be restricted for use in treating diagnosed conditions and used only in accordance with the standards of practice and as appropriate and responsible therapy by licensed veterinarians. Examples of the most commonly used drugs of this class would include NSAIDs such as phenybutazone; Banamine; and cox–2 inhibitors.

Corticosteroid abuse in racehorses is rampant. These potent anti-inflammatory and pain reducing drugs can interfere with the body's natural ability to heal tissue and remodel bone in response to training and racing and their indiscriminate administration by veterinarians and trainers often leads to irreparable osteoarthritic damage to the horses' joints leaving the horse with permanent lameness. Interference with the natural healing process and masking pain has enabled the widespread practice of overtraining unsound horses and introduces great risk to the horses and riders' safety. Review of postmortem records of horses that died in racing often reveals a history of corticosteroid induced pathologies.

I have been a veterinary consultant for numerous racehorse patients that have had their joints destroyed not by the sport, but by the reckless use of corticosteroid injected directly into acutely or chronically damaged joints and tendons. These drugs are administered so frequently in many racehorses and with reckless abandon for the welfare of the horse that the cartilage erodes and the joints fuse. In some patients life threatening metabolic and hormonal abnormalities occur. Corticosteroid administration is also associated with the development of laminitis in horses. Corticosteroid and Lasix administered together as is so often the practice with racehorses can lead to drug-induced debilitating or life threatening electrolyte imbalances and loss of calcium.

Typically aged at two to 6 years, racehorses present as young, vibrant, physically whole, metabolically active and rapidly developing animals with the natural ability to remain healthy and sound. Just looking at the rampant unsoundness seen at our race tracks makes it clear that our currently permissive and indiscriminate drug use is causing great harm. These are not untoward or rare side effects. This is precisely what our veterinary education informs us will occur when we use these drugs in this indiscriminate and anti-therapeutic way. This is the reason that such drugs are restricted for use only by licensed veterinarians in the first place. This is also the reason that the standards of practice and the Veterinarian's Oath must be honored when administering drugs to racehorses.

Veterinary Record Keeping Requirement

The purpose of a medical record is simple. It is to protect the patient. While state veterinary boards define and detail the requirements in record keeping for all veterinarians, the principle objective is to record all data so that records not only reflect objective test results and diagnostic and therapeutic treatments and medications, but also assist and reveal the thought process of the licensed veterinarian. The fact that few records outside of billing records are ever even made for these racehorses betrays the fact that many racetrack practicing veterinarians are seemingly not applying a clinical thought process to help the horse to recover from illness or injury. They simply report the administration of drugs without any evidence of

a plan or thoughts about the clinician's responsibility to always deliver veterinary service to restore or protect their patient's health.

Electronic record keeping can be completed by veterinarians and horsemen in just a few minutes a day. The collection, storage and transfer of this critical veterinary record data for official use would also facilitate its seamless and immediate availability as horses move from one race track, state or country to another. This transparency would also provide proof to the public that racehorses are being treated with the same high standards of veterinary practice that it expects through strict adherence to regulations as defined by each state's department of professional regulation as a condition of veterinary licensing. No examination or diagnosis that supports the appropriate choice of a drug? Then no drug administration should appear in these records.

More and more we are discovering that products are readily available and are being marketed and sold to racehorse trainers that may have evaded official classification as drugs. The requirement of keeping complete records on everything administered, fed, or applied by any means to a horse would close the current loophole in the detection of illicit injury-masking and performance-enhancing substances. Everything but "hay, oats and water" should be required to be recorded in real-time each horse's electronic record. Any evidence of the administration of a substance or treatment of any kind that is absent from the report should trigger immediate penalties against the trainer independent of any positive drug test finding. The strict adherence to record keeping requirements should be a condition of the trainer and veterinarian's Pari-Mutuel license.

Public Perception and Drugs in Horse Racing

Horse racing is losing former fans rapidly while gaining few new ones. The public's perception and often indeed the reality of horses being drugged in order to enable racing can only be removed by banning all drugs on race day and in the days leading up to races through a zero tolerance in drug testing. In my personal life when I meet people who have nothing to do with horse racing, the one question I know I will be asked is-why do we allow trainers to drug horses so they can race, and why would I be involved in any so-called sport that cares so little about the health and safety of the horse?

Transparency

The uniquely sequestered nature of the back side of a race track prevents the public (and state veterinary licensing boards) from seeing what goes on behind the guarded stable gates. The only evidence available to review in order to decide if the sport of horse racing has integrity and treats horses humanely comes when they watch the races. The public outcry for reform of this industry is the direct result of horrific breakdowns and deaths that have occurred in full public view. Also visible is the never ending procession of crippled horses arriving at equine shelters that require lifelong care because permanent injury leaves them unable to be appreciated by second homes as riding horses.

The Interstate Horseracing Improvement Act will provide the public with assurances that have been long overdue. Assurance that the horses are racing without injury-masking and performance-enhancing drugs. Assurance that any trainer, owner or veterinarian who violates the rules will be swiftly and permanently removed from the sport. Assurance that only responsible veterinary services that improve or protect the horse will be provided to racehorses and that the state veterinary boards are monitoring and enforcing the regulations that define standards of practice for veterinarians who work with racehorses without interference from racing commissions.

Businesses including those of horse trainers, that have nothing to hide, hide nothing. In addition to the clear benefit to individual horse health care and safety, the keeping and continuous review of records of the real-time reporting of everything but the proverbial "hay, oats and water" administered to these horses will be essential to regaining and nurturing the public trust in horse racing. State veterinary boards could also use these records to investigate, enforce and oversee the standards of practice for racehorse veterinarians.

A Change in Business

The sport of horse racing is expensive for any owner and when the incentive and ability to acquire, race and drug-abuse lame horses for profit is removed the sport will shrink in size but strengthen by becoming more appealing for owners who want to become involved in an ethical and quality sport and business. This is where the strength and future of the industry lies. The cost to breed, train and race horses is necessarily high. Risk will always be great. Just as there is a significant chance that an impressively bred and extremely expensive yearling may never succeed on

the track, racehorse owners must also accept that the risk of a horse developing unsoundness that may limit or end its potential as a racehorse is all part of the sport. Drugging it to mask injury and race while unsound will no longer be an option for owners and trainers through this important legislation.

Many trainers and racehorse owners have adapted their business model to fit an industry that expects a high turnover of horses with a high attrition rate through breakdowns or other career ending injuries. They will need to adjust their businesses to value individual horses and manage their stables through an expertly guided health and well-being centered training and racing programs.

The horse racing industry ultimately exists by agreement of the public. They have the right to say no. The public has previously shown its willingness and resolve to exercise this right by banning dog racing in several states when similar concerns went unaddressed by that sport's regulators. Horse racing may be next on the list if meaningful reforms and the demand for improved safety are not realized soon.

Breakdown Statistics

It has been estimated that 24 horses die each week on American race tracks. This calculation came from the comprehensive review of official racing charts. While this figure is extremely disturbing and intolerable in a society that values the humane treatment of animals, the numbers are actually much higher. The omission in this statistic comes from the fact that many horses suffer catastrophic injury which is not fully realized until the horse has returned to its stall following training. Many of these fatally injured horses leave the track in private vans and they simply go missing from the thoroughbred racing database. The record keeping system that I propose would be able to collect these statistics by requiring that every horse leaving the race track be examined by a regulatory veterinarian. The keeping of this data would also serve to alert track officials and the public to trainers that have atypically high breakdown rates so they can investigate and deal with them.

Enforcement

Currently the enforcement of racing regulations through an inconsistent and irregular system of penalties is wholly insufficient and completely ineffective as a means to remove chronic offenders from the sport and to act as a deterrent. The Interstate Horseracing Improvement Act provides the essential authority to remove the cheaters from the sport and to levy significant fines for medication violations.

Today most trainers are allowed to serve their short suspensions for repeat drug violations at their convenience while assistant trainers continue to operate their training businesses and race the horses without interruption. Horse owners have little incentive to hire trainers with clean records because the advantages gained by violating the medication regulations seem to outweigh the inconvenience of the trainer of record occasionally taking a forced vacation while business as usual continues at the track.

In nearly thirty years of practice I am aware of only three veterinarians who have been sanctioned for violations related to the drugging of horses with illegal performance-enhancing and injury-masking medications. Each suspended veterinarian continued to practice illegally by treating horses that train at unlicensed training centers or simply moved to other racing jurisdictions.

Referring violators to state and Federal authorities for investigation and possible prosecution for crimes will be accommodated more easily with the uniform and unambiguous no-drug rule provided by this legislation.

Being a racehorse trainer, owner or veterinarian is not a right but a privilege conditioned upon playing by strict rules. Olympic medals in equestrian events are revoked when medication violations are discovered. In the cases where medals had to be returned that I am aware of, the regulators all agreed that the positive "foreign substance" detected in the horse's drug test could only have been the result of innocent contamination and could not have affected the outcome of the horse's performance and placing. But the rules are the rules and these ethical sportsmen and women accept the severe penalty of Olympic Medal revocation because they know it is the only way to maintain the integrity of the sport. They accepted the absolute responsibility of playing by strict rules when they decided to compete. By contrast, drug violations in horse racing accumulate with little or no punishment while the monetary gain for winning is much greater than in any other equestrian sport.

The Public Ethic

The moment many racehorses fail to be of business value to their owners, they instantly become the burden of the charitable sector. We know the public cares about the wellbeing of racehorses because the overwhelming demographic that supports equine retirement shelters are Americans living on social security or other limited and fixed incomes. These ethical people will sacrifice their own needs in

order to send a donation to a shelter because they want to know that former racehorses can have a safe retirement. These good people do not want to ride or own a horse, go to the races, or bet on one. But they will send money to charities to help buy some hay for former racehorses. To me this speaks emphatically to say that the American people care deeply about these animals and they want to know that racehorses are safe and well cared for. The Interstate Horseracing Improvement Act will give them that assurance. It will also ensure that when horses retire from the sport they can do so with their bodies intact so they can transition to pleasure riding or horse show homes instead of becoming an instant public burden.

Considerations for Rules Regarding Drugs and Veterinary Services

(1) Require the submission of all veterinary records in real time for all horses from the day they arrive at the track until their retirement from the sport.

(2) Require the submission of all care and management records in real time for all horses from the day they arrive at the track until their retirement from the sport. These records would include nutritional supplements, physical therapy services, and essentially anything fed, administered or applied to the horse outside of the proverbial: hay, oats and water.

(3) Require all veterinarians to adhere to the standards of practice as defined by their state veterinary licensing board.

(4) Revoke the racing commission license for any veterinarian or trainer who fails to submit all records in accordance with these regulations.

(5) Require veterinarians to provide copies of complete veterinary records including opinion and advice to each racehorse owner so they can make informed decisions that impact the health and safety of their horses.

(6) Ban all drugs at all times (including during training) except those given in a valid therapeutic context.

(7) Conduct more out of competition testing.

(8) Ban all drugs in racing.

(9) Require track veterinarians to examine every horse that leaves the track, except for those officially entered and shipping out for races at other venues.

(10) Collect data on attrition to racing due to lameness by keeping records of horses that are removed with career ending injuries in addition to racetrack fatalities.

(11) Use a point system for drug penalties for drugs with known therapeutic value and that were properly administered by a veterinarian with a valid veterinarian-client-patient relationship, but do not erase points. Three strikes and a trainer should be out of the industry for life.

(12) Permanently revoke the license of any trainer or veterinarian for administering drugs that have no therapeutic use in the horse.

(13) Refer veterinarians to state veterinary licensing board authorities for investigation of violation of the standards of care regardless of whether or not such violation was associated with a racing rules violation. Any evidence of drug administration without an examination, diagnosis, record keeping and proper therapeutic context should be reported to state veterinary licensing boards.

(14) Ban trainers from the sport for personally administering or keeping any drug that is limited for use only by licensed veterinarians.

(15) Do not allow assistant trainers to simply take over for suspended trainers.

(16) Publish all statistics in the racing programs for the public's interest. Include breakdown statistics and drug violations along with purse money earned and races won by each trainer.

(17) Race Horse Retirement Fund: Collect a percentage of handle; percentage of purse money earned; fees at tattoo/ID; fee at gate card; and fee per start should be entered into an individual retirement account for each horse and made available to accredited equine shelter facilities that provide for the care of these horses when their careers are over. If a jockey earns, on average, $75 per mount fee I think it is fair the horse should earn the same for each start to be put toward its future care and retraining or retirement needs. Each racing jurisdiction should have regional equine shelter farms that are part of the industry and monitored by the owners, trainers, the humane societies, and visible to the public.

(18) Invest in the ongoing development of laboratory tests for new and old illegal drugs.

(19) Drug test every horse in every race to assure the public of integrity in the sport and to deter cheating.

(20) Refer findings of drugs that have no therapeutic use in the horse such as dermorphin to local, state and Federal law enforcement agencies for investigation and prosecution.

SCIENTIFIC PUBLICATIONS IN SUPPORT OF MY TESTIMONY ON FUROSEMIDE (LASIX OR SALIX) ADMINISTRATION IN RACE HORSES

(1) Lasix is Performance-Enhancing: I, II, III, V, VI

(2) Lasix is Harmful to the Health and Safety of the Horse in Racing: III, IV, VI, VIII

(3) Lasix Use Has Not Ended the Occurrence of Exercise Induced Pulmonary Hemorrhage: V

(4) Lasix Increases Risk of Fracture: VIII

I

J Am Vet Med Assoc. 1999 Sep 1;215(5):670–5.

Effect of furosemide on performance of Thoroughbreds racing in the United States and Canada.

Gross DK, Morley PS, Hinchcliff KW, Wittum TE.

Source

Department of Veterinary Preventive Medicine, College of Veterinary Medicine, The Ohio State University, Columbus 43210, USA.

Abstract

Objective: To determine the effect of furosemide on performance of Thoroughbreds racing on dirt surfaces at tracks in the United States and Canada.

Design: Cross-sectional study.

Animals: All Thoroughbreds (n = 22,589) that finished a race on dirt surfaces at tracks in the United States and Canada between June 28 and July 13, 1997 in jurisdictions that allowed the use of furosemide.

Procedure: Race records were analyzed by use of multivariable ANOVA procedures and logistic regression analyses to determine the effect of furosemide on estimated 6-furlong race time, estimated racing speed, race earnings, and finish position. Principal component analysis was used to create orthogonal scores from multiple collinear variables for inclusion in the models.

Results: Furosemide was administered to 16,761 (74.2 percent) horses. Horses that received furosemide raced faster, earned more money, and were more likely to win or finish in the top 3 positions than horses that did not. The magnitude of the effect of furosemide on estimated 6-furlong race time varied with sex, with the greatest effect in males. When comparing horses of the same sex, horses receiving furosemide had an estimated 6-furlong race time that ranged from 0.56 ± 0.04 seconds (least-squares mean ±SE) to 1.09 ± 0.07 seconds less than that for horses not receiving furosemide, a difference equivalent to 3 to 5.5 lengths.

Conclusions and Clinical Relevance: Because of the pervasive use of furosemide and its apparent association with superior performance in Thoroughbred racehorses, further consideration of the use of furosemide and investigation of its effects in horses is warranted.

J Am Vet Med Assoc. 1999 Dec 1;215(11):1580; author reply 1580–1.

PMID: 10476714 [PubMed—indexed for MEDLINE]

II

Journal of Applied Physiology *www.jappl.org*

Journal of Applied Physiology October 1, 1996 vol. 81 no. 4 1550–1554

EXERCISE AND MUSCLE

Furosemide reduces accumulated oxygen deficit in horses during brief intense exertion.

K. W. Hinchcliff,
K. H. McKeever,
W. W. Muir, and
R. A. Sams

+ Author Affiliations
[1] Exercise Physiology Laboratory, Department of Veterinary Clinical Sciences, College of Veterinary Medicine, The Ohio State University, Columbus, Ohio 43210–1089

Submitted 2 January 1996. accepted in final form 7 May 1996.

Abstract Hinchcliff, K. W., K. H. McKeever, W. W. Muir, and R. A. Sams.

Furosemide reduces accumulated oxygen deficit in horses during brief intense exertion. J. Appl. Physiol. 81(4): 1550–1554, 1996.—We theorized that furosemide-induced weight reduction would reduce the contribution of anaerobic metabolism to energy expenditure of horses during intense exertion. The effects of furosemide on accumulated O2 deficit and plasma lactate concentration of horses during high-intensity exercise were examined in a three-way balance randomized crossover study. Nine horses completed each of three trials: (1) a control (C) trial, (2) a furosemide-unloaded (FU) trial in which the horse received furosemide 4 h before running, and (3) a furosemide weight-loaded (FL) trial during which the horse received furosemide and carried weight equal to the weight lost after furosemide administration. Horses ran for 2 min at ~120 percent maximal O2 consumption. Furosemide (FU) increased O2 consumption (ml · 2 min–1 · kg–1) compared with C (268 ± 9 and 257 ± 9,P < 0.05), whereas FL was not different from C (252 ± 8). Accumulated O2 deficit (ml O2 equivalents/kg) was significantly (P < 0.05) lower during FU (81.2 ± 12.5), but not during FL (96.9 ± 12.4), than during C (91.4 ± 11.5). Rate of increase in blood lactate concentration (mmol · 2 min–1 · kg–1) after FU (0.058 ± 0.001), but not after FL (0.061 ± 0.001), was significantly (P < 0.05) lower than after C (0.061 ± 0.001). Furosemide decreased the accumulated O2 deficit and rate of increase in blood lactate concentration of horses during brief high-intensity exertion. The reduction in accumulated O2 deficit in FU-treated horses was attributable to an increase in the mass-specific rate of O2 consumption during the high-intensity exercise test.

Footnotes Address for reprint requests: K. W. Hinchcliff, Exercise Physiology Laboratory, Dept. of Veterinary Clinical Sciences, College of Veterinary Medicine, The Ohio State University, 601 Vernon L. Tharp St., Columbus, OH 43210–1089.

This study was supported by a grant from the Grayson-Jockey Club Research Foundation. Present address of K. H. McKeever: Dept. of Animal Science, Cook College, Rutgers University, Piscataway, NJ 08855.

III

Furosemide-induced changes in plasma and blood volume of horses

K. W. Hinchcliff, K. H. McKeever, W. W. Muir III

Article first published online: 28 Jun 2008
DOI: 10.1111/j.1365–2885.1991.tb00855.x
Issue
Journal of Veterinary Pharmacology and Therapeutics
Volume 14, Issue 4, pages 411–417, December 1991
Additional Information (Show All)

How to Cite—Hinchcliff, K. W., McKeever, K. H. and Muir, W. W. (1991), Furosemide-induced changes in plasma and blood volume of horses. Journal of Veterinary Pharmacology and Therapeutics, 14: 411–417. doi: 10.1111/j.1365–2885.1991.tb00855.x

Author Information—Department of Veterinary Physiology and Pharmacology, and Department of Veterinary Clinical Sciences, College of Veterinary Medicine, The Ohio State University, Columbus, OH 43210, USA

Publication History—Issue published online: 28 JUN 2008
Article first published online: 28 JUN 2008

Abstract—The effect of furosemide administration (1mg/kg body weight, i.v.) on plasma and blood volumes in 6 intact and 4 splenectomized horses was measured using Evans blue dye dilution, hematocrit, and hemoglobin and plasma total solids concentrations. Body weight decreased by 33.6±3.3 and 33.7±0.8g/kg 4h after furosemide administration to intact and splenectomized mares, respectively. Plasma volume, estimated by Evans blue dye dilution, was reduced by 8.3±3.3 percent (mean±SE) 4h after furosemide administration. The reduction in plasma volume was first detectable 5–10 min after furosemide administration and was greatest 15–30 min (13.0±0.8 percent) after dosing. This study demonstrates that furosemide produces significant and rapid reductions in plasma volume in horses. These decreases in plasma volume only partially resolve 4h after furosemide administration.

IV

Effects of dehydration on thermoregulatory responses of horses during low-intensity exercise

J. R. Naylor, W. M. Bayly, P. D. Gollnick, G. L. Brengelmann, and D. R. Hodgson
+ Author Affiliations—Department of Veterinary Clinical Medicine and Surgery, College of Veterinary Medicine, Washington State University, Pullman 99164.

Abstract—Effects of dehydration on thermoregulatory and metabolic responses were studied in six horses during 40 min of exercise eliciting approximately 40 percent of maximal O2 consumption and for 30 min after exercise. Horses were exercised while euhydrated (C), 4 h after administration of furosemide (FDH; 1.0 mg/kg i.v.) to induce isotonic dehydration, and after 30 h without water (DDH) to induce hypertonic dehydration. Cardiac output was significantly lower in FDH (144.1 ± 8.0 l/min) and in DDH (156.6 ± 6.9 l/min) than in C (173.1 ± 6.2 l/min) after 30 min of exercise. When DDH, FDH, and C values were compared, dehydration resulted in higher temperatures in the middle gluteal muscle (41.9 ± 0.3, 41.1 ± 0.2, and 40.6 ± 0.2 degrees C, respectively) and pulmonary artery (40.8 ± 0.3, 40.1 ± 0.2, and 39.7 ± 0.2 degrees C, respectively). Temperatures in the superficial thoracic vein and subcutaneous sites on the neck and back and peak sweating rates on the neck and back were not significantly different in DDH and C. In view of higher core temperatures during exercise after dehydration and decrease in cardiac output without concomitant increases in peripheral temperatures or reduced sweating rates, we conclude that the impairment of thermoregulation was primarily due to decreased transfer of heat from core to periphery.

Copyright ©1993 the American Physiological Society

V

Review of furosemide in horse racing: its effects and regulation†

L.R. Soma1, C.E. Uboh2

Article first published online: 5 JAN 2002
DOI: 10.1046/j.1365–2885.1998.00132.x
Blackwell Science Ltd

Issue
Journal of Veterinary Pharmacology and Therapeutics
Volume 21, Issue 3, pages 228–240, June 1998

How to Cite—Soma, L.R. and Uboh, C.E. (1998), Review of furosemide in horse racing: its effects and regulation. Journal of Veterinary Pharmacology and Therapeutics, 21: 228–240. doi: 10.1046/j.1365–2885.1998.00132.x

Author Information
1—University of Pennsylvania School of Veterinary Medicine, New Bolton Center Campus, Kennett Square, PA,

2—Pennsylvania Equine Toxicology and Research Laboratory, West Chester University, Department of Chemistry, West Chester, PA, USA
*—Lawrence R. Soma University of Pennsylvania School of Veterinary Medicine, New Bolton Center Campus, Kennett Square, PA 19348, USA.

Publication History
Issue published online: 5 JAN 2002
Article first published online: 5 JAN 2002

Abstract—Furosemide has been used empirically and has been legally approved for many years by the U.S. racing industry for the control of exercise-induced pulmonary haemorrhage (EIPH) or bleeding. Its use in horses for this purpose is highly controversial and has been criticized by organizations outside and inside of the racing industry. This review concentrates on its renal and extra-renal actions and the possible relationship of these actions to the modification of EIPH and changes in performance of horses. The existing literature references suggest that furosemide has the potential of increasing performance in horses without significantly changing the bleeding status. The pulmonary capillary transmural pressure in the exercising horse is estimated to be over 100 mmHg. The pressure reduction produced by the administration of furosemide is not of sufficient magnitude to reduce transmural pressures within the capillaries to a level where pressures resulting in rupture of the capillaries, and thus haemorrhage, would be completely prevented. This is substantiated by clinical observations that the administration of furosemide to horses with EIPH may reduce haemorrhage but does not completely stop it. The unanswered question is whether the improvement of racing times which have been

shown in a number of studies are due to the reduction in bleeding or to other actions of furosemide. This review also discusses the difficulties encountered in furosemide regulation, in view of its diuretic actions and potential for the reduction in the ability of forensic laboratories to detect drugs and medications administered to a horse within days or hours before a race. Interactions between nonsteroidal anti-inflammatory drugs (NSAIDs) and furosemide have also been examined, and the results suggest that the effects of prior administration of NSAID may partially mitigate the renal and extra-renal effects which may contribute to the effects of furosemide on EIPH.

VI

An unpublished pilot study was conducted to test the hypothesis that furosemide administration causes dehydration and increases the hematocrit in racehorses. This pilot study is being used for validation of my application to carry out a statistically meaningful test of this hypothesis and in the collection of other measurable physiological parameters involving more than a thousand horses under racing conditions in the USA and in multiple racing jurisdictions.

Author Sheila Lyons DVM, FACVSMR

Hemoconcentration and Oxygen Carrying Capacity Alteration in Race Horses Following Administration of Furosemide Prior to Speed Work

Abstract: The measurement of packed red blood cell volume (PCV, Hct or hematocrit) and plasma osmolality immediately preceding and then 4 hours after intravenous administration of 250mg furosemide in 12 race horses was performed in order to assess the level of dehydration caused by this diuretic. The World Anti-Doping Agency (WADA) has established blood testing parameters for the indication of performance enhancement due to the artificially enhanced oxygen carrying capacity secondary to hemoconcentration in human athletes. Diuretics such as furosemide are banned by the WADA but artificial hemoconcentration has been achieved through the illegal use of EPO, the practice of blood doping, and other banned methods and practices. Since horse racing permits the use of furosemide, this pilot study was conducted to test the theory that the horse racing performance enhancement effect, which has been evidenced in the scientific literature for this drug, may be due to dehydration and improved oxygen carrying capacity achieved through hemoconcentration. The results were an increase in PCV of 6–18 percent with a nonlinear increase in plasma osmolality in each of the 12 horses tested in this pilot study. The WADA has established the hemoconcentration effect of EPO to be in the range of 6–11 percent which is considered performance enhancement in human athletics. Therefore, it appears through this pilot study that the administration of furosemide at the dosages used for horse racing supports a theory of performance enhancement through artificially enhanced oxygen carrying capacity due to hemoconcentration. A further study involving the testing of several thousand racehorses entered in races in multiple racing jurisdictions is planned by this investigator and warranted in the interest of fairness in horse racing.

VII

Medicine & Science in Sports & Exercise:
October 1996—Volume 28—Issue 10—pp 127–134
ACSM Position Stand: The Female Athlete Triad
ACSM Position Stand: *The Use of Blood Doping as an Ergogenic Aid*
Sawka, Michael N. Ph.D., FACSM, (Chair); Joyner, Michael J. M.D.; Miles, D. S. Ph.D., FACSM; Robertson, Robert J. Ph.D., FACSM; Spriet, Lawrence L. Ph.D., FACSM; Young, Andrew J. Ph.D., FACSM

Abstract—Blood doping has been achieved by either infusing red blood cells or by administering the drug erythropoietin to artificially increase red blood cell mass. Blood doping can improve an athlete's ability to perform submaximal and maximal endurance exercise. In addition, blood doping can help reduce physiologic strain during exercise in the heat and perhaps at altitude. Conversely, blood doping is associated with risks that can be serious and impair athletic performance. These known risks are amplified by improper medical controls, as well as the interaction between dehydration with exercise and environmental stress. Finally, the medical risks associated with blood doping have been estimated from carefully controlled research studies, and the medically unsupervised use of blood doping will increase these risks. It is the position of the American College of Sports Medicine that any blood doping procedure used in an attempt to improve athletic performance is unethical, unfair, and exposes the athlete to unwarranted and potentially serious health risks.

VIII

Fracture risk in patients treated with loop diuretics
Journal of Internal Medicine
Volume 259, Issue 1, pages 117–124, January 2006
1. L. Rejnmark,
2. P. Vestergaard,
3. L. Mosekilde

Article first published online: 29 NOV 2005
DOI: 10.1111/j.1365-2796.2005.01585.x

Abstract.
Background. Loop diuretics (LD) increase renal calcium excretion. Discrepant results on associations between LD and fracture risk have been reported.

Objective. To assess the fracture risk in users of LD.

Design and subjects. A population-based pharmaco-epidemiological case-control design with fracture in year 2000 as outcome and use of LD during the previous 5 years as exposure variable. We used nationwide computerized registers to assess individual use of LD and related these data to individual fracture data and information on potential confounders. We compared 64 699 cases aged 40 years or more who sustained a fracture during year 2000 with 194 111 age-and gender-matched controls.

Results. A total of 44 001 subjects used LD. Ever use of LD was associated with a crude 51 percent (OR 1.51; 95 percent CI 1.48–1.55) increased risk of any fracture and a 72 percent (OR 1.72; 95 percent CI 1.64–1.81) increased risk of hip fracture. The risk estimates were reduced after confounder adjustment, *i.e.,* adjusted risk of any fracture was increased by 4 percent (OR 1.04; 95 percent CI 1.01–1.07) and risk of hip fracture by 16 percent (OR 1.16; 95 percent CI 1.10–1.23). In current users, a tendency toward a decreased fracture risk with increased dose was observed, whereas in former users risk of fracture increased with increased dose. Use of furosemide was associated with higher risk estimates than use of bumetanide.

Conclusion. Treatment with LD affects fracture risk. Special attention should be paid to patients in whom treatment with LD is initiated or stopped, as they may be at an increased risk of fracture.

Senator UDALL. Thank you.

And I very much appreciate the panel and all of your testimony here today.

I wanted to, first of all, get back to the dermorphin that you all heard about in the previous panel. And I think several of you, or one of you, mentioned it. And just to remind you, it's a tree frog extract that is a painkiller 40 times more powerful than morphine.

Should a trainer who gives a racehorse this drug be permanently be banned from horseracing?

Mr. WITMAN. Yes, sir.

Mr. PAULHUS. Absolutely.

Senator UDALL. Mr. Martin?

Mr. MARTIN. I kind of like the idea, if a substance, whether its dermorphin or something else that can be interpreted as abusive to the horse, that person should be kicked out.

Senator UDALL. So your answer is a yes.

Mr. MARTIN. It's articulated a little differently.OK.

Senator UDALL. OK.

Please, Dr. Lyons?

Dr. LYONS. My answer is absolutely. And one point on the dermorphin issue, I actually contacted the local DEA investigator when that story first broke to simply ask whether or not this was something that was coming under their radar, and whether this drug was actually something that they had regulatory authority over.

And I believe that they do. They actually need to check into the exact chemical structure. But if it turns out that it meets the definition of an opiate, then I believe that there can be DEA penalties and enforcement as well. So absolutely, they should be banned and then tried.

Senator UDALL. OK.

Dr. Lyons, Hong Kong is often held up as the gold standard worldwide for the racing integrity and safety measures, things like that. But some of their efforts would be difficult to replicate in American racing.

Your testimony recommends increasing—and I think you said it here again today in your oral testimony—increasing vet record transparency, which is better in Hong Kong. There you can get vet reports online with a horse's past performance chart.

Should this type of disclosure be required for horses entered into simulcast races governed by the IHA?

Dr. LYONS. Absolutely. Thank you, Senator Udall.

I think that that is essential, if we're to effectively regulate safety in horses based on their soundness. We need to know what's going on. We need to know what diagnosis has been made.

Senator UDALL. Mr. Witman, Clenbuterol, which I think you talked about a little bit here. And let me first say I just fully support the American Quarter Horse Association's stance on Clenbuterol.

This drug can be therapeutic, but it has been widely abused. I mean, I think there's no doubt about that. An out-of-competition test of Quarter Horses in California found that 100 percent were on Clenbuterol. Similar tests of thoroughbreds found that 58 percent tested positive for Clenbuterol. And we all know that's way too many.

New Mexico now follows the AQHA's recommended 30-day withdrawal guideline. But my understanding is that California, the first state to implement the AQHA recommendation, has since weakened its rule to a 21-day withdrawal guideline for both Quarter Horses and thoroughbreds.

Will other states backslide once public attention has faded from this issue? And what can the AQHA do to prevent this from happening?

Mr. WITMAN. Well, it's my understanding that there is virtually no difference between the 30-day rule that they put into effect for Quarter Horses and the 21-day rule they put into effect for Thoroughbreds. When they did it originally, they did it just for us, and then they came back and did it for the Thoroughbreds.

We're still talking about the level of detection as the level, which is 1 to 2 pictograms per milliliter. It's my understanding that the rule is actually the same. It's just a little bit different wording on what the actual withdrawal time is.

Senator UDALL. Well, that's encouraging. That's encouraging to hear.

Dr. Lyons, the RCI report titled "Drugs and Racing 2010: The Facts," claims that anti-doping standards in horseracing are more aggressive than those deployed in the Olympics, and that U.S. racing regulators sent 324,215 biological samples to a network of pro-

fessional testing labs that utilize standards more stringent than those used for the Olympics.

You have some familiarity, I know, with drug standards for equine sports in the Olympics. Do you agree with the RCI claim that anti-doping standards in American horseracing are stricter than those used in the Olympics? And is there any credibility to the claim that there were only 47 doping violations in 2010.

Dr. LYONS. Well, on the issue of the comparison between the Olympics and our regulations and violations in horseracing, I actually just received the standards that will be enforced for the London Olympics for all veterinary procedures.

And not only is it a zero-tolerance for absolutely any drug in any one of those horses, but, as a veterinarian, if any services need to be provided to these horses, there are designated areas. There are monitors in each of thesedesignated areas. So not only are veterinarians required to make a record of what they're doing, whether or not they had to use the drug or what diagnoses is there, but they're actually having their place monitored.

As far as permitting drugs, zero tolerance in the Olympics, at least where the horses are concerned.

So I would disagree with the RCI on that.

Senator UDALL. Mr. Martin, I ask every state racing commission what constitutes a total carbon dioxide or milkshaking violation in their jurisdiction. And milkshaking involves, as you know, and you've heard several times, the raising of CO_2 levels to reduce fatigue and boost performance.

And I was surprised to learn that not all states prohibit this practice, and not all States have been testing for it. But I was even more surprised that some states have a more permissive regulatory threshold level for horses that receive Lasix compared to those that do not.

Why is there no specific rule banning milkshaking in at least seven states? And why do some states permit horses racing on Lasix to have higher TCO levels? For example, 37 millimoles without Lasix compared to 39 millimoles with Lasix.

Mr. MARTIN. Senator, I can't answer for those specific states that have not adopted the RCI Model Rules.

Senator UDALL. Could you answer that for me for the record?

Mr. MARTIN. I can't answer that for those specific states as to why they've not adopted the RCI Model Rules. I think that's a question that they should address.

The ideal situation will be to have a uniform level at which a drug positive is called across the system. We advocate for that. We are involved with the Racing Medication and Testing Consortium.

We are supportive of the approach the Jockey Club has recommended to two classifications, substances that belong in a horse and substances that don't belong in a horse.

We feel that if we could get all the labs calling positives at the same level, and provide consistent guidance, that would be a positive thing for the industry. And it would eliminate any misunderstanding about what the rules are and whether you're tripping the wire or not.

It doesn't necessarily solve some of the larger resource issues, but we do believe that would be an important thing to achieve.

Senator UDALL. Mr. Paulhus, claiming races were developed to encourage a level playing field, yet claiming races can create an incentive to race an injured or compromised horse, not in the hope of winning the race, but simply to sell the horse to a unwitting buyer.

Trainer Doug O'Neill was criticized for running an apparently injured horse, Burna Dette, for an untimely death in a $2,000 claiming race at Los Alamitos. Hereportedly responded to race media criticism by saying: "My owners treat this as a business. I love my horses, but they're not pets. We don't have the luxury of turning them out for a year. It's better to just run them where we think they belong."

Should all horses in claiming races be tested for drugs rather than just the winner and one other horse? And are other rules necessary to prevent claiming races from being used as a dumping ground for crippled horses, such as limiting purse prizes to the claiming prices of horses in the race?

Mr. PAULHUS. Claiming races account for the majority of races at racetracks, and, typically, they're horses of lower value and oftentimes with more physical ailments than you'd find in your higher grade horses.

Legal medications, what we're referring to here as therapeutic medications, are used to manipulate the performance of horses either by the administration or the withdrawal of them. Allowing horses to not race with medications can affect their performance. They'll do worse. It'll change the odds.

So, for example, if they're trying to build a horse's losing streak and then give it therapeutic medication at a later state so that it runs better, that can be a little trick that some race fixers have used in the past, and then they bet money off track with the bookies.

My concern is that those horses, the less expensive horses, the cheaper horses, are regularly medicated because they're in bad shape. And they lose class. They may have start out as a good horse, but the repeated insults to thejoints degrades the horse's ability, and eventually they just don't run as well. You need more and more drugs.

Senator UDALL. Dr. Lyons, do you have any comment on that?

Dr. LYONS. I would like to see every horse in every race tested. So, certainly, I do think that there is more incentive for drug abuse in the claiming races. So if that were possible, I'd love to see every horse in the race tested.

Senator UDALL. Thank you.

Please, Mr. Martin?

Mr. MARTIN. Senator, I think probably most racing commissioners would love to see every horse in the race tested. That comes down to a question of resources and appropriation. But I do want to echo——

Senator UDALL. Mr. Martin, you mentioned the resources, and you're very familiar with this. And I think most of the people on both of these panels know this. The states subsidize racing to a substantial degree. I mean, I know my home state very well—$50 million that goes into the purses.

Now, if states want to do the policing, want to do the things that we heard about today, the enforcement. People talked about the FBI and DEA and all of that kind of enforcement. They can do what other people have done in gambling. As you all know in Las Vegas, Nevada, they have some of the toughest regulation, because they put the resources behind it.

And so I just don't buy the resource side of this when you have $50 million in subsidies in my small little State of New Mexico that you could peel off part of that and then do this right. Or bigger states, it's much bigger than this $50 million, $100 million, $200 million, whatever it is.

And so I know you criticized earlier in saying, you know, well, the bill doesn't do anything about resources. What we're trying to do is set a national standard and then put it back on the racing commissions and on the states to really do the right thing here.

But you know one of the things I want to say to all of you at this hearing, that the other comments that I'm hearing—I mean, I'm trying to move forward proactively with a bill that would make a difference on this from listening to people in the industry.

But there are a lot of people that say why should the Federal Government even be involved in this? I've had Senators come up to me and say you mean we did this IHA, and they're doing all of this racing, and they're making quite a bit of money from it? Why don't we just repeal the IHA and let it go back to the states?

So I think you're going to see some folks coming from that direction on you. And the thing that I really want to see, and the reason we tried to have very balanced panels here and tried to bring all of you in, is to see if we can get some consensus and try to move forward to put a good, solid piece of legislation in place and send a strong signal, and then let your regulators out there that have been doing this for a long time take it seriously and actually get it done.

And I think if we start with those principles of this Racing Improvement Act that we've got here—banning race-day meds, three strikes and you're out, and making sure that we had horses tested—that we would really come a long way toward moving down the road of cleaning up the industry, and getting us back to the glory days of racing, more people interested, more attendance, that kind of thing.

Do you agree on the subsidies? I mean, there are a lot of subsidies, aren't there?

Mr. MARTIN. You know, it would be great if the horseracing commissions had the ability to control their budgets. They unfortunately don't. And they're part of———

Senator UDALL. No, but the governors can work with the commission, as you well know, and every one of those states. We just saw one of the witnesses here reminded me in the last couple of days that New Jersey took the subsidies away and put them back down. I think this happened in Atlantic City.

Governor Christie said we're not going to put our $30 million in. We're going to give that money to some other thing. So you're going to see that kind of thing happening.

But clearly, most of your regulators, are they not appointed by the Governor?

Mr. MARTIN. They are, Senator.

Senator UDALL. Yes. And so the Governor working with the regulators I think would take a positive step here.

Mr. MARTIN. The RCI has endorsed the concept of an interstate racing regulatory compact. And in the legislation that we've crafted in conjunction with the Council of State Governments, there is a funding mechanism by which the industry's investments in its integrity can be isolated from being shifted and diverted for non-racing integrity purposes.

Unfortunately, what has happened in some states is the industry will pay fees for their regulation. But those fees will get diverted for other state purposes. We all realize that for government at all levels these have been trying times fiscally.

Unfortunately, the racing commissions sometimes are not at the head of the line. So what we've tried to do is come up with a proposal, whereas those investments can be isolated.

There was a situation in New York, Senator, where the Thoroughbred horsemen agreed to a per-start fee, $10 for every horse they start. And it was going to be used to augment drug testing at the lab, buy new equipment, and augment drug testing.

And what happened was is they generated money, and the state budget director saw this money coming and decided to take an equal amount of the commission's appropriation now that they had this revenue. So we've got a whole constituency of horsemen who agreed to a new fee for a specific purpose, and it was diverted. And I'm sorry, that unfortunately is the reality sometimes.

Senator UDALL. Did you finish, Mr. Martin?

The point I want to make, though, is just again, to make sure it's clear, is that there's plenty of money out there that is part of the mix, that could be put toward law enforcement, toward policing, to making sure that we do the kinds of things that folks are talking about here—doing the testing, having the people available to do the work that needs to be done to clean it up.

And it may be a difficult decision. But governors, and racing commissioners, and the state legislatures need to get together and decide that they want to move forward and clean the industry up, and really grow the jobs.

I mean, I think all of us think that these are jobs that people appreciate. And we want to bring the level of the industry up.

Do you, Dr. Lyons, want to respond to the comments about Lasix? I know there were several comments that were heard, and I know that's something in your testimony.

Dr. LYONS. Thank you, Senator. Yes, I would like to respond to that.

I think this difference of opinion between myself and, specifically, Mr. Stirling really represents what I'm up against, and what veterinarians are up against when we go to work at racetracks.

Mr. Stirling was a very successful racehorse trainer. And I know that he is well regarded in his position as an association leader. But Mr. Stirling is not a veterinarian. And I heard him testify that Lasix is not performance enhancing, it has never harmed a horse, and that it effectively treats exercise-induced pulmonary hemorrhage.

Well, from my perspective as a doctor of veterinary medicine, who has treated these horses for nearly 30 years, I can tell you that Lasix is performance enhancing. Lasix has done a lot of harm to these patients.

Lasix is a powerful diuretic where the mechanism of action is to remove necessary electrolytes from the horse's body. And it brings with it water, just by osmosis, through the kidneys. So you end up with a diuretic effect.

So right before these horses go out to compete at the highest level of their capability, we are depleting them of essential electrolytes. We are dehydrating them. And I found over 200 peer-reviewed papers that link the increased risk of fracture to Lasix use.

I did a pilot study myself to just test a hypothesis that Lasix was changing the blood test results in these horses. And I found a very close parallel between what is reported for the effect of EPO on athletes and Lasix.

There's also a study that was published by researchers at New Bolton Center, and I intend to include that paper in the complete record at a later date.

I believe that they studied over 1,000 horses, and they reviewed racing records, that it is very clear that it's a performance enhancement.

And as a doctor, to try to manage these horses' health care when the trainers are able to indiscriminately, simply request the administration of this drug to my patients is a very difficult and ongoing battle.

The other thing is that Lasix does not end the problem of exercise-induced pulmonary hemorrhage. EIPH, or bleeding into a horse's lungs, it's a symptom. It's a sign. It's not a specific disease in and of itself. And it can be caused by many different factors.

So to simply say, "This horse is a racehorse. A small percentage of racehorses have been known to bleed. So therefore, I'm just going to empirically decide to give this horse this drug," is completely against the standards and practice that regulate my profession.

I can't justify it, especially in the fact that it not only does not effectively treat a disease that my patient probably doesn't even have, but is going to harm my patient at the same time.

But I know that Mr. Stirling, and many of the passionate advocates for the continued use of this drug in all horses, believe what they're saying.

But frankly, if a lie is told long enough over and over, it begins to sound like the truth. So for nearly 30 years, I have had to have these discussions with clients, and have to re-educate them because the opinion is just not supported by the science.

Senator UDALL. You kind of remind me what Mark Twain used to say. He said, "A lie gets halfway around the world before the truth puts on its boots."

[Laughter.]

Senator UDALL. And we see that a lot in our profession. And we see it in a lot of other places.

So thank you all. We've gone past 5 o'clock. We started you at 2 o'clock. I know some folks have planes and everything.

I think we've worked through an awful lot of the issues here.

And I just want to say again, the reason we tried to have two panels and have them be very balanced and come from all aspects of the industry was to try to get people together and say now is the time to move forward and clean it up.

And we want to continue to work with you. We're not claiming this—I am not an expert in this industry. I'm not an expert in terms of what's on the books out there at the state level, in every one of these states. But I'd like to see us work together to move forward so that this industry can grow, so that we can grow the jobs, so that it isn't as many—you know, you're not going to hear many folks come in here and say this is a dying industry.

But I think that's what the worry is out there, what people talk about to me when I get out there and visit. And these are majestic, magnificent creatures. And all the people that work around them I think have a great deal of respect for them. And we've got to get back to that.

So thank you very much. Thank you for coming. And the hearing is adjourned.

[Whereupon, at 5:10 p.m., the hearing was adjourned.]

A P P E N D I X

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. AMY KLOBUCHAR TO EDWARD J. MARTIN

Question 1. How do commissions internationally deal with the patchwork of rules and regulations around the globe for horse racing?

Answer. There is an International Federation of Horse Racing Authorities (IFHA) that advocates for the harmonization of policies governing racing and breeding in much the same way that RCI (the Association of Racing Commissions International) advocates for adoption of our Model Rules by our members in the United States, Canada, Mexico, and the Caribbean. RCI is a member of the IFHA.

A key issue affecting the domestic racing industry is the ability of foreign fans to wager on our domestic product. To that end, RCI has adopted standards for totalizator systems and is an active participant in the special technical committee meetings of U.S. racetracks and totalizator companies, the Thoroughbred Racing Association's 20/20 committee. Our standards and policies are designed to facilitate the expansion of the U.S. racing product around the world, providing for seamless integration of wagering pools.

Racing jurisdictions also attempt to honor suspensions and participation exclusions imposed by other racing jurisdictions, regardless of where they are. In some instances, racing commissions have been prevented by court action from honoring an exclusion imposed in a foreign nation if the racing authority in that country has been unable to share the evidence supporting their action. RCI is in the process of developing a protocol that might facilitate reciprocal suspensions with Canadian jurisdictions. I must note, however, that such an exclusion can result in court challenge and a court ruling overturning an exclusion is beyond the control of a racing commission.

I have been told that an international agreement between nations might rectify this matter. My understanding is that this is a difficult path to pursue and can take many years to accomplish.

Question 2. Do you feel that there is a consensus globally that the U.S. should change the way it regulates medication of horses around race events?

Answer. There is a huge debate over the raceday use of furosemide that is allowed in racing jurisdictions in the United States and Canada and various other jurisdictions. This debate stems from a disagreement of whether to provide a therapeutic exemption for a raceday administration of a legal medication that has been proven to mitigate the effect of exercise induced pulmonary hemorrhage (EIPH). The medication in question, furosemide, has the potential to affect performance.

In the interest of helping a horse combat EIPH, racing regulatory authorities permitted its raceday use under controlled circumstances approximately twenty years ago. Horses with furosemide are disclosed in the program for all to see.

This is the only therapeutic exemption allowed by U.S. racing regulatory commissions and it is currently under review to assess whether it is in the interest of the horse to continue the exemption, whether there are unintended health consequences from its use, and whether requiring horses to run without it on raceday would have an adverse health effect. The racing industry in the United States is divided. Some think Europe has it right, others think America does.

This is not an easy issue and those on both sides of it adhere to their position with much emotion.

At issue is the concept of permitting the administration of a therapeutic medication to mitigate a condition on the day of the race under controlled circumstances. Therapeutic exemptions are permitted in the human Olympic Games although the prohibited substances, athletes, or specific contests are not disclosed.

As reported this month in the Lexington Herald Leader, Dr. Kent Allen, the Foreign Veterinary Delegate at the 2012 Olympic Games in London indicated that there is also a mechanism to request a therapeutic-use exemption for horses just

as for humans, although they have not provided an exemption for furosemide to treat EIPH.

Racing regulators in the United States or Canada do not have a formal mechanism where participants can apply for a therapeutic use exemption for a prohibited substance. In twenty years, U.S. and Canadian jurisdictions have only allowed one exemption to mitigate EIPH.

In U.S. racing, this one therapeutic use exemption is disclosed in the racing program for all to see. The public knows the horse, the race, and whether the horse has been treated with furosemide or not. To my knowledge, no other sport discloses to the public the athletes who compete or return after injury mid-game following a locker room treatment with substances that otherwise could affect performance.

Some racing participants in the United States believe racing regulators should permit therapeutic use exemptions for other equine conditions. Racing regulators have shown no inclination to do that.

This committee is considering proposed legislation that would remove this one therapeutic-use exemption in U.S. simulcast races. While that certainly is your prerogative, I would caution against any such action in the absence of clear and convincing scientific evidence indicating that such action would be in the best interest of the horse. Dr. Lyons has cited studies done on humans. The applicability of those studies to equines is a legitimate question that has yet to be answered to our satisfaction. State regulators have processes in place to assess these issues which we believe should not be determined in a political environment, despite the best of intentions of those who seek a legislative resolution to this ongoing and longstanding debate.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. TOM UDALL TO BARRY IRWIN

Question 1. Do you think most horse owners are aware what medications their horses receive?

Answer. No, I don't think most horse owners are aware of what medications their horses receive. Most will know if they receive an injection for Lasix. Many will assume that prior to the deadline before a race that their horses will be administered a dose of butazolidin. As for any other medications with which they may have been treated in the week leading up to the race, I think they would be in the dark.

Question 2. In your experience, are trainers receptive to medication questions from owners?

Answer. Trainers are receptive to medication questions from owners, although most trainers never receive these questions from owners because the owners are never advised by trainers what medications are given to their animals. In my experience, I have never had any resistance from a trainer in discussing medications.

Question 3. Do you think it would help owners select trainers if they were aware of trainers' medication practices, history of rule violations, and racehorse fatality rates?

Answer. Perhaps, but I think that most owners would only care about the stats relating to fatality rates. Most owners do not really care about rule violations. The simple fact is that most owners want to win and they don't care about a trainer's reputation that may be a result of too many rule violations. Furthermore, there is plenty of evidence that certain owners gravitate toward trainers that have a reputation as cheaters because these owners want to win at all costs.

Question 4. Dr. Sheila Lyons' testimony recommends increasing veterinary record transparency. In Hong Kong, for example, one can find some vet reports online along with a horse's past performance chart. Could this type of disclosure help improve medication practices in American horseracing?

Answer. I like the idea of having a record of all veterinary procedures and administration of drugs made available to racing authority and to owners of the horses, but not dissemination to the public, because I think that the information would be too confusing and unhelpful to horseplayers, who would most certainly focus on the report to the detriment of their own handicapping skills. Horseplayers on the whole are a particularly suspicious lot and they will undoubtedly place too much emphasis on the medical reports than post position or pace factors. I think a database where these filings could be accessed by interested members of the public might be a better idea, but putting it in the past performances of a horse would make them a focal point that would detract from their ability to successfully analyze races.

Question 5. The Racing Medical Testing Consortium (RMTC) Recent Rulings website lists dozens of medication violations involving controlled substances includ-

ing anabolic steroids, clenbuterol, narcotics, stimulants, etc. (*see: http://www.rmtcnet.com/content_recentrulings.asp*). Such violations could possibly be the result of false positive test findings, environmental contamination, or the lawful administration of therapeutic medication within the current rules of horse racing. However, some of these violations may indicate the illegal use of controlled substances in horseracing. Should state racing commissions report medication violations involving controlled substances to the Drug Enforcement Administration (DEA)?

Answer. If the Drug Enforcement Administration would offer its assistance in cases that are deemed to be legitimate instances of possible rule infractions, I think this would be very helpful, as any scrutiny or subsequent convictions would serve as a powerful deterrent to future crimes.

Question 6. In the Gregory Martin case, a U.S. district court found that "breaking the rules of [a] horserace by doping a horse . . . violates fundamental notions of honesty, fair play and right dealing and is therefore an act within the meaning of a 'scheme to defraud'" under the wire fraud statute, 18 U.S.C. § 1343 (see *United States* v. *Martin,* 411 F. Supp. 2d 370, 373 (S.D.N.Y. 2006)). The court explained how this type of race fixing harms those who place parimutuel wagers on non-doped horses. Since winning bets are paid shortly after a race, those involved in doping can potentially profit from parimutuel wagers even if racing authorities later find a medication violation that changes the official race result and redistributes purse prizes.

Answer. How can state racing commissions or racetrack operators prevent someone who engages in such race fixing from profiting from parimutuel wagers? Prerace testing can help to a certain degree, but some of the suspected drugs may either be designer drugs or drugs that are not known at the time of pre-testing, so these violations would surely go undetected. The best way to avoid these instances from occurring is for people that cheat to be rooted out of the sport to prevent these acts from being perpetrated again.

Question 7. Do permissive medication policies in U.S. racing jurisdictions impact export sales of American racehorses in any way?

Answer. Yes, the permissive medication policies in U.S. racing absolutely do negatively impact the sales of American racehorses, as it reduces the number of potential customers for our produce because foreign owners no longer trust the quality of the form of horses that achieved their greatest triumphs while racing with medication. This particularly holds true of stallion prospects.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. TOM UDALL TO KENT STIRLING

Question 1. Mr. Stirling, you serve on the board of the Racing Medication and Testing Consortium (RMTC). RMTC maintains an online "Recent Rulings" list of medication violations which includes five ractopamine violations, (see: *http://www.rmtcnet.com/content_recentrulings.asp*). The longest suspension for a violation involving ractopamine was just 6 months. The same website lists a 2010 zilpaterol violation that led to just a 60 day suspension. Are these penalties sufficient to deter cheating with these drugs?

Answer. Ractopamine and zilpaterol are ingredients in pig and cattle feed supplements used to add bulk weight before slaughter. I know of no reason either substance should be administered to horses. The Association of Racing Commissioners International ("ARCI") assigns a Category A penalty for their use, which ranges from a minimum 1 year suspension and $10,000 fine to a maximum 3 year suspension and $25,000 fine for a first time offender. I believe those penalties are sufficient to deter those who intend to cheat by using ractopamine and zilpaterol.

However, the ARCI Category A penalty provides for a lesser penalty if there are "mitigating circumstances." Such circumstances could include environmental contamination of horse feed and inadvertent use. Each case should be judged on its own after a fair hearing. I read about a number of ractopamine positives that were caused by a contaminated milling machine used to make both horse and pig feed. I also read that a Louisiana trainer received a reduced suspension of 60 days because he was not aware the feed supplement he was using contained ractopamine.

Question 2. Mr. Stirling, veterinarians who testified at the last two Congressional hearings on horseracing stated that furosemide (Lasix) is not effective at treating exercised induced pulmonary hemorrhage (EIPH) or "bleeding." Dr. Greg Ferraro, the director of the Center for Equine Health at the University of California School of Veterinary Medicine, said at the House Committee on Energy and Commerce sub-

committee hearing on April 30, 2012 that he once argued before state racing commissions in favor of permissive Lasix rules but now opposes its use as a raceday medication. Dr. Ferraro explained that Lasix is not a very good drug to control EIPH. He further stated that its permissive use over 40 years has hindered efforts to find an effective EIPH treatment and has "done a detriment to the [Thoroughbred] breed." Dr. Lawrence Soma, an equine pharmacologist at the University of Pennsylvania's New Bolton Center, testified at a June 19, 2008 House Committee on Energy and Commerce subcommittee hearing that "furosemide does not prevent bleeding, improves performance in some horses, [and] can dilute urine to compromise detection of drugs. . . ." Given the statements of these veterinary experts on the use of furosemide as a raceday drug, please substantiate the claims in your testimony that Lasix: (1) "is necessary to keep a healthy horse healthy;" (2) "prevents and lessens bleeding;" and (3) "has been used effectively for nearly forty years."

Answer. In 2009 a group of international scientists published the seminal study of Lasix, based on 167 thoroughbred horses in racing conditions, showing conclusively the efficacy of the drug in preventing and lessening pulmonary hemorrhaging. Without Lasix horses were 3 to 4 times more likely to have pulmonary bleeding, and 7 to 11 times more likely to have moderate to severe bleeding, when compared to horses treated with Lasix. See, Hinchcliff, Morley, Guthrie, *Efficacy of furosemide for prevention of exercise-induced pulmonary hemorrhage in Thoroughbred race horses,* J. Am Vet Med Assoc 2009, 235:76–82.[1]

The Hinchcliff et al study was a main focus of the "International Summit on Race Day Medication, EIPH, and the Racehorse" held at Belmont Park on June 13–14, 2011. The meeting was sponsored by the Racing Medication and Testing Consortium, the American Association of Equine Practitioners ("AAEP"), and the National Thoroughbred Racing Association. I attended that meeting along with representatives from all the major racing countries in the world. After review and discussion of the Hinchcliff study not one of the distinguished science and veterinary panelists contended Lasix was ineffective in treating pulmonary bleeding.

I do not know if Dr. Greg Ferraro attended the Belmont meeting, but I assume he was unaware of the Hinchcliff et al study when he opined that "Lasix is not a very good drug to control EIPH." Dr. Lawrence Soma's similar opinion was voiced by him a year before the Hinchcliff study, and 4 years before the Belmont summit. I doubt very much that Dr. Soma holds that same opinion today.

It is also worth noting that the AAEP, which has about 10,000 veterinary members, endorses the efficacy of Lasix. The AAEP publicly stated that:

> *In the absence of a more effective treatment or preventative medication for EIPH, the AAEP supports the use of Lasix as the only medication that should be allowed on race day. . . .*
>
> *EIPH increases with age and exercise. One of the true values of furosemide is that the medication can be used to diminish or modulate the progressive pathologic change in lungs that leads to repetitive bleeding. Regarding the effectiveness of Lasix in reducing EIPH . . . the 2009 study conducted by Hinchcliff, Morley and Guthrie found that pre-race administration of furosemide decreased the incidence and severity of EIPH . . .* [and] *currently serves as the most definitive research on the effectiveness of Lasix in reducing EIPH.*

See, Attachment A, Exhibit 4, Letter of AAEP President John S. Mitchell, DVM, to John Sabini, Chairman, New York State Racing & Wagering Board, dated May 14, 2012.

Question 3. Last year William Koester, then Chair of the Association of Racing Commissioners International (RCI), called for a phase-out of raceday medication. A March 28, 2011 RCI press release (available at: *http://www.arci.com/news item.asp?story=1047*) quotes Mr. Koester as saying that:

> "Today over 99 percent of Thoroughbred racehorses and 70 percent of Standardbred racehorses have a needle stuck in them 4 hours before a race. That just does not pass the smell test with the public or anyone else except horse trainers who think it necessary to win a race. I'm sure the decisionmakers at the time meant well when these drugs were permitted, however this decision has forced

[1] By letter dated July 24, 2012, I made a Supplemental Submission on behalf of the NHBPA for the record of the July 12, 2012 hearing on "Medication and Performance-Enhancing Drugs in Horse Racing" that included four exhibits. That Supplemental Submission is appended to these responses as Attachment A. The Hinchcliff study cited in the above text is Exhibit 1 to Attachment A.

our jurisdictions to juggle threshold levels as horseman become more desperate to win races and has given horse racing a black eye."

Does the fact so many American Thoroughbreds race on Lasix indicate that this drug is overused?

Answer. No, Lasix is not overused. Those who contend otherwise fail to understand its prophylactic or preventative efficacy. Lasix can help prevent horses from bleeding even if they have not bled in the past, and for that reason is given to young horses.

After Mr. Koester's departure as ARCI's Chair, the organization adopted a Model Rule permitting race day administration of Lasix, with the proviso that it be administered by a state regulatory veterinarian and not a private veterinarian.

Question 4. If a horse is not fit or sound enough to race without raceday medication, should that horse be raced in the first place?

Answer. A horse not fit or not sound should not race. Lasix, with minor exceptions in some jurisdictions for adjunct bleeder medication, is the only race day medication permitted in U.S. thoroughbred racing. Lasix does not enable an unsound or unfit horse to race.

Question 5. Mr. Stirling, your testimony states that horse "doping" should be defined narrowly to include what RCI considers "Class 1" and "Class 2" drugs. You state that other drug test positives involving Class 3 drugs, for example, "generally indicate overdoses of therapeutic medication." You further explain that "[t]herapeutics are permitted in race horses and have little or no likelihood of affecting performance." Yet RCI's classifies anabolic steroids and clenbuterol as "Class 3" drugs. Could any violations involving "Class 3, 4, and 5" drugs possibly be considered "doping," or attempts to cheat by, for example, giving the drug on raceday or administering a higher dose than required for any legitimate therapeutic purpose?

Answer. I consider doping to be the deliberate use of a drug, in order to compromise the outcome of a race, which has no legitimate reason for being given to a horse. Class 1 and 2 substances, for the most part, are dope. Therapeutic medication, on the other hand, is not doping and is identified in ARCI classes 3, 4, and 5. No medication is lawfully permitted on race day in the U.S. except for Lasix, although a few states also permit the use of anti-bleeder adjuncts. If therapeutic medication, like common Class 4 anti-inflammatories such as phenylbutazone and flunixin, is given on race day I would consider that to be cheating. Cheating of that sort is detectable in post race testing because concentrations of therapeutic medication found in urine and plasma would be much higher than permitted threshold levels.

Question 6. The *United States* v. *Martin* case (411 F. Supp. 2d 370, (S.D.N.Y. 2006)) involved a trainer accused of "milkshaking" a horse, or artificially elevating the levels of carbon dioxide to increase its endurance. The Federal judge described this practice as doping. The RCI model rules, however, do not consider "milkshaking" or total carbon dioxide (TCO_2) violations to be "Class 1" or "Class 2" violations. Does NHBPA consider "milkshaking" or artificially elevating a racehorse's carbon dioxide levels to be doping?

Answer. The *Martin* case cited above does not mention "milkshaking" or conclude that it is "doping." Nonetheless, I believe doping includes any deliberate attempt to affect the outcome of a race by "milkshaking" a horse to increase its carbon dioxide level.

Question 7. RCI's Model Rules (available at *http://www.ua-rtip.org/sites/ua-rtip.org/files/modelrules_5.1.docx*) classify total carbon dioxide (TCO_2 or "milkshaking") violations in its "Category B" penalty scheme. For a third offense in a 365-day period, RCI's model rule recommends a minimum 60-day suspension absent mitigating circumstances and a minimum fine of $2,500 absent mitigating circumstances. Of the dozens of TCO_2 violations published on the RMTC Recent Rulings website, at least eight such violations are described as either second or third offenses. Is the RCI model rule for total carbon dioxide adequate to deter a trainer from incurring multiple lifetime violations?

Answer. Yes.

Question 8. According to news reports, trainer Doug O'Neill has had more than a dozen medication violations, including at least three lifetime total carbon dioxide (TCO_2) violations in California and Illinois. In a fourth TCO_2 case dating to 2010, the California Horse Racing Board (CHRB) and O'Neill reached a settlement earlier this month (available at: *http://www.chrb.ca.gov/Board/admin_actions/oneill_agreement.pdf*). Under this settlement, O'Neill will pay a $15,000 fine and serve a 40 day suspension. O'Neill will be suspended during only 1 week of the glamorous and lucrative Del Mar race meet, instead serving most his suspension during the

Fairplex Park race meet in September. A July 9, 2012 Daily Racing Form article reports that his assistant trainer will run the barn while he is on suspension (*see: http://www.drf.com/news/o%E2%80%99neill-drop-appeal-ban*). Presumably, horses in O'Neill's barn will thus be able to race during his suspension. Given your testimony that NHBPA's policy is that "[r]epeat offenders should be severely penalized, including permanent exclusion from the industry," do you believe that a 40 day suspension and $15,000 fine is an adequate penalty for a fourth lifetime TCO_2 violation?

Answer. I do not know the facts and circumstances of Doug O'Neill's TCO_2 violations. For that reason it is difficult to comment on the adequacy of the penalty. I do know that in assessing penalties "mitigating circumstances" and "aggravating circumstances" are often taken into account. That may have been the case in California. I read the California Horse Racing Board, in suspending and fining Doug O'Neill, concluded there was no evidence Doug O'Neill was guilty of "milkshaking" his horse.

Question 9. In the *United States* v. *Martin* case (411 F. Supp. 2d 370, 373 (S.D.N.Y. 2006)), a Federal judge found that "breaking the rules of [a] horserace by doping a horse . . . violates fundamental notions of honesty, fair play and right dealing and is therefore an act within the meaning of a 'scheme to defraud'" under the wire fraud statute, 18 U.S.C. § 1343. Given the possibility that racehorse doping incidents could be part of race fixing schemes that constitute wire fraud, should state racing commissions report medication violations to the Federal Bureau of Investigation (FBI)?

Answer. As I pointed out in my written statement to the Committee in the 3-year period from 2009 through 2011 only a tiny percentage (0.73 percent) of hundreds of thousands of post race drug tests was positive. Even so the vast majority of those positives were for overages of legitimate Class 3, 4, and 5 therapeutic treatment medications. At the same time, according to ARCI data, only 82 tests (less than 3/100ths of 1 percent) were positive for Class 1 and 2 drugs that generally had no business being in a horse. I do not object to state racing commissions reporting Class 1 and 2 violations to the FBI. On the other hand, no useful purpose would be served by reporting Class 3, 4, or 5 violations.

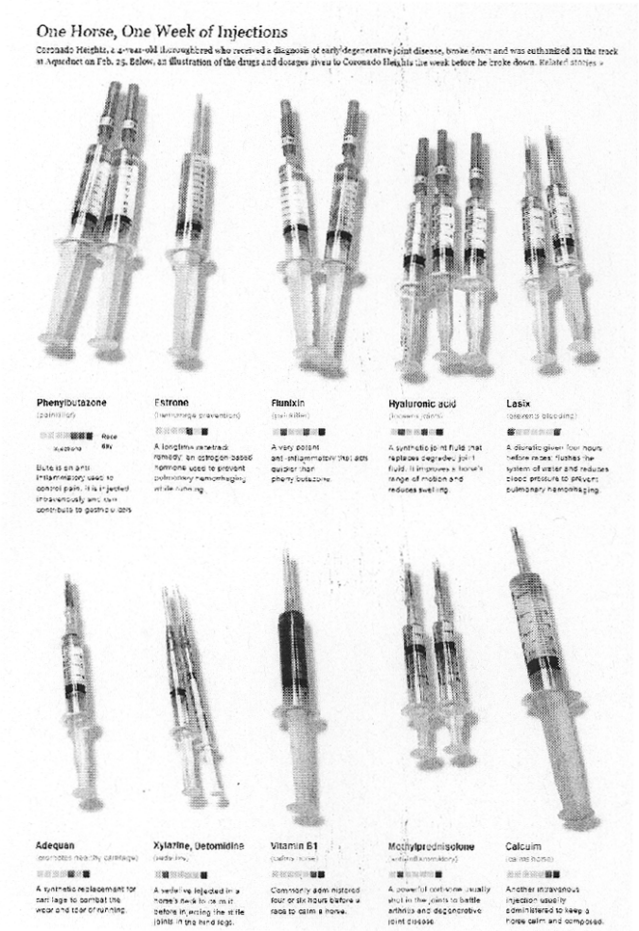
Question 10. Mr. Stirling, you stated during the hearing that "clenbuterol is probably the best drug that has come out in the last thirty years . . . [but] unfortunately people are abusing it." Hall of Fame trainer Jack Van Berg said during a TVG Racing Roundtable on "Medication In Horse Racing," that "clenbuterol is one of the worst things that happened to racing. I think they've killed more horses with clenbuterol; if you check the records, horses having heart attacks with that drug, as anything" (*see: http://www.youtube.com/watch?v=EmzEtu2Yktc*). According to the transcript of the August 25, 2011 California Horse Racing Board meeting, trainer John Shirreffs spoke in favor of stricter clenbuterol rules for Thoroughbred racing since "the same abuse they're talking about in quarter horses is occurring in thoroughbreds. . . ." He added that this "presents for a trainer a real moral dilemma because . . . if you're not giving it to your horse, then you're going to have a [worse] chance to compete. . . . And the side effects of it that have been mentioned over and over again are just not horse friendly" (*see: http://www.chrb.ca.gov/Board/board_meeting_transcripts/TRANSCRIPT%2011-08-25.pdf*). The American Quarter Horse Association (AQHA) policy for clenbuterol is a recommended withdrawal time of 30 days prior to race day and a blood testing threshold level of 1–2 pg/ml of clenbuterol. To date, only New Mexico has such a rule for both Quarter horses and Thoroughbreds. Does NHBPA support prohibiting the administration of clenbuterol within 30 days of racing?

Answer. Clenbuterol is a bronchodilator that allows a horse to rid its airways of mucus and debris, leading to a reduction in respiratory ailments. It is particularly useful with susceptible young horses. My statement about it echoed the opinion of Dr. Rick Arthur who at a public hearing of the California Horse Racing Board ("CHRB") on January 18, 2007 said "*In my 30 years of practice I thought clenbuterol was one of the best therapeutic medications to come along.*" See, Attachment B. At another meeting of the CHRB on May 24, 2012 Dr. Arthur said "*clenbuterol is a highly effective therapeutic drug for the treatment of small airway disease and should be allowed for horses that need it.*" See, Attachment C.

The problem with clenbuterol is that it can be misused for its anabolic steroidal properties that promote muscle building, particularly with use of off-brand products not approved by the FDA. Recent testing in California suggested clenbuterol use was beyond what would be required to treat horses with breathing problems. For that reason the CHRB put in place for 1 year a rule prohibiting its use within 21 days of racing. Many other jurisdictions use 3 to 5 day withdrawal periods.

I think clenbuterol abuse should be dealt with, but I am not sure how best to do it. Given its undoubted therapeutic quality I do not think a 30 day ban is the solution. Withdrawal times and threshold levels should be scientifically determined, and not be based on speculation or spur of the moment whims.

Question 11. Mr. Stirling, during oral remarks you stated that the problem of "stacking" drugs is no longer a problem. Stacking refers to administering multiple types of drugs, typically painkillers, which can result in a racehorse receiving a powerful drug "cocktail" that does not test over the limit for any single drug's regulatory threshold level. An April 30, 2012 *New York Times* article titled "Big Purses, Sore Horses, and Death" describes the late *Coronado Heights* as "a 4-year-old thoroughbred who received a diagnosis of early degenerative joint disease, broke down and was euthanized on the track at Aqueduct on Feb. 25 [2012]." According to the *New York Times, Coronado Heights* received 14 drug administrations in the week leading up to his last race, as illustrated in this graphic (available at: *http://www.nytimes.com/interactive/2012/04/29/us/one-horse-one-week-of-injections.html*):



The *New York Times* graphic describes the 14 drug administrations given to *Coronado Heights* in the week leading up to raceday, including one methylprednisolone (corticosteroid), two phenylbutazone (NSAID), and two flunixin (NSAID) injections. Given the challenge of "stacking" and other potential abuses of permitted therapeutic medications, would NHBPA support a requirement that veterinary records for racehorses be disclosed to the public?

Answer. I testified that stacking is no longer a problem because it is generally prohibited by state rules, and is easily detected in post race tests. ARCI's model rule is typical:

> *The presence of more than one of the three approved NSAIDs* [phenylbutazone, flunixin, ketoprofen], *with the exception of Phenylbutazone in a concentration below 0.5 micogram per milliliter of serum or plasma or any unapproved NSAID in the post-race serum or plasma sample is not permitted. The use of all but one of the approved NSAIDS shall be discontinued at least 48 hours before post time for the race in which the horse is entered.*

See, ARCI–011–020 E (1)(c), Medications and Prohibited Substances.

I do not think it appropriate to publicly disclose veterinary records of race horses without an accompanying explanation by the treating veterinarian. Based on my experience as a trainer I think it is inaccurate and inappropriate to draw conclusions about a horse's health or soundness by looking at treatment records without examining the horse and knowing its history.

Question 12. According to data from Equibase race charts, the horse *Coronado Heights* had a claiming price of $16,000 when he finished last in a January 12, 2012 race at Aqueduct racetrack. In his next race on February 25, *Coronado Heights* had a much lower claiming price of $7,500. According to the *New York Times, Coronado Heights* received 14 injections in the week before this race and broke down. (see: *http://www.nytimes.com/interactive/2012/04/29/us/one-horse-one-week-of-injections.html*). Does the example of *Coronado Heights*—who finished poorly in a race, was subsequently offered for sale in a lesser quality claiming race, and received more than a dozen injections in the week before that race—illustrate how therapeutic medications could potentially be abused to allow a horse with unsoundness problems to race?

Answer. No, it does not. *Coronado Heights,* was owned by Starlight Racing, a prominent stable that regularly competes in the Kentucky Derby and the Kentucky Oaks, and trained by Todd Pletcher, one of the country's top trainers. These are not the connections one associates with abusing horses.

The racing pattern for *Coronado Heights* was not out of the ordinary. His first start was in a six furlong maiden claiming race at Aqueduct on January 12, 2012. The purse was $25,000 and the claiming price was $12,500. *Coronado Heights* won that race. On February 2 the horse stepped up in competition by racing for a higher purse ($30,000) at a higher claiming price ($16,000) and at a longer distance (a mile and seventy yards). According to the chart the horse was "headstrong," and after leading in the early stage faded back to finish last in the longer race. In its third race at Aqueduct *Coronado Heights* dropped back to six furlongs in a $7,500 claiming race, close to the conditions under which he first won. Unfortunately, *Coronado Heights* broke down in the race.

However, there is no justification for concluding, as the *New York Times* did, that the horse broke down because it was unsound and abused with therapeutic medication. It is not unusual for a horse to receive anti-inflammatory medication and synthetic joint fluid, as well as vitamins and minerals, between races. All are lawfully administered by veterinarians who provide regular care for race horses.

This past winter's Aqueduct meet experienced an unusual number of fatalities, including that of *Coronado Heights.* Potential causes are being investigated by a task force of industry leaders. Most trainers know that winter racing on Aqueduct's inner track surface is tough on horses. The task force report is expected shortly.

Question 13. Dr. Rick Arthur, the California Equine Medical Director, wrote that "horses entered to race have been documented as having received four different corticosteroids 2 days before racing and within current racing rules on top of multiple intra-articular corticosteroid injections a few days earlier" (*see:* Arthur, Rick M. "Welfare Issues in Horse Racing." in *Equine Welfare,* First Ed. Edited by McIwraith, C. Wayne and Bernard Rollin. Blackwell Publishing, 2011: 237). Should the rules of racing allow such "stacking" of multiple drug administrations in the days leading up to a race?

Answer. As I stated above, current rules prohibit stacking.

Question 14. In an article on "Welfare Issues in Horse Racing," Dr. Rick Arthur wrote that "[t]here is a real incentive to race horses in a claiming race when they have begun developing unsoundness problems" (*Equine Welfare,* First Ed. Edited by McIwraith, C. Wayne and Bernard Rollin. Blackwell Publishing, 2011: 239). A *New York Times* analysis of more than 150,000 race charts from 2009 through 2011 found that "[l]ower-tier claiming races are more dangerous for cheaper horses" than higher class races (see: "For Horse and Jockey, Risks Vary by State." *New York Times.* March 24, 2012. available at: *http://www.nytimes.com/interactive/2012/03/*

24/us/for-horse-and-jockey-risks-vary.html). Presentations by a former director of the Racing Medical and Testing Consortium (RMTC) state that abuse of corticosteroids, "particularly intra-articular, is significant anecdotally especially in claiming horses" (see: Waterman, Scot. "Drug Testing in the United States." Presentation to Racing Officials Accreditation Program (ROAP) Stewards. Jan. 21, 2011. available at: *http://www.rmtcnet.com/resources/RMTC_ROAP_School_Presentation_1-26-11.ppt* and Waterman, Scot. "Update on Medication Issues." Presentation. Sept. 21, 2009. available at: *http://www.rmtcnet.com/resources/Stewards_CE-Wash_9-21-09.ppt*). What regulatory changes, if any, would NHBPA support to improve the safety and integrity of claiming races?

Answer. I can think of two I would recommend. Pre-race veterinary examinations on race day of all horses entered to run that day should be made mandatory at all tracks. Also, there should be a reasonable relationship between the claiming price of a race and the size of the purse for that race. For example, a $5,000 claiming race should not have a $40,000 purse.

Question 15. Mr. Stirling, your written testimony includes a chart summarizing drug testing results from 2009–2011. However, my understanding is that not all state racing commissions send every test sample collected from horses to a lab to be tested. Moreover, at least one state racing commission admitted to the *New York Times* that it did not have its samples tested for one drug, phenylbutazone, due to a lack of sufficient funding. The testimony of Mr. Jeffrey Gural about the example of harness trainer Luis Pena, who is accused of more than 1,700 medication violations despite never having a positive test, also seems to highlight potential shortcomings in current testing practices. Given these concerns about the ability of current testing practices to identify medication violations, can you provide more information to substantiate that the test results in your chart disprove the *New York Times'* "dramatic allegations of widespread drug misuse?"

Answer. My chart is based on information reported to the ARCI by its state racing commission members. It tracks the same 3 year period from 2009 through 2011 used by the NYT in its March 25, 2012 article claiming "*widespread drug misuse*". The chart lists testing data by state and by drug classification, as described in my answer to question 9, above. The data show that during the 3-year period, encompassing 139,920 thoroughbred races, 99.27 percent of 279,922 post race tests were negative for drugs of any sort, including overages of lawful therapeutic medication and drugs having no business being given a horse other than cheating. No one can fairly characterize a less than 1 percent violation rate over a 3-year period as "*widespread drug abuse*."

Similarly relying on ARCI data for the same 3 year period, on average 5,800 thoroughbred trainers were licensed each year. On average only 12 of them were guilty of doping with substances having no business being given a horse (*i.e.,* Class 1 and 2 substances). To put it in perspective, 99.8 percent of all trainers did not cheat with drugs.

In contrast, without furnishing data of any sort to support its claim the NYT asserted trainers were caught "*illegally drugging horses 3,800 times*". The NYT did not present violation information by state and drug classification, did not put that alleged number in context with the total number of drug tests, and did not distinguish between drug positives in thoroughbred and quarter horse racing. The NYT did admit the "*bulk of the 3,800 violations*" were for "*prescription drug violations*," meaning overages of lawful therapeutic medication administered by veterinarians.

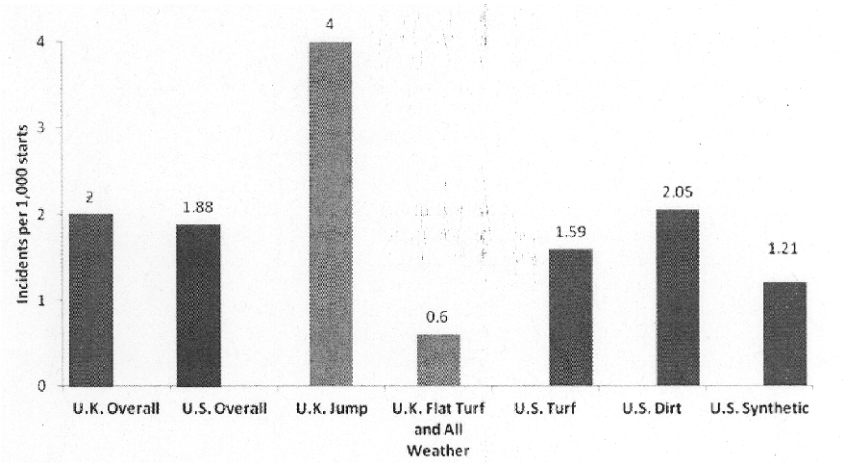
Responding to the observations prefacing the above question, I am not aware of any state racing commission that fails to send all post race thoroughbred samples for laboratory testing. If a state did not test samples I am sure I would have learned about it at some point in my many years of service as Chairman of the NHBPA's Medication Committee and as a member of the RMTC Board of Directors.

The NYT's report of a state's "*admission*" that it did not test for phenylbutazone may have referred to the New Mexico racing commission, at least based on my reading of NYT's March 25, 2012 article. If so, the reported "*admission*" is inaccurate, at least to the extent it refers to testing thoroughbreds as opposed to quarter horses. According to data furnished the NHBPA by the ARCI, which is the basis for my chart, the New Mexico racing commission reported medication violations to ARCI involving phenylbutazone, and its metabolite oxyphenbutazone, based on post race test results in thoroughbred races at Zia Park on November 10 and 14, 2009, and at Sunland Park on January 10, 2010. Obviously, New Mexico was testing thoroughbreds for phenylbutazone.

Finally, I am only slightly familiar with the case of harness trainer Luis Pena because it involves standardbred horses, known as trotters and pacers, which race by pulling sulkies around a track. I have spent nearly all of my life in the thoroughbred industry.

Pena's case appears unique because the medication violations charged center on alleged administration by veterinarians of therapeutic medication to Pena's horses within a specific period, generally 48 hours before a race, which is prohibited in New York by statute. Pena was not charged with any drug violation based on post race positive test results, apparently because there were none. No other state that I know of has statutory withdrawal times like New York. All other states use post race drug testing to determine if on race day there is any concentration of drugs in a horse, above certain trace levels, that may affect performance on race day. If so, penalties are levied.

Question 16. Mr. Stirling, your testimony argues that the *New York Times'* assertion that "breakdown rates [in Britain] are half of what they are in the United States" is not true. You cite data from the British Horseracing Authority and the U.S. Jockey Club indicating that the overall fatality rate per 1,000 starts is roughly equal in both countries. I would like to ask you to look closer at the data your testimony cites. Although the British Horseracing Authority reports its overall racehorse fatality rate as 2.0 per thousand runners, this includes many fatalities from jump (steeplechase) racing, which is more popular in the UK than in the U.S. In 2010, the British jump racing fatality rate was 4.0 per thousand runners compared to a flat racing fatality rate of 0.6 per thousand (see: *http://www.britishhorseracing.com/resources/equine-science-and-welfare/injuries-fatalities.asp*). Based on data from the Equine Injury Database, the Jockey Club reports that American racing has a fatality rate of 1.88 per thousand starts (*see: http://jockeyclub.com/mediaCenter.asp?story=546*). Even using the racehorse fatality data from the Equine Injury Database—which does not include all tracks and does not count race-related fatalities that occur more than 72 hours after the date of the race—U.S. horseracing appears to have a much higher fatality rate than comparable flat racing in the United Kingdom. This graph uses 2010 fatality rate data from the British Horseracing Authority and The Jockey Club Equine Injury Database to illustrate the differences:



By comparing British flat racing to American racing, one finds that U.S. fatality rates are much higher. Although the overall U.S. data from the Jockey Club may include some small percentage of steeplechase racing, my understanding is that such jump races are conducted on turf courses and thus would not be included in the U.S. rates for dirt and synthetic surfaces, which are shown separately above. Given a closer analysis of the available data, could you clarify your assertion about horse racing fatality rates in the UK compared to the U.S.?

Answer. The above graph is not quite accurate because it compares 2011 UK data, misidentified as 2010 data, with 2010 U.S. data. The actual 2010 UK fatality data, set forth at the British Horseracing Authority web address identified above, is about 25 percent higher than the graph indicates. Nonetheless, it is difficult to accurately compare flat racing fatality rates in the U.S. and the UK in any meaningful fashion because we race on different surfaces and on courses that vary greatly in design and layout.

In the UK nearly all racing is on the turf, often going right handed on irregularly shaped courses that are not level. There is virtually no dirt racing. In the U.S. rac-

ing is on level, left handed, oval dirt tracks (actually a combination of sand, clay, and loam), with little turf racing. Even limiting the comparison to turf racing is difficult because not all turf is the same. Our turf courses are much firmer and harder than English and Irish courses, which tend to be soft and easier on horses' legs. Also, most U.S. racing is at sprint distances less than a mile, which according to Jockey Club data have higher fatality rates than longer races. In the UK most races are at distances of a mile or more.

Many in our industry think the main cause of musculoskeletal related fatalities is track surface. I agree. In the U.S. many tracks reportedly are hard, uneven, and inconsistent. In the interest of horse safety and welfare we should spend more time and money resolving that issue rather than arguing about Lasix.

Question 17. Mr. Stirling, several companies publish "past performance" sheets with detailed data and statistics about racehorses, their trainers, and jockeys. Although such tools are used primarily by horseplayers, some horse owners also evaluate a trainer's win percentage when deciding which trainers to hire. In his article on "Equine Welfare Issues in Horse Racing" from the 2011 book Equine Welfare, Dr. Rick Arthur writes that some trainers have higher horse fatality rates than others. Dr. Arthur further explains that "[t]his has been recognized in horse racing, with little repercussion on the trainer because the relevant information is not readily available to the public." It seems to me that increased transparency could encourage better safety outcomes. Will National HBPA support a policy of publicly disclosing trainers' horse fatality rates?

Answer. I favor transparency, and do not oppose public disclosure of such information, but a fair and meaningful system of objectively calculating comparable trainer fatality rates must account for numerous variables including: quality and quantity of horses in training as well as their sex, age, earnings, and racing experience; number of starts; race track surfaces; race conditions; purses; geographic location; and weather.

Question 18. Mr. Stirling, your written testimony states that the NHBPA "strongly takes issue with on-going misstatements in the public media" about the horseracing industry. Your written statement counters claims made in recent *New York Times* articles about horseracing:

> Based on a purported analysis of Equibase charts the [New York Times] reported an [injury] "incident rate" of 5.2 per thousand starts for 2009–2011, which included both quarter horses and thoroughbreds. A subsequent Thoroughbred Times analysis of the same charts found a 4.03 per thousand incident rate for thoroughbreds.

Did the *Thoroughbred Times* use the same methodology as the *New York Times* in its analysis "of the same charts" for Thoroughbred races? What assumptions did the Thoroughbred Times use in its calculation of injury incident rates based on Equibase charts?

Answer. The Thoroughbred Times ("TT") methodology for calculating thoroughbred "incidents", as described in its April 7, 2012 issue, was the same as that of the *New York Times* ("NYT"). NYT's 5.2 incident rate, however, included quarter horse data. TT's 4.03 did not. Both publications considered chart phrases like broke down, lame, and vanned off to be incidents. TT went further in its analysis by adjusting downward its thoroughbred incident rate from 4.03 to 3.39 per 1000 starts by discounting horses that returned to racing after experiencing an incident. In short, TT's 3.39 incident rate was 35 percent lower than NYT's 5.2 incident rate.

Question 19. During the 25th anniversary of the Interstate Horseracing Act of 1978 (IHA), NHBPA published an article in its *Horsemen's Journal* about this Federal law (see: *http://www.hbpa.org/HorsemensJournalDisplay.asp?section=3&key1=2391*). This 2003 article states that:

> It is perhaps impossible to tabulate all that the Interstate Horseracing Act of 1978 has meant to horsemen. Financially, it has meant "millions upon millions," according to [Ned] Bonnie [past general counsel for the HBPA].

Has the horseracing industry, and trainers in particular, benefited from this existing Federal legislation regulating "interstate commerce with respect to wagering on horseracing?"

Answer. Yes, absolutely. Owners, trainers, breeders, race tracks, and a supporting agri-business industry responsible for thousands of jobs have benefited from the Interstate Horseracing Act of 1978 ("IHA"). The IHA makes lawful interstate wagering on races at locations other than where a race actually takes place. This is known as simulcasting, which has greatly increased the economic size and impact of the racing industry. Today nearly 90 percent of all wagering in the U.S. is through var-

ious forms of simulcasting. A portion of the wagering handle generated by simulcasting goes to track owners. Usually an equal portion goes to purses for which owners and trainers compete. State and local governments also benefit because simulcast handle is taxed at their level.

Question 20. Given NHBPA's position statement that "the Federal Government has no experience or expertise in horseracing," should Congress get the Federal Government out of horseracing by repealing the Interstate Horseracing Act of 1978?

Answer. Practically speaking the Federal Government is not actively involved in horse racing. The IHA permits states to engage in and regulate interstate simulcasting should they choose to do so. Simulcasting depends on agreements between state racing commissions, race tracks, and local horsemen's organizations. Under the IHA the Federal Government has no regulatory role in this process. Even so, the IHA should not be repealed because that would destroy the economic base of the industry.

ATTACHMENT: A

NATIONAL HORSEMEN'S BENEVOLENT & PROTECTIVE ASSOCIATION
Lexington, KY, July 24, 2012

Hon. THOMAS UDALL,
U.S. Senate Committee on Commerce, Science, and Transportation,
Washington, DC.

Re: Supplemental Submission of the NHBPA for the Record of the July 12, 2012 Hearing on *"Medication and Performance-Enhancing Drugs in Horse Racing"*

Dear Senator Udall:

The National Horsemen's Benevolent & Protective Association ("NHBPA") respectfully submits this letter and accompanying exhibits for inclusion in the record of the U.S. Senate Committee on Commerce, Science and Transportation's July 12, 2012 hearing referenced above.

In both my hearing testimony and written statement that I presented on behalf of the NHBPA at the Committee's hearing on July 12, 2012, I said Lasix (furosemide) effectively treats pulmonary bleeding in race horses, that it is not performance enhancing, and that its use is safe and does not harm horses.

Dr. Sheila Lyons testified after me, and disagreed with my statements about Lasix. She said:

> ". . . *I know that Mr. Stirling and many of the passionate advocates for the continued use of this drug in all horses believe what they're saying, but frankly if a lie is told long enough, over and over, it begins to sound like the truth so for nearly 30 years I have had to have these discussions with clients and have to re-educate them because the opinion is just not supported by the science*."

I would like to respond to Dr. Lyons by supplementing the Committee hearing record with some of the published science on which my testimony was based. Attached, as Exhibit 1, is the 2009 seminal study by a group of international scientists from Colorado State University (Dr. PaulS. Morley), the University of Melbourne (Dr. Kenneth W. Hinchcliff), and the University of Pretoria (Dr. Alan Guthrie) demonstrating conclusively the efficacy of Lasix. The study of 167 horses under racing conditions, funded in large part by the U.S. Jockey Club, found that administering Lasix before a race dramatically decreased the incidence and severity of pulmonary bleeding ("exercise induced pulmonary hemorrhaging" or EIPH). Horses were 3 to 4 times more likely to have evidence of pulmonary bleeding without Lasix, and were 7 to 11 times more likely to have moderate to severe bleeding without it.

Attached, as Exhibit 2, is an earlier 2005 study by Drs. Hinchcliff, Morley, and others, demonstrating that pulmonary bleeding impairs the performance of thoroughbred race horses. The study noted more than 50o/o of horses evidenced pulmonary bleeding, and concluded that horses experiencing little or no bleeding were four times as likely to win as those that had moderate to severe pulmonary bleeding.

Attached, as Exhibit 3, is an even earlier 1999 study by Drs. Hinchcliff, Morely, and others, showing a positive relationship between the use of Lasix and a horse's superior performance. Hinchcliff and Morley were unable to explain the optimal performance factor because, as stated in their paper, they had no scientific evidence in 1999 that Lasix reduced the prevalence of pulmonary hemorrhaging.

Perhaps it is this early 1999 study that Dr. Lyons referred to when she claimed that Lasix was not effective, and enhanced performance. In any event, Dr. Lyons

must be unaware of the 2005 work by Hinchcliff and Morley showing that bleeding impaired performance as well as their later 2009 study demonstrating Lasix effectively prevents and lessens bleeding. To state it plainly, scientific evidence of this sort establishes that Lasix is performance enabling, not performance enhancing.

Dr. Lyons also claimed that she *"found over 200 peer-reviewed papers that link the increased risk of fracture to Lasix use."* I would appreciate Dr. Lyons furnishing citations to those papers, as I imagine would your Committee. In my role as Chairman of the NHBPA's Medication Committee I make it a practice to stay current on scientific papers dealing with Lasix related equine issues. I am not aware of any such paper, let alone two hundred. I do know that in 5,000 necropsies over a twenty year period at the University of California at Davis there was no evidence that the bones of race horses were weakened or rendered less structurally sound because of Lasix use, and the UC Davis scientists are on record in this regard.

In passing Dr. Lyons mentioned a "pilot study" she did on the effect of Lasix on blood test results. I assume that study was not published because I was unable to find it. In fact, using the PubMed search tool of the U.S. National Library of Medicine (National Institute of Health) for peer reviewed indexed research papers (PMID) and searching." Lyons horses suggests that Dr. Lyons has never published a PubMed Indexed Research paper while "Hinchcliff horses" yields 133 PMID citations, including the above articles.

In closing, I would like to add for the record that the NHBPA, with 30,000 owner and trainer members, is not the only industry group supporting the continued use of Lasix. So, too, does the American Association of Equine Practitioners, with 10,000 veterinary members worldwide, as reflected in a May 14, 2012 letter signed by its President, Dr. John S. Mitchell, a copy of which is attached as Exhibit 4.

Sincerely Yours,

KENT STIRLING.

Copies of Exhibits retained in Committee files. Links to Exhibits below:

Attachments: Exhibit 1, Hinchcliff, Morley, Guthrie, *Efficacy of furosemide for* Prevention of exercise-induced pulmonary hemorrhage *in Thoroughbred racehorses,* J Am Vet Med Assoc 2009 235:76–82. PMID:19566461 (PubMed-indexed for MEDLINE) Can be found at: *http://www.cleanhorseracing.com/Pdfs/Study__JAVMA__Furosemide.pdf*

Exhibit 2, Hinchcliff, Morley, et al, *Association between exercise-induced pulmonary hemorrhage and performance in Thoroughbred racehorses,* J Am Vet Med Assoc 2005 227:768–774. PMID:16178399 Can be found at: *http://www.cleanhorseracing.org/Pdfs/javma%20%28Hinchcliff%29%202005%20227.pdf*

Exhibit 3, Gross, Morley, Hinchcliff, Wittum, et al, *Effect of furosemide on performance of Thoroughbreds racing in the United States and Canada,* JAm Vet Med Assoc 1999:670–675. PMID:10476714 Can be found at: *http://www.cleanhorseracing.com/Pdfs/1999%20Gross__Furosemide__thoroughbred__racing__1999.pdf*

EXHIBIT 4

AMERICAN ASSOCIATION OF EQUINE PRACTITIONERS
Lexington, KY, May 14, 2012

Mr. JOHN SABINI,
Chairman,
New York State Racing & Wagering Board
Schenectady, NY.

Dear Chairman Sabini:

Thank you for the opportunity to submit comments regarding the use and regulation of Lasix in horse racing. Because our mission is to protect the health and welfare of the horse, the American Association of Equine Practitioners and its members have a unique understanding of exercise-induced pulmonary hemorrhage (EIPH), the evolution of EIPH treatment and its impact on the racehorse and the sport.

In the absence of a more effective treatment or preventative medication for EIPH, the AAEP supports the use of Lasix as the only medication that should be allowed on race day. We do not support the use of adjunct bleeder medications due to lack of scientific evidence regarding efficacy. In order to address integrity issues related to race-day Lasix administration, the AAEP endorses the administration of Lasix by a regulatory veterinarian in a controlled setting.

Beyond sharing the AAEP's longstanding policy on race-day medication, we would like to comment on the veterinary-themed questions, which have been posed by the NYSRWB as part of the public comment period.

- EIPH increases with age and exercise. One of the true values of furosemide is that the medication can be used to diminish or modulate the progressive pathologic change in the lungs that leads to repetitive bleeding. Regarding the effectiveness of Lasix in reducing EIPH when administered prior to exertion, the 2009 study conducted by Hinchcliff, Morley and Guthrie found that pre-race administration of furosemide decreased the incidence and severity of EIPH in Thoroughbreds racing under typical conditions in South Africa. This study currently serves as the most definitive research on the effectiveness of Lasix in reducing EIPH.
- The racing industry should anticipate that other methods will be employed to reduce the incidence of EIPH if a race-day ban on Lasix is instituted. The practice of withholding food and water from the horse in the days leading up to a race should be expected. As doctors of veterinary medicine, we believe that the detriments of withholding food and water to the health and welfare of the horse far outweigh the current concerns about race-day Lasix administration.

  The racing industry should also expect that unproven and perhaps undetectable products will be used in an attempt to alleviate EIPH on race day. Some of these products may include, but are not limited to, herbal remedies, nutraceuticals, and compounded medications that are not approved for use in the horse and have no scientific merit of efficacy in treating EIPH. The potential harmful side effects of some of these products to the horse are a serious concern.

  In addition to "over the counter products," the industry should expect to see an increase in the use of bronchodilators, adjunct bleeder medications, and calming products to help reduce pulmonary hypertension and aid in controlling EIPH. None of the aforementioned products have any scientific merit for treating EIPH, and would only add to the industry's concern about overmedication in racing.
- Because a high percentage of horses that race experience EIPH,regardless of competition level,the AAEP does not support the use of Lasix in one class of horses while prohibiting it in another. Medication policy should be applied uniformly.

In conclusion,the AAEP cannot support a ban on race-day Lasix until an effective alternative for the treatment of EIPH is available for horses that compete. The issue of race-day Lasix use is extremely complex and certainly controversial, and the AAEP understands the racing industry's need to balance the care of the horse with the integrity of the sport. We are concerned, however, that the welfare of the horse has become devalued in this discussion by the political agendas of multiple interest groups within the racing industry. As veterinarians, our support must remain with using the best therapeutic medication currently available to treat a proven medical condition.

Thank you for your consideration of our comments. The AAEP's goal is to serve as a resource for the racing industry, and we are aware of the NYSWRB's implementation of our claiming recommendation related to purse structure. If we can be of assistance going forward, we welcome the opportunity.

Sincerely,

JOHN S. MITCHELL, DVM.

ATTACHMENT B

The Blood-Horse—Date Posted:1/1812007 8:44:04 PM, Last Updated:1/19/2007 8:44:22 PM

CLENBUTEROL, STEROIDS DOMINATE SOUTHERN CAL TALKS

by Tracy Gantz

The use of clenbuterol and the potential elimination of anabolic steroids were the primary subjects of two meetings Thursday at Santa Anita. California Horse Racing Board Chairman Richard Shapiro, executive director Ingrid Fermin, and equine medical director Dr. Rick Arthur met with trainers in the morning and veterinarians in the afternoon to update them on the CHRB's plans and to listen to horsemen's concerns.

'We've seen a marked decrease in respiratory diseases since we've been administering clenbuterol therapeutically," Dr. Karen Valko said at the trainers' meeting. 'We're seeing far fewer incidences of pleural pneumonias and a significant decrease in lung X-rays."

After hearing trainers complain of abusing clenbuterol at its Jan. 9 meeting, the CHRB medication committee had suggested a 28-day.withdrawal period for the bronchodilator, effectively eliminating it from use for horses in training. However, after the Thursday meetings it appeared more likely that the Committee would recommend a 72-hour withdrawal period and a switch to testing for the substance in blood rather than urine, a more precise means of testing. The veterinarian group endorsed those positions.

There have been rumors that people have been administering clenbuterol within 90 minutes of post time, but Arthur said that blood tests can easily detect those types of administrations if they are occurring.He said at the trainers' meeting that recent blood tests the CHRB has been performing on horses racing in California indicate that only 14 percent of the horses showed any "measurable levels" of clenbuterol instead of the rampant overuse of the substance that has been alleged and none that would indicate race-day administration.

Shapiro expressed concerns that clenbuterol's side effects include improved muscle mass and could be considered perform nce enhancing.

"Is it being used for competitive advantage or is it for the welfare of the horse?" Shapiro asked during the trainers' meeting. He requested that trainers complete an anonymous questionnaire that surveyed whether they used clenbuterol routinely and whether they felt it was being abused.

Valko explained that some of the clenbuterol studies that show increased muscle mass were conducted on cattle at much higher doses than anyone would use at the racetrack. She said that the physiology of horses and cattle differ and cautioned against drawing conclusions of how the medication would react in horses based OIJ cattle studies.

Shapiro said that routine administration of clenbuterol, at about $300 per month, is expensive and that its elimination could reduce an owner's cost that would in effect raise purses 6 to 7 percent. Yet several people at the trainers' meeting proposed that an owner's costs could rise even higher if a racehorse developed severe respiratory problems without the medication or had to use more expensive alternatives.

"In my 30 years of practice, I thought clenbuterol was one of the bes.t therapeutic medications to come along," Arthur said.

Several horsemen pointed out that horses kept in stalls instead of in grass paddocks or outdoor pens are especially susceptible to respiratory problems because of dust and environmental pollutants..

"Over half of our grooms work with masks (because of the air quality)," said Aase Headley, wife of trainer Bruce Headley.

Valko explained that while clenbuterol will not enhance a horse's normal airways, it allows a horse to rid his airways of mucus and debris, leading to a reduction in respiratory ailments. Several trainers said that it has decreased the incidence of bleeding in horses as well.

Though much of the discussion at both meetings concerned clenbuterol, Shapiro, Arthur, and Fermin also reported about likely future restrictions on anabolic steroids. Arthur said that the national Racing Medication and Testing Consortium will probably be proposing restrictions on steroids and that California will work to establish testing guidelines to be ready for those changes.

Arthur is proposing moving all anabolic steroids to Class 3 drugs, which would require purse redistribution, except for boldenone (Equipoise), stanozolol (Winstrol), nandrolone (Durabolin), and testosterone. Those would be made Class D medications, and the CHRB would issue warnings if those four exceeded established limits until national regulations are put into place.

Shapiro told both groups that CHRB representatives would also meet with the board of California Thoroughbred Trainers and with California jockeys. "We're trying to get every group involved in these issues," he said. Shapiro is a member of the CHRB medication committee, which is next scheduled to meet the morning of Jan. 23 prior to that day's regular monthly meeting of the entire CHRB.

ATTACHMENT C

The Blood-Horse—Date Posted:5/24/2012 6:03:34 PM, Last Updated:5/25/2012 9:17:11 AM

CHRB SEVERELY RESTRICTS USE OF CLENBUTEROL

by Jack Shinar

The bronchodilator clenbuterol, possibly being misused for its anabolic steroid properties, will be severely curtailed for the next year at all California racetracks.

The California Horse Racing Board, meeting at *Belfair Hollywood Park* May 24, approved a 21-day withdrawal period from the commonly used drug for any horse entered in a race. The move, which becomes effective with the start of the *Del Mar* summer meet July 18, will be in effect for one year.

The delay in instituting the change will give horsemen a chance to adjust their medication regimen. The previous withdrawal period for clenbuterol was 96 hours.

The board took the unanimous action under its emergency power rule, which allows it to circumvent the full rulemaking process that would have required a 45-day public comment period. It could institute a permanent rule change at a later date.

The move follows the success of a similar suspension of clenbuterol use at Los Alamitos Race Course. A rash of positives for excess clenbuterol led regulators to believe that it was being used for muscle building in horses rather than simply to treat breathing problems.

The ban was enacted after CHRB investigators confiscated brands of clenbuterol not approved by the U.S. Food and Drug Administration at Los Alamitos, primarily as a muscle-building agent. Since the suspension of clenbuterol in Quarter Horses was instituted last November, there have been no violations, the CHRB reported.

"The vet bills are lower, the horses are just as healthy, and it hasn't hurt field sizes at all," said Dr. Rick Arthur, the CHRB's equine medical director. "It is also contributing to slower race times."

While there has been no comparable increase in the number of clenbuterol positives in Thoroughbreds, there is no doubt that use of the drug has been widespread, Arthur reported. Blood samples analyzed at the University of California-Davis equine testing facility through its out-of-competition and total carbon dioxide tests found that 53 of 98 horse sampled between March 15–30 had the presence of clenbuterol.

Thoroughbred horsemen are spending from $5 million to $7 million per year to have veterinarians treat their horses with clenbuterol, Arthur told the board.

That indicates that usage is far beyond what would be required to treat only horses with breathing problems, he said after the meeting.

"I think that having more than 50 percent of horses testing positive for clenbuterol is stretching the limits of credibility," Arthur said.

Arthur added, however, that clenbuterol is a highly effective therapeutic drug for the treatment of small airway disease and should be allowed for horses that need it.

Lou Raffetto, president of the Thoroughbred Owners of California, said horsemen support the suspension of clenbuterol.

"We want to ensure that it's used for therapeutic purposes but at the same time not have a negative effect on California racing," Raffetto told the board.

The old rule allowed clenbuterol to appear in post-race tests of Thoroughbreds up to a limit of five nanograms in urine and 25 picograms in blood. Arthur said the new standard would allow trace amounts of clenbuterol that would be in accordance with the 3-week withdrawal time. Trainers would face penalties if horses test in excess of those levels.

Dr. Craig Shoemaker, a veterinarian appearing for pharmaceutical manufacturer Boehringer-lngelheim, urged the board to wait until UC-Davis completes an ongoing study on the effects of clenbuterol before taking action. He said the study is expected to be released within the next 30 days.

Shoemaker said he agreed with the board that non-FDA-approved "bathroom" concoctions of the drug using far greater concentrations than needed "should have no place in racing and we should do everything we can do to make those go away."

But he said the 21-day withdrawal period could lead to trainers running horses "that would be racing in a compromised state."

California is following New Mexico, which instituted a one-year ban on clenbuterol in February.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. TOM UDALL TO JAMES GAGLIANO

Question 1. At the June 19, 2008 House Committee on Energy and Commerce subcommittee hearing on horseracing, then president of the Jockey Club, Alan Marzelli, was asked "should all performance-enhancing drugs, including steroids, all of them, be eliminated?" He replied "yes." Today, your testimony states clearly that the Jockey Club still believes "horses should compete only when they are free from the influence of medication." If fully implemented through Federal legislation or adoption by 38 states, would the medication rules proposed in the Jockey Club's "Reformed Racing Medication Rules" document ensure that horses would compete only when free from the influence of medication?

Answer. If the Reformed Racing Medication Rules ("RRMR") are fully implemented in all racing jurisdictions they will provide racing regulators with the legal tools necessary to effect the changes needed for horses to compete only when they are free from the influence of medication. Having the right rules in place is part of the process of fixing the problem. Active, vigorous, and effective enforcement and testing together with a process to identify and detect newly created performance enhancing drugs also are necessary. Such enforcement activities are essential to the success of any form of race day medication legislation, including the proposed Interstate Horse Racing Improvement Act (the "Act").

Please note that the RRMR provides thresholds for a limited number of valid and effective therapeutic medications and the use of these medications have been determined by experts not to influence horse performance at those levels. The RRMR bars all other substances. Under the RRMR, it will not be permissible for horses to be running "under the influence" of any medications.

Question 2. How likely is it that all 38 state racing jurisdictions, which have never folly adopted RCI's model rules framework, will adopt the Jockey Club's "Reformed Racing Medication Rules" into their state racing regulations?

Answer. We focus on the thirty-two jurisdictions that run Thoroughbred races because we are the breed registry for Thoroughbred horses. We are working diligently with those jurisdictions to adopt the RRMR. It is likely that if five to seven of the major racing jurisdictions (such as New York, California, Kentucky, Florida, Louisiana, Pennsylvania and Illinois) enact the RRMR that the remaining ones will follow suit. Nevertheless, it is specifically because it may be difficult to achieve the necessary changes through state regulation that The Jockey Club has stated its readiness to support the adoption of the RRMR as Federal law if action by states or an interstate compact proves unattainable within a reasonable time.

Question 3. How likely is it that all 38 state racing jurisdictions will adopt an "interstate compact" to harmonize racing rules nationwide?

Answer. Achieving adoption of the RRMR by all thirty-two Thoroughbred racing jurisdictions via an interstate compact may be difficult. However, we note that interstate compacts reflecting concerted efforts among states have resulted in significant successes; these include the compacts regarding the Mississippi River Basin, insurance products, the movement of parolees and habitual violators of state wildlife laws as a few examples. We will continue our efforts in this regard.

Question 4. Your testimony states the Jockey Club's concern that the definition for "performance-enhancing drug" in the Interstate Horseracing Improvement Act is "extremely vague" and "overly broad. " This legislation would specifically prohibit knowingly racing a horse under the influence of "any substance capable of effecting the performance of a horse at any time by acting on the nervous system, cardiovascular system, respiratory system, digestive system, urinary system, reproductive system, musculoskeletal system, blood system, immune system (other than licensed vaccines against infectious agents), or endocrine system of the horse." How does this definition of prohibiting racing a horse "under the influence" of a performance enhancing drug differ from the Jockey Club's stated belief that "horses should compete only when they are free from the influence of medication?"

Answer. There are several important differences between the proposed Act and the approaches of both the RRMR and other nations' regulations, including those of Great Britain, as we discuss in response to question 5.

The Act would prohibit a person from: "(1) *enter[ingl* a horse in a race that is subject to an interstate off-track wager if the person knows the horse is under the influence of a performance *enhancing drug;* or (2) knowingly *provide* a horse with a performance-enhancing drug if the horse, while *under the influence* of the drug, will participate in a race that is subject to an interstate off-track wager." (Emphasis added.)

Entering a horse in a race normally occurs long before the race itself, and the Act's prohibition relating to "entry" would prohibit entry of horses that are under a drug's influence at the time of entry but not at the time of the race, which we believe misses the specific goal of drug-free racing. In addition, because the Act calls for collecting and testing only post-race samples, there is no way to enforce the "time of entry" prohibition.

Moreover, the definition of a "performance enhancing drug" does not take account of the fact that some drugs that enhance performance above some threshold levels have beneficial therapeutic effects without any performance enhancement when used below recognized threshold levels. Therefore, without recognizing these facts, the Act is overly broad in what is permitted and what is not. Indeed, the term "under the influence" is itself vague and unspecific, leaving uncertainty about the proper standard for enforcement.

Further, there is a difference between "providing" a horse with a performance enhancing drug and "racing a horse under the influence" of a drug "capable of affecting performance of a horse" and this means that the Act would not necessarily apply to the real problem, which is racing horses whose performances are enhanced by drugs. In fact, we do not see in the Act any specific prohibition against "racing" a horse that has been administered a drug capable at the level of its administration of affecting performance in a race, which would seem to be the desired focus of the statute. To the extent the authors of the Act intend otherwise, the text is vague, ambiguous, and may be unenforceable for at least practical reasons.

Further, the ability of regulators to prosecute violations will be far more effective under the RRMR because it establishes bright line rules defining when a violation has occurred. By contrast, the Act requires proof that a horse was running "under the influence" and that the performance enhancing drug was "knowingly" "provided," raising unnecessary prosecutorial hurdles that may significantly impair the effectiveness of the Act and fail to ensure that horses compete only when they are free from the influence of medication.

Additionally, taking the term "under the influence" in a general sense (since it is not defined in the Act) in combination with the extremely broad sweep of the definition of "performance enhancing drug", the Act over-regulates by including substances that do not adversely impact racing. These include, for example, environmental contaminants (which are excepted from the provisions of the RRMR and the "prohibited substance" provisions of the International Federation of Horseracing Authorities (see *www.horseracingintfed.com/racingDisplay.asp?section=10#a6*).

Question 5. The British Horseracing Authority defines a "prohibited substance" as any substance "capable at any time of acting on one or more of the following mammalian body systems: the nervous system; the cardiovascular system; the respiratory system; the digestive system; the urinary system; the reproductive system; the musculoskeletal system; the blood system; the immune system except for licensed vaccines against infectious agents; the endocrine system; Endocrine secretions and their synthetic counterparts; [and] Masking agents." The British Horseracing Authority further notes that this definition is "in line with the International Federation of Horseracing Authorities' [IFHA] agreement" (see: *http://www.britishhorseracing.com/resources/equine-science-and-weltarelmedication-and-doping-taqs.asp*). In fact, the IFHA definition (available at: *http://www.horseracingintfed.com/resources/2012_choose_eng.pdf*) closely resembles this definition. Are the British and IFHA definitions for "prohibited substance" in horseracing-which closely resemble the definition of "performance-enhancing drug" in the Interstate Horseracing Improvement Act-extremely vague and overly broad?

Answer. The British Horseracing Authority's regulations are far less vague and broad than the definition of "performance enhancing drug" in the Act for several reasons. First, although the British Horseracing Authority's definition of "prohibited substance" is similar to the definition in the Act, the British Horseracing Authority's regulations also provide exceptions for the use of certain therapeutic medications. They state, "For a relatively small number of commonly used drugs in horses the time taken for the substance to pass through the horse's system and for the levels of the substance to become so low that they are recognized as having 'no effect' has been studied and published." Further, they state: "It is accepted that medication should be used appropriately in racehorses, and so recognized that medication should be controlled on race-days. Medication control is not Zero Tolerance: its intention is that there is no racing under the direct influence of medication."

The RRMR, like the British Horseracing Authority's rules, includes a small number of permitted therapeutic medications to be present in horses at race time because those substances have been determined by veterinary experts through scientific testing to have no performance enhancing effects at permitted levels, while prohibiting any of those drugs above permitted levels as well as all other drugs. The

approaches of the RRMR and the British Horseracing Authority also are substantially similar to the IFHA's approach (see *www.horseracingintfed.com/racing Display.asp?section=10#a6*).

In contrast, by excluding any and all substances from being in a horse, the Act creates significant uncertainty over how and when a horse can safely be treated with therapeutic medications. By stopping short of further refining the definition of "prohibited substance" to allow for therapeutics as the British Horseracing Authority and the IFHA do, the Act can be properly characterized as "extremely vague" and "overly broad."

Question 6. If the broad definition of "prohibited substance" seems to work horseracing rules in other countries, why does the Jockey Club oppose using such a definition to ensure that in America horses compete only when they are free from the influence of drugs?

Answer. The Jockey Club does not interpret the British Horseracing Authority's or the IFHA's rules in the way the question supposes, as is indicated in our response to Question 5.

Question 7. The New Mexico Racing Commission's rule for clenbuterol for both Quarter horse and Thoroughbreds includes a testing threshold of 2pg/ml in serum/plasma and a recommended withdrawal time of 30 days. This follows the recommendation of the American Quarter Horse Association (AQHA). The Jockey Club's proposed "Reformed Racing Medication Rules" framework would allow clenbuterol to be administered up to 7 days before racing and set a regulatory testing threshold of 25 pg/ml in serum/plasma. Why is the Jockey Club's proposed rule for clenbuterol more permissive than what AQHA recommends and New Mexico requires?

Answer. The most recent version of the RRMR (released August 12, 2012) uses a withdrawal time of 21 days, which is in line with the approach recently undertaken in California and, notably, is significantly more conservative than the United States Food and Drug Administration's approved use of clenbuterol as a bronchodilator in the form of Ventipulmin Syrup. We understand that the University of California, Davis is currently conducting further research on the use of this medication and, when that research is complete, we will review the RRMR threshold.

Question 8. Mr. Gagliano, your testimony explains that the Jockey Club maintains the Thoroughbred breed registry. The Jockey Club has occasionally denied horse breeders stud book privileges due to animal abuses. Could the Jockey Club deny studbook privileges for horses involved in medication violations? Could the Jockey Club deny studbook privileges for horses trained by repeat violators of medication rules?

Answer. Regulation and enforcement have always been a state governmental function in all of the racing states. Meaningful change requires government action. Whether and under what circumstances the Jockey Club's role as the Thoroughbred stud book registry could involve actions with respect to the use of performance enhancing drugs is a legal and practical issue that The Jockey Club has considered and will continue to consider. For the present, it is notable that The Jockey Club has adopted rules allowing denial of stud book privileges to individuals who have committed egregious or serial medication violations. When The Jockey Club learns of violations of its rules, it will act to enforce its rules. At the present time, The Jockey Club considers the appropriate enforcers of the integrity of racing to be the appointed state regulators charged by their legislatures with that function.

Question 9. Last year, the Jockey Club and the Thoroughbred Owners and Breeders Association (FOBA) both endorsed an end to raceday medication. Yet in the face of stiff opposition, TOBA now advocates for a gradual phaseout of raceday Lasix for graded stakes races only. My understanding is that such races comprise less than 5 percent of all races. This seems analogous to prohibiting steroids during the major league playoff while allowing them for regular season games and in the minor leagues. Why should there be different raceday medication rules for horses competing in a graded stakes race and those competing in a maiden claiming race?

Answer. The Jockey Club has long advocated for the elimination of all race-day medications, Lasix included. Lasix has been a part of the North American pari-mutuel landscape for over 30 years with approximately 95 percent of current starters receiving the drug on race-day and several generations of horses and at least one generation of trainers and veterinarians having been involved in racing where the vast majority of horses have run on Lasix. Recognizing this, The Jockey Club has also long advocated for the gradual elimination of Lasix from North American racing in a measured and stepped process to allow adequate time for training practices, veterinary practices, husbandry and management practices to adjust. The Jockey Club continues to maintain the most appropriate plan for eliminating race-day

medication includes a multi-year phaseout beginning with 2-year-old racing since the youngest of race horses have had the least exposure to Lasix. TOBA has endorsed an even more gradual process beginning with the 2-year old graded stakes races.

Question 10. Mr. Gagliano, the Jockey Club partnered with TOBA to create the "Clean Horse Racing" campaign, which encourages racing fans to lobby their local state racing commission to adopt a policy prohibiting raceday medication. Is banning raceday medication enough to make American horse racing "clean"?

Answer. As explained in response to question 1, clean racing requires not only enacting the RRMR but also providing for effective enforcement of those rules, vigorous testing of horses and vigilant research to stay abreast, if not ahead of, the development of new performance enhancers.

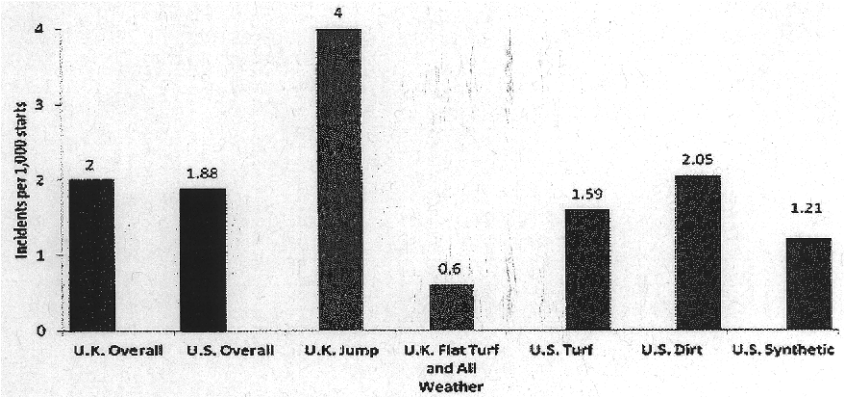
Question 11. Mr. Stirling's testimony claims that raceday administration furosemide: (1) "is necessary to keep a healthy horse healthy;" (2) "prevents and lessens bleeding;" and (3) "has been used effectively for nearly forty years." Could you respond to these claims, which contrast with the Jockey Club's recommendation of prohibiting raceday Lasix?

Answer. As we said in response to question 9, The Jockey Club believes that Lasix should eventually be eliminated from racing. We believe that, and the RRMR expressly provides for, horses suffering from epistaxis (bleeding from the nostrils) should be rested rather than run on Lasix.

Question 12. Mr. Paulhus' testimony recommends freezing drug test samples so that they can be tested later, when new detection methods become available. This year, for example, samples from the Kentucky Derby were later tested for dermorphin. But this does not seem to be a common practice for day to day racing. Would storing test samples for later testing help identify drug violations and deter doping?

Answer. Yes, storing samples for future testing would aid in the fight against doping.

Question 13. The British Horseracing Authority reports that in 2010 its flat racing fatality rate was 0.6 per thousand runners (see: *http://www.britishhorseracing.com/resources/equine-science-and-welfare/injuries-fatalities.asp*). Based on data from the Equine Injury Database, the Jockey Club reports that American racing has a fatality rate of 1.88 per thousand starts (see: *http://jockeyclub.com/mediaCenter.asp?story=546*). Even using the racehorse fatality data from the Equine Injury Database—which does not include all tracks and does not count race-related fatalities that occur more than 72 hours after the date of the race—U.S. horseracing appears to have a much higher fatality rate than comparable flat racing in the United Kingdom. This graph uses 2010 fatality rate data from the British Horseracing Authority and The Jockey Club to illustrate the differences:



- Setting aside jump or "steeplechase" racing, why are racehorse fatality rates in the U.S. so much higher than in the U.K.?
- Could stricter medication regulations in the U.K. account for lower fatality rates in British flat turf and all weather racing than in comparable turf and synthetic racing in the U.S.?

Answer. Since we have not studied and do not know the bases underlying the British figures you cite, we cannot respond to this question. It is entirely possible

that this question assumes facts that actually result from "apples to oranges" comparisons. That does not mean that we question the British figures, only that we cannot make an appropriate compare and-contrast evaluation of the British figures and The Jockey Club's Equine Injury Database ("EID") records relating to illnesses and injuries (fatal and non-fatal) that occur prior to, during and after the running of a race (with no time limit on reporting a fatality) and those that occur at the track during training or other times unrelated to racing. The statistics you have referenced, which were published by The Jockey Club utilizing the EID data, include all fatalities that occurred on track as well as any that occurred within 72 hours of a race and represent 92 percent of all flat racing starts in the United States and Canada.

Question 14. If the Interstate Horseracing Improvement Act becomes law and there are racetracks that offer a horseracing gambling product that is not "on the level" due to doping, could the potential for a person to pursue a private right of action help enforce compliance with the anti-doping provisions in the new law?

Answer. The Jockey Club believes that if the right laws are on the books and are properly and vigorously enforced there will be no need for any private right of action and that such a right of action will lead to frivolous claims, as has been the case with so many other pieces of legislation. Historically, effective enforcement of the law has been best placed with governmental entities rather than proxies, who may act based upon other interests.

Question 15. In the Gregory Martin case, a U.S. district court found that "breaking the rules of [a] horserace by doping a horse . . . violates fundamental notions of honesty, fair play and right dealing and is therefore an act within the meaning of a 'scheme to defraud'" under the wire fraud statute, 18 U.S.C.§ 1343 (see *United States* v. *Martin,* 411 F Supp. 2d 370, 373 (S.D.NY. 2006)). The court explained how this type of race fixing harms those who place pari-mutuel wagers on non-doped horses. Since winning bets are paid shortly after a race, those involved in doping can potentially profit from parimutuel wagers even if racing authorities later find a medication violation that changes the official race result and redistributes purse prizes. How can state racing commissions or racetrack operators prevent someone who engages in such race fixing from profiting from parimutuel wagers?

Answer. The issue of preventing fixing of results of sports contests has been a topic of intense interest for many years for all sports-related gaming. The Jockey Club believes that all sports wagering should be free from illegal and improper activities and that the adoption and enforcement of appropriate rules is best left to the relevant legislative and enforcement authorities.

Question 16. At the 1999 Jockey Club Roundtable, Stuart Janney called for a tough policy to "ensur[e] that cheaters do not win our greatest races, that undeserving horses are not crowned champions and that all our effort and hard work to enhance our sport is not destroyed by compromising our standards and integrity." Yet this year a trainer who reportedly has more than a dozen medication violations-including four "total carbon dioxide" or "milkshaking" violations-won the first two legs of the Triple Crown. What does this say about the current standards and integrity of interstate horseracing?

Answer. These responses together with our previous written and oral testimony make clear The Jockey Club's view of the inadequacy of the current structure of rules, penalties, enforcement, and research to detect new performance-enhancing drugs. The Jockey Club developed and proposed the RRMR and believes it to be a central part of a comprehensive solution. The Jockey Club also believes that each racing jurisdiction should give effect to drug related rulings and penalties imposed by other racing jurisdictions so that violators cannot avoid drug-related penalties by moving from one racing jurisdiction in which they have been subjected to adverse rulings to another jurisdiction where they have not. In fact, The Jockey Club created the Thoroughbred Regulatory Rulings database (*www.thoroughbredrulings.com*) specifically to enable regulators and others to review individuals' ruling histories across all racing jurisdictions.

Question 17. As you know, the horse I'll Have Another ultimately did not compete in the 2012 Belmont Stakes. In response to a New York Times article about veterinary treatment given to this horse prior to its highly anticipated Triple Crown race (available at: *http://www.roodandriddle.com/news/reportsonracehorseinjuryrates medicationsmisleading.html*), Dr. Larry Bramlage issued a press statement on July 13, 2012. This statement explains that he gave an interview to NBC Nightly News "[a]s a member of the Jockey Club, and past president of the American Association of Equine Practitioners and the American College of Veterinary Surgeons . . . to more accurately inform the public about health and safety practices in racing." Bramalage further states that:

> . . . [The substitution of 'major painkillers' [by the *New York Times*] for anti-inflammatory medications is unfair to the uninformed general public. . . . The phenylbutazone given to I'll Have Another is from the same drug group as aspirin and ibuprofen in humans, can't be given to a horse within 24 hours of a race, and is tested for with blood and urine samples at all levels of the sport. Dexamethasone is a corticosteroid used as an anti-inflammatory as well. . . . [T]he records provided to New York State Racing and Wagering Board do not indicate anything inappropriate. . . . We totally agree with the approach that Dr. Jim Hunt, attending veterinarian, took to get this horse ready for a possible Triple Crown run.

Does Dr. Bramlge represent the Jockey Club in this July 13, 2012 press release?

Answer. No. Although Dr. Bramlage is a member of The Jockey Club, he did not speak for The Jockey Club in making those remarks and does not represent The Jockey Club in an official capacity.

Question 17a. Does Dr. Bramlage's description of phenylbutazone and dexamethasone contrast with how these drugs would be regulated under the Jockey Club's proposed Reformed Racing Medication Rules?

Answer. Phenylbutazone and dexamethasone are controlled therapeutic medications specifically addressed under section 5 of the RRMR. When they are properly administered, they have valid and helpful therapeutic qualities.

Question 17b. Does the Jockey Club "totally agree with the approach" the attending veterinarian "took to get this horse ready for a possible Triple Crown run," which according to vet records published online by Blood Horse (available at: *http://www.bloodhorse.com/pdf/IHAVetRecords2012.pdf*) included a "Pre-Race Rx" of dexamethasone 3 days before the scheduled race?

Answer. Because The Jockey Club is not a veterinarian organization, it cannot and does not give opinions on individual equine treatments.

Question 18. Do permissive medication policies in U.S. racing jurisdictions impact export sales of American racehorses in any way?

Answer. The subject of the impact on export sales of current U.S. racing medication rules has not been a topic thoroughly evaluated by The Jockey Club, and we therefore cannot give a non-speculative answer to this question.

Thank you again for the opportunity to share The Jockey Club's perspective on important issues that have direct impact on the future of Thoroughbred racing.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. TOM UDALL TO MATTHEW WITMAN

Question 1. A *New York Times* analysis of racehorse injury rates found that Quarter horse racing has a higher rate of breakdowns than Thoroughbred racing. Mr. Jeffrey Gural gave an explanation why Standardbred racing is less dangerous than Thoroughbred racing. Could you explain why Quarter horse racing is more dangerous than Thoroughbred racing?

Answer. American Quarter Horse racing is NOT more dangerous than Thoroughbred racing. The *New York Times* analysis is not supported by any of the data collected in states that race significant numbers of American Quarter Horses. One of the significant issues with the *Times* report is the assumption that any chart writer's comments about a horse being eased, vanned, etc., implies a catastrophic happening, and that is simply not a valid assumption. A number of the racing states have excellent necropsy programs that encourage or require all horses that have a life-ending event on the racing grounds to be processed through that program. The data is then collected, reviewed and published. In states racing both Thoroughbred and American Quarter Horses, the data indicates a higher incidence of training and/or racing injuries resulting in fatality in breeds other than American Quarter Horses.

Additionally, AQHA supports the Equine Injury Database and encourages all racetracks to participate in the program so the industry and media will have accurate and scientific information at its disposal. Too, the data will aid in the safety and welfare of our horses. As I stated in my verbal testimony: To AQHA, one instance of any horse suffering is one too many.

Question 2. Mr. Whitman, Federal agents raided two tracks in New Mexico this year to arrest Thoroughbred and Quarter horse trainers with alleged ties to the Sinaloa and Zetas drug cartels. According to news reports, a warrant states that one of the accused even boasted of bribing starting gate officials for the 2010 All American Futurity, one of the richest races in the world. Are state racing commissions

and industry groups like AQHA capable of policing horse racing to keep organized criminals out of the sport and related gambling activities?

Answer. Read any newspaper or watch any news program and, unfortunately, you will see that there are unscrupulous people involved in every business, even those with strict Federal oversight. Every state requires all racehorse owners and trainers to be licensed and undergo a background check and fingerprinting before a license is granted. If a person meets the criteria and there is nothing in his or her background to prohibit them from receiving a license, then the commissions will grant a license.

While it should go without saying that AQHA does not want members of organized crime, any criminals or unscrupulous people involved in horse racing, financial and criminal background checks are not required of people who are owners and/or members. Additionally, our belief is that Federal legislation is not likely to prohibit these situations from occurring.

AQHA's foremost concern is the welfare of all horses involved, and is working with Federal authorities and government agencies to advise on the care and well-being of the horses involved in the incident to which the senator is referring. Additionally, AQHA will work with any impacted members to process any paperwork, if necessary, related to the registration and transfer of horses as the legal process moves forward.

Question 3. Your testimony states that: "American Quarter Horse owners look at their horses as extensions of their families, with many taking great pride in seeing their prized horses go on to enjoy success after their racing careers conclude. To characterize the sport as anything less, or to state that owners of the breed are uncaring, unsympathetic or uninvolved is irresponsible and inaccurate."

I'd like to ask you about the late *Teller All Gone,* a Quarter horse who fell after the finish line in the 5th race at Ruidoso Downs on September 3, 2011. The Equibase race chart describes *Teller All Gone's* effort in the race: "bid, dueled, lugged in, went wrong, fell after wire." After the race, he was euthanized on the track. Then *Teller All Gone's* dead body was dumped in a junkyard. A *New York Times* photographer captured the scene in this picture (available at: *http://www.nytimes.com/interactive/2012/04/30/us/breakdown-horses-series.html#/media-track*): Should a horse be treated in this manner following a fatal injury in a race?

Answer. No. No horse should be treated in this manner and the American Quarter Horse Association certainly does not condone this type of treatment. The Association strongly favors each state implementing and maintaining an adequately funded necropsy program to provide information and research relating to catastrophic racing injuries, and every racetrack should provide and maintain a secure, private, enclosed area to hold the body of any horse that succumbs on the grounds of a racetrack until such time as it is removed to the necropsy facility.

Question 4. My understanding is that AQHA supports the humane slaughter of horses "at USDA regulated and inspected slaughter houses in the United States as an option for owners who might need to use this avenue for horses that might become unwanted or otherwise unusable" (see: "AQHA President Discusses Lift of Ban on Horse Slaughter." GoHorseShow. Dec. 6, 2011. available at: *http://www.gohorseshow.com/article/AQHA/AQHA/AQHA__President__Discusses__Lift__of__Ban__on__Horse__Slaughter/36591*). Racehorses, however, commonly receive drugs such as clenbuterol and phenylbutazone which are not permitted in animals destined for human consumption. What can AQHA and other racing industry participants do to prevent racehorses that have received drugs not allowed in animals destined for human consumption, from being processed for food?

Answer. AQHA's position on horse processing actually appears on its own website and has been repeated—sometimes accurately, sometimes inaccurately—in other media outlets. That stated, when horse processing took place in the United States, to our knowledge, the United States Department of Agriculture reported no residual traces of drugs beyond what was acceptable in meat destined for human consumption. Because horse processing has not taken place in the United States since a ban took effect in 2007, AQHA will not comment on any horses processed outside the United States outside the control of the USDA. Additionally, to ensure that horses do not travel longer distances en route to processing facilities outside U.S. borders and beyond the ability of USDA to inspect the meat and the slaughter process, AQHA continues to advocate for a domestic facility where horses could be processed. Unfortunately, animal rights advocates and others who do not fully understand the unintended consequences of a domestic slaughter ban have prohibited this from occurring.

Question 5. What can racing industry participants, including AQHA, do to ensure that a Quarter horse that has been bred and trained for racing never becomes so "unwanted or otherwise unusable" that it is sent to slaughter, rather than retired or humanely euthanized?

Answer. According to the American Association of Equine Practitioners, the euthanasia method used at domestic slaughter facilities, the penetrating captive deadbolt, is considered an acceptable form of euthanasia (*http://www.aaep.org/euthanasia_guidelines.htm*).

Clearly, education plays a key role in preventing horses from become unwanted, and AQHA has been a leader in providing information to the industry so potential breeders can make informed decisions. The Association also was a founding member of the Unwanted Horse Coalition and continues to be an active supporter of the Coalition. After their careers on the racetrack have concluded, many American Quarter Horses bred for racing purposes often go on to excel in other careers in the equine industry, including but not limited to speed events, roping contests, jumping, recreational riding and youth programs. The Association sponsors many programs to recognize and reward participation of former racehorses in rodeo, show and pleasure riding disciplines. Additionally, depending on the racing record, many racing American Quarter Horses go from racing to the breeding side of the industry upon their retirement.

In a perfect world, it would be ideal for every horse to live out its days in rich, green pastures. Unfortunately, that's not always the case. Over time, some horses become unusable because they get sick, injured or old. Some might be unmanageable because they are dangerous or unruly. In some instances, an owner's financial situation might change and they can no longer afford to properly care for the horse. Whatever the reasons, many people face the difficult decision of dealing with an unwanted or unusable horse.

That's why AQHA developed a manual (provided in its Senate testimony) to help people explore the many options that are available to all horse owners. Above all, AQHA wants to ensure that a horse's health and welfare are, at all times, paramount to every other consideration.

The American Quarter Horse Association is resolute about taking a leadership role in race-day medications, performance-enhancing drugs, stricter enforcement and stiffer penalties. Recognize that, as I said in my testimony, AQHA is a breed registry and not a regulatory agency. Whatever our role in the industry is, we will continue to push for state-and industry-driven policies—not Federal legislation—to protect the racing American Quarter Horse.

I hope I have fully answered the above questions and appreciate the opportunity to clarify the above.

Cordially,

MATTHEW R. WITMAN,
American Quarter Horse Association Director,
Chairman Racing Committee, Racing Council.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. TOM UDALL TO MARC S. PAULHUS

Question 1. Given your previous experience advocating before state racing commissions for stricter medication rules, how likely is it that all 38 state racing jurisdictions will adopt the Jockey Club's "Reformed Racing Medication Rules" into their state racing regulations?

Answer. Based on my experience, I believe it is virtually impossible that all 38 racing jurisdictions will voluntarily adopt the Reformed Racing Medication Rules recommended by the Jockey Club. The Jockey Club has no real authority over the various other industry groups—trainers, jockeys, state regulators, track owners and veterinarians—and cannot bring them into line. Nor does the Jockey Club enjoy a special relationship with state regulators who are free to reject proposals from outside organizations.

Moreover, when given numerous opportunities to appear before state racing commissions to support the adoption of uniform rules and penalties in that arose from the 1982 Federal legislative effort (negotiated to avert passage of the "Corrupt Horse racing Practices Act"), the Jockey Club generally failed to do so. Within a few short months after withdrawal of the proposed Federal legislation, the Jockey Club, the American Horse Council and other industry groups abandoned a cohesive effort to promote uniform standards and penalties. Although several racing jurisdiction initially adopted the agreed upon standards, even these jurisdictions quickly re-

versed their new and tougher rules when other racing jurisdictions failed to follow suit.

Question 2. How likely is it that all 38 state racing jurisdictions will adopt an "interstate compact" to harmonize racing rules nationwide?

Answer. Proposals to harmonize racing rules and the enforcement of penalties have always failed in the past. Individual racing jurisdictions are governed by politically appointed officials that often lack knowledge of the racing industry. In other instances, they may be chosen from a list of nominees offered by racing industry groups. Either way, they generally perceive their "constituency" to be the very people they are charged to regulate, their political loyalty is to their own state, and they have *no binding alliances* with other racing jurisdictions.

I have found that state regulators are most responsive to the unceasing demands of racehorse trainers and veterinarians practicing on the backside who want ever greater permissiveness with respect to pre-race medications. Trainers and veterinarians working at racetracks are the ones who regularly attend racing commission meetings, sometimes en masse, and they consistently urge regulators to reject calls for strict controls of pre-race drugs, uniform drug standards, and meaningful, uniform penalties.

Individual racing jurisdictions are not only unwilling to implement an interstate racing pact, but they have shown that they are equally unwilling to honor and enforce suspensions handed down in another jurisdiction for violations of racing rules.

Question 3. Is there any difference between a human athlete choosing to take medication (for example, an aspirin tablet) before a competition and a trainer or veterinarian giving a racehorse a permitted medication like phenylbutazone before a race?

Answer. Yes, there is a tremendous difference. For one thing, the human athlete is making an informed and conscious choice, and likely has the knowledge and incentive to protect him-or herself from further injury. However, when the equine athlete is medicated, sometimes with multiple drugs that together have an enhanced painkilling effect, the horse is more likely to exacerbate the injury by adding additional insult and stress to an unhealed joint, tendon or bone.

Although Phenylbutazone is in the same general category of drugs as aspirin, it is far more potent and effective at relieving inflammation and pain than aspirin. I have personally treated horses with ringbone, tendon injuries and other conditions that exhibited significant lamenesses. These horses obtained little to no relief from aspirin. However, phenylbutazone effectively alleviated the pain in most instances and allowed the horse to move as if uninjured. The painkilling effects of "bute" persist for up to 36 hours. If used in combination with another drug, such as banamine or a corticosteroid (as in "stacking"), the pain masking effect is even more dramatic.

When comparing horses to human athletes, people rarely take a moment to consider that they have NEVER even heard of a human runner who snapped a leg in a mile race. Yet more than a dozen racehorses per week suffer that fate at U.S. racetracks. Although human athletic competitions are arduous, you simply cannot compare the tremendous forces at play when a thousand pound horse, with a jockey atop, races at nearly twice the speed of a person on leg bones that are smaller in diameter. Racing at such speeds and distances, especially for immature 2 and 3 year old horses that were given pain masking drugs, can be devastating. Under current permissive medication rules, few horses can endure more than a dozen races before they have acquired serious, lifelong physical damage. By contrast, human athletes can compete for many years, retiring without permanent damage. Racehorses suffer debilitating, career-ending injuries at much, much higher rates than human athletes due to the misuse of drugs to enable performance instead of rest and recuperation.

Finally, legal pre-race drugs and medications not only place the racehorse at considerably greater risk, but the rider is also a potential victim in a catastrophic breakdown. On average, two or three jockeys die each year as a result of racing injuries with more than 150 jockey deaths since records were kept. Many more jockeys suffer serious injuries and/or paralysis as a result of horses that breakdown during a race or workout.

Question 4. The Racing Medication and Testing Consortium (RMTC) maintains an online "Recent Rulings" list of medication violations which lists dozens of medication violations involving controlled substances including anabolic steroids, clenbuterol, narcotics, stimulants, etc. (see: *http://www.rmtcnet.com/content_recentrulings.asp*). Such violations could possibly be the result of false positive test findings, environmental contamination, or the lawful administration of therapeutic medication within the current rules of horse racing. However, some of these violations may indicate the illegal use of controlled substances in horseracing. Should state racing

commissions report medication violations involving controlled substances to the Drug Enforcement Administration (DEA)?

Answer. Racing jurisdictions should report all alleged use of federally controlled substances to the Drug Enforcement Agency for investigation and potential prosecution. The abuse of scheduled narcotics and potential scheduled narcotics like dermorphin pose a significant problem to racing, may violate Federal distribution and use laws, and may be also be indicative of race-fixing attempt in violation of Federal racketeering (RICO) laws. The use of potent scheduled narcotics is not to be confused with an overage of a permitted medication. There is no legitimate therapeutic benefit to use a scheduled narcotic or opiate and its mere possession may violate state and Federal laws. It must be reported to appropriate authorities.

There would be mutual benefits to a cooperative relationship Federal drug and law enforcement agencies to identify exotic new drugs with potential for racing abuse. No doubt the investigative techniques and expertise of the DEA and the FBI would prove helpful to state regulators interested in restoring the integrity of racing.

Question 5. If a horse is not fit or sound enough to race without raceday medication, should that horse be raced in the first place?

Answer. Absolutely not. State regulatory veterinarians should be presented with horses that are free of pre-race medication so they can be evaluated for soundness in a pre-race exam. Any horse found to display any perceptible lameness or injury should be placed on the vet's list and prohibited from arduous training or racing until the injury is healed and the lameness is no longer evident. If the injury is advanced and permanent, and the animal cannot be raced without pain masking drugs, the regulatory veterinarian should have the absolute authority to permanently ban the horse from all future competition.

Question 6. According to data from Equibase race charts, the horse Coronado Heights had a claiming price of $16,000 when he finished last in a January 12, 2012 race at Aqueduct racetrack. In his next race on February 25th, Coronado Heights had a much lower claiming price of $7,500. According to the *New York Times,* Coronado Heights received 14 injections in the week before this race and broke down. (*see: http://www.nytimes.com/interactive/2012/04/29/us/one-horse-one-week-of-injections.html*). Does the example of Coronado Heights—who finished poorly in a race, was subsequently offered for sale in a lesser quality claiming race, and received more than a dozen injections in the week before that race—illustrate how therapeutic medications could potentially be abused to allow a horse with unsoundness problems to race?

Answer. The case of Coronado Heights is a perfect example of how drugs are misused to enable injured horses to run that would otherwise be incapable of competing due to serious injuries. This case also illustrates an attempt to defraud the public and potential buyers as to the actual physical condition of the horse.

In general, horses that fall quickly in class and are entered in ever-declining claiming races are racehorses suffering from progressive and deteriorating injuries. These horses are most prone to drug abuse including the "stacking" of multiple similar drugs to achieve a maximum drug masking effect. They are forced to race despite weakened bones, damaged joints and tendon injuries and therefore they present a much more serious risk of catastrophic breakdown. Racing such horses is so dangerous and egregious, with such callous forethought, that it should also be investigated as a violation of anti-cruelty laws.

Question 7. Dr. Rick Arthur, the California Equine Medical Director, wrote that "horses entered to race have been documented as having received four different corticosteroids two days before racing and within current racing rules on top of multiple intra-articular corticosteroid injections a few days earlier" (*see:* Arthur, Rick M. "Welfare Issues in Horse Racing." in Equine Welfare, First Ed. Edited by McIwraith, C. Wayne and Bernard Rollin. Blackwell Publishing, 2011: 237). Should the rules of racing allow such "stacking" of multiple drug administrations in the days leading up to a race?

Answer. I am of the opinion that any pre-race drug or medication that is pharmacologically effective at the time of racing is intended to mask the pain of an injury or improve or manipulate the performance of a racehorse. No exceptions. Stacking drugs is magnifying an already bad idea several fold and it ought to be uniformly prohibited and enforced with serious penalties for violations. Illegal stacking should be considered multiple drug violations.

Question 8. In an article on "Welfare Issues in Horse Racing," Dr. Rick Arthur wrote that "[t]here is a real incentive to race horses in a claiming race when they have begun developing unsoundness problems" (*Equine Welfare,* First Ed. Edited by McIwraith, C. Wayne and Bernard Rollin. Blackwell Publishing, 2011: 239). A *New*

York Times analysis of more than 150,000 race charts from 2009 through 2011 found that "[l]ower-tier claiming races are more dangerous for cheaper horses" than higher class races (*see:* "For Horse and Jockey, Risks Vary by State." *New York Times.* March 24, 2012. available at: *http://www.nytimes.com/interactive/2012/03/24/us/for-horse-and-jockey-risks-vary.html*). Presentations by a former director of the Racing Medical and Testing Consortium (RMTC) state that abuse of corticosteroids, "particularly intra-articular, is significant anecdotally especially in claiming horses" (see: Waterman, Scot. "Drug Testing in the United States." Presentation to Racing Officials Accreditation Program (ROAP) Stewards. Jan. 21, 2011. available at: *http://www.rmtcnet.com/resources/RMTC_ROAP_School_Presentation_1-26-11.ppt* and Waterman, Scot. "Update on Medication Issues." Presentation. Sept. 21, 2009. available at: *http://www.rmtcnet.com/resources/Stewards_CE-Wash_9-21-09.ppt*). What regulatory changes would improve the safety and integrity of claiming races?

Answer. In my opinion, changes that would have the greatest potential effect on improving the safety and integrity of claiming races would include the following:

(a) Prohibit all pre-race drugs that will have any pharmacological effect at the time of racing. In the case of intra-articular corticosteroids and clenbuterol, for example, withdrawal times should perhaps be as long as 30 days pre-race.

(b) Conduct mandatory pre-race soundness exams requiring entrants to be presented with a 30 day veterinary record, and examined without drugs or medications in their systems.

(c) No horse should be allowed to race more frequently that once every 14 days. In most instances, this will allow minor injuries to heal sufficiently and microfractures to fill in with new bone growth. Limiting the rigorous training and racing of injured horses will extend the racing life of a horse and help to diminish the cumulative damage of racing an animal with pre-existing injuries.

(d) Obtain blood and urine samples from the first two finishers, any horse that was recently downgraded in class, and any horse that runs dramatically out of form.

(e) Treat stacking cases as multiple violations (*i.e.,* 4 drugs equals 4 separate violations.)

(f) Implement a "three strikes and you're out" rule as envisioned by the pending legislation.

(g) Allow the reversal of the claiming sale within 5 days if the horse is determined by the regulatory veterinarian to have injuries that were masked by anti-inflammatory and/or pain relieving drugs.

Question 9. Mr. Paulhus, your testimony recommends freezing drug test samples so that they could be tested later when new detection methods become available. This year, samples from the Kentucky Derby were later tested for frog juice. But this does not seem to be a common practice for day to day racing. Could you explain how freezing test samples would help deter doping?

Answer. Freezing and storing suspicious samples for later analysis is a potent deterrent to the widespread use of currently undetectable exotic drugs. Trainers would be reluctant to use a new designer drug if they believe that they may be charged for an illegal drug positive detected months or even years in the future.

In the 70s and 80s a few racing labs stored frozen samples and retested them months later discovering multiple violations of potent narcotics and performance enhancing drugs. Horsemen complained bitterly and racing commissions responded by ordering testing labs to destroy frozen samples. The current standard practice is to tolerate illegal drug use until a testing methodology is developed and then make a case against a token trainer or two to deter others. This is not effective and it created the false impression that illegal drug use is very uncommon when evidence suggests otherwise. The saving and retesting of frozen samples would be a far more effective way of weeding out the most dishonest and abusive trainers in greater numbers.

Samples deemed by the racing lab to contain suspicious, unidentified substances should be kept for no less than 2 years.

Question 10. If the Interstate Horseracing Improvement Act becomes law and there are racetracks that offer a horseracing gambling product that is not "on the level" due to doping, could the potential for a person to pursue a private right of action help enforce compliance with the anti-doping provisions in the new law?

Yes. Individuals who believe that races are being manipulated by illegal or inappropriate drug use should be empowered to bring a civil action to compel enforcement of a rule. However the findings of the court should be made absolutely binding

in the racing jurisdiction. For example, I once filed an administrative action against the Division of Pari-mutual Wagering of the State of Florida for allowing corticosteroid use in horse racing in violation of its own rule. Although we won the lawsuit, the Division almost immediately changed the rule to allow corticosteroid use.

Perhaps it will be necessary under Federal legislation to impose monetary damages and awards to the plaintiff in cases involving willful disregard for enforcing rules and regulations.

Question 11. What can racing industry participants do to ensure that racehorses never become so "unwanted or otherwise unusable" that they are sent to slaughter rather than retired or humanely euthanized?

Answer. The racing industry is currently producing far more foals than should be necessary for replacement stock. Quite simply the attrition rate of racehorses is absolutely shameful.

Horse rescue and rehabilitation groups are simply overwhelmed by the number of Thoroughbred and Standardbred racehorses that are injured beyond hope of full recovery after only a very brief career. Non-profit horse rescue groups do not have the resources to take in as many racehorses as are discarded every week.

At the present time, states should require that horses leaving the racetrack due to injury are recorded and a disposition is similarly recorded. Horses that are injured beyond hope of recovery should be euthanized at the racetrack rather than transported live and in pain. Individuals that ship horses directly to livestock auctions , kill buyers, or slaughter plants should be ruled off the track.

The most logical solution to reduce the need for so many replacement horses is to enact rules that greatly diminish the likelihood of causing permanent, crippling injuries to racehorses. This could extend the racing life of animals and reduce the need for replacement stock.

Horses are burned out on racing very quickly because of the intentional and accelerated growth of yearlings, the premature training and racing of very young horses, some of which are not even chronological 2 year-olds when they first race, and the misuse of drugs and medications to allow injured horse to compete.

Meaningful reforms to extend the useful life of racehorses would prohibit 2-year-old racing and training. The proposed Federal bill does not address this issue. Simply put, immature two-year-olds are not physically able to withstand the rigors of racing. Racing more mature horses that are started at an older age would be far less damaging.

However, even without changing the age at which horses are first allowed to race, lives could be saved if horses are protected from the damaging practice of running them with pain numbing, pain masking drugs, nerve blocks and shock therapy techniques. Protecting racehorses from training and running while injured will reduce the frequency of starts and enable natural healing to take place.

Too, we must empower and *require regulatory veterinarians* to permanently disqualify unsound horses from racing in ANY jurisdiction.

With the advent of simulcasting and interstate off-track wagering, we simply do not need as many racetracks and racehorses to satisfy the interests of the wagering public. Eventually, I believe that the number of racetracks should be reduced and the number of racehorses will be proportionately reduced.

The future of racing depends on the whether it enjoys public interest and support. As it is currently conducted in the United States, horse racing is considered a dubious venture of questionable integrity where animals are literally running for the lives.

The passage of Federal legislation is the only hope to protect and preserve the future of horse racing.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. TOM UDALL TO EDWARD J. MARTIN

Question 1. Should a trainer who gives ractopamine to a race horse be permanently banned from horse racing? If not, what should the penalty be?

Answer. Ractopamine is classified as a Class 3 substance in the RCI Uniform Classification Guidelines for Foreign Substances based upon its pharmacology and potential ability to affect the performance of a horse in a race. Class 3 substances are defined as those that may or may not have generally accepted medical use in the racing horse, but the pharmacology of which suggests less potential to affect performance than drugs in the Class 1 or Class 2 categories. Substances in this class include bronchodilators, anabolic steroids and others with primary effects on the au-

tonomic nervous system, procaine, antihistamines with sedative properties and the high-ceiling diuretics.

The current RCI Model Rules recommend a sanction for a ractopamine violation under "Penalty Class A". This means a first time offense should bring a one to 3 year suspension and a fine between $10,000 and $25,000. A second lifetime offense for a substance carrying a "Class-A" penalty would warrant a fine of $25,000 to $50,000 and a 3-year minimum suspension or license revocation with the presence of aggravating factors.

RCI is in the midst of an overall review of our recommended penalties and I anticipate that the Model Rule penalty guidelines will undergo upward revision with regard to those substances where "Penalty Class A" is recommended. Those revisions may create new penalty classes and have the overall effect of toughening sanctions for violations involving substances not normal for routine equine care.

On July 25, 2012, the RCI Board of Directors expressed interest and voted to develop a "One Strike, You're Out" approach for substances that, if found in a racehorse, could potentially endanger the welfare of the horse (and rider). The RCI Regulatory Veterinarians Committee has been requested to identify those substances that, if found, would bring exclusion from the sport for the trainer and the veterinarian as well if it can be proven that he facilitated the use of such a substance. Sanctions for the owner for failing to supervise the trainer are also being considered.

Because the U.S. Food and Drug Administration has approved ractopamine as a feed additive for pigs to promote the development of lean tissue at the expense of fat, it is unclear whether ractopamine would qualify for inclusion on the list of abusive substances.

Although commissions must consider the facts in each case individually, there is a general suspicion that the emergence of ractopamine parallels efforts to regulate the use of anabolic steroids in racing and is an attempt to sidestep the restrictions that have been enacted. Proving intent in a contested hearing, however, can be a challenge depending on the facts in a particular case.

Ractopamine, like many substances, does not belong in a horse on raceday as it can affect performance. The presence of a substance in a post race test is the evidence most racing commission's base their prosecutions upon. As such, a motive to cheat, if it can be proven, would be an aggravating factor warranting a more severe sanction.

In determining any penalty, regulatory commissions often consider whether it was administered in the course of veterinary care. This then begs the question of whether it was proper veterinary care to administer such a substance to a particular horse.

The Federal Government through enactment of the Animal Medicinal Drug Use Clarification Act of 1994 (AMDUCA) has granted veterinarians broad permission for the "extra-label use" (ELU) of FDA approved animal and human drugs in non-food producing animals. According to the FDA's website the key constraint of AMDUCA is that any extra label use must be by or on the order of a veterinarian within the context of a veterinarian-client-patient relationship. Federal policy has given veterinarians very broad discretion in this area and this may complicate matters for commissions seeking to prove intent.

Judging the appropriateness of veterinary treatments is a key issue beyond the jurisdiction of most state racing commissions and rests with other government entities. I believe racing commissions would be amenable to expanded jurisdiction in this regard should those other agencies be unable to focus on the need in racing.

Question 2. Should a trainer who gives zilpaterol to a race horse be permanently banned from horse racing? If not, what should the penalty be?

Answer. Zilpaterol is classified as a Class 3 substance in the RCI Uniform Classification Guidelines for Foreign Substances based upon its pharmacology and potential ability to affect the performance of a horse in a race. As noted above, Class 3 substances are defined as those that may or may not have generally accepted medical use in the racing horse, but the pharmacology of which suggests less potential to affect performance than drugs in the Class 1 or Class 2 categories.

Zilpaterol has been FDA approved as a feed additive for cattle confined for slaughter since 2008 and is used to produce rapid weight and muscle gain with anabolic properties similar to steroids.

As with ractopamine, the use of zilpaterol is complicated by permissions that have been granted veterinarians by the Federal Government for extra label use of FDA approved drugs. Assessing the appropriateness of this use by a veterinarian is, as noted before, beyond the jurisdiction of the state racing commissions.

In determining whether the mere presence of Zilpaterol in a post race sample could potentially endanger the welfare of the horse (and rider) and warrant the

"One Strike, You're Out" penalty classification being developed, I must defer to the review process RCI has put in place to identify substances that would warrant permanent exclusion.

It is particularly troublesome that a study conducted at North Dakota State University, "Adverse Effects of Zilpaterol Administration in Horses: Three Cases", contained the following warning to veterinarians: "Because of the potential for extra label abuse of zilpaterol in performance horses, veterinarians and horse owners should be aware of the possibility that administration of the drug to horses may produce prolonged adverse effects."

RCI will consider in December adoption of a model rule referring regulatory actions pertaining to veterinarians to the government entity with jurisdiction over the practice of veterinary medicine. I anticipate that zilpaterol violations, now addressed under the trainer responsibility rules, might also warrant a review of a veterinarian's treatment policies and will also be considered for referral.

Zilpaterol, like many other substances, does not belong in a horse on raceday as it can affect performance. Therefore it is not allowed under current state policy. As noted before, the RCI recommended penalties for any substances recommended for a Schedule A penalty are expected to be increased.

We note for the Committee, that the temptation in looking at these issues is to focus on a particular substance. In some states, legislatures have enacted medication rules in statute. This is the unfortunate reality any drug testing program associated with a professional sport must live with.

As noted in my testimony, the commitment of resources to this challenge is essential and, while tougher penalties will result from our collective efforts, they will not eliminate the day to day challenge of finding substances, developing tests, and sanctioning violators.

Question 3. Could any of the milk shaking violations from 2010 be considered horse "doping"?

Answer. Racing regulators impose limits on the TCO_2 level in a horse in an attempt to determine whether someone has manipulated TCO_2 levels in an attempt to give a particular horse an advantage over its competitors. Elevated TCO_2 levels may result for a variety of reasons: "milk shaking", feed manipulation, use of legal dietary supplements, or some unknown factor. The violation occurs because the level was elevated to the point where a horse could have an unfair advantage over its competitors in the contest, regardless of how it became elevated. The recent O'Neill case in California underscores the difficulty in proving whether an administration occurred or how the levels became elevated.

Again, an elevated level is a violation. It is upon that evidence that the case is brought and successfully prosecuted.

Not being familiar with the actual evidence in the cases brought in 2010, I must decline to make any characterization other than the fact that violations for elevated TCO_2 levels were found, regardless of reason or motive.

Question 4. Could the raceday administration of a class 3 drug like clenbuterol be considered "doping"?

Answer. No medication other than one medication to mitigate exercise induced pulmonary hemorrhage should be administered on raceday under RCI recommended regulatory policy.

Clenbuterol has therapeutic benefits for the horse, so, administrations consistent with proscribed dosages would not qualify as doping.

That being said, we believe there are forms of "super clenbuterol" that, when found, may demonstrate levels of the drug that may be considered extreme and could constitute abuse. This, in particular, is one of those substances we will be looking at to see if there is a level at which one could define its overdosage as abusive behavior, warranting a "one strike, you're out" penalty approach.

Question 5. Will you provide the specific test results data to help substantiate that all class 3 violations in 2010 were inadvertent therapeutic "overages" rather than attempts to cheat?

Answer. RCI does not maintain that data. Specific test results in specific cases would need to be obtained directly from the commissions where those cases were adjudicated.

I agree that the current Class 3 substance violations are complicated by the fact that some substances are therapeutic and some may not qualify as such. The RCI classification system was structured on an assessment of the ability of a substance to affect performance in a race. Clearly we regard those with the greatest ability to affect performance—Class 1 and 2—as incidents of doping. It is hard to make that blanket statement for every violation for a Class 3 substance. There are also

some substances, like Class 2 classified Lidocaine, which might be considered by some to be a therapeutic overage instead of doping.

The intent of the report issued on 2010 tests was to put the issue in context as best we could given the limitations of the existing classification system in drawing a line between what constitutes "doping" as opposed to a "therapeutic overage". There has been much national media coverage pertaining to the therapeutic exemption that exists for furosemide. Reporters and columnists not familiar with these issues have, in my opinion, mischaracterized and overly simplified these issues, creating a hurtful impression that all racehorses are "drugged" because of racing's current policy of permitting a therapeutic use exemption to mitigate EIPH.

I commend Senator Udall for holding this hearing and attempting to sort through this complicated issue. Those on the state level have wrestled with these issues for years. Regardless of whether we can agree or disagree on a proposed path to strengthen the policing of this sport, your interest in this issue is sincere and welcome.

Irregardless of where one draws the line in choosing to use the term "doping", clearly we are speaking of a small number of positive post race laboratory findings for Class 1, 2 and 3 substances out of all samples sent to the labs for testing. Even if one were to consider all medication rule violations regardless of substance classification, we are still talking about approximately one half of 1 percent. To put this in perspective, the 2010 Annual Report of the U.S. Anti Doping Agency indicated that they conducted 8,031 tests of which there were seventy-three adverse laboratory findings (.9). Of the 324,215 racing regulatory laboratory tests conducted in 2010 there were 1,600 adverse laboratory findings (.494).

It makes sense to separate approved therapeutic medications appropriate for routine equine care from those substances that are not common to equine care even though Federal policy has made their use permissible by veterinarians. The structure contained in the Jockey Club's proposed reform rules create such a differentiation. They propose two categories, one for therapeutics and a second for everything not in the first. We think this approach my simplify the issue, although we believe there are substances that potentially might endanger the horse (and rider) and subsequently warrant more severe treatment. We also believe that some therapeutic substances like clenbuterol at certain concentrations might also be considered abusive. RCI has a process for assessing these issues and it is my expectation that the association will be modifying its model regulatory rules in this regard later this year, creating a system where it would be easier to differentiate between overages and true instances of "doping".

Question 6. Should state racing commissions report medication violations involving controlled substances to the Drug Enforcement Administration (DEA)?

Answer. This is an interesting concept and I am not sure that personal drug usage, when believed to be the cause of an equine medication violation is not something better dealt with by local police authorities or treatment programs. Commissions do, on occasion, cite a licensee for personal drug use and attempt to have them enter a treatment program and submit to human drug testing as a condition to avoid racing license revocation.

Certainly the Federal Animal Medicinal Drug Use Clarification Act of 1994 (AMDUCA) has given veterinarians broad permission for the "extra-label use" (ELU) of FDA approved animal and human drugs. Because some of these substances may be controlled, referrals to the DEA of racing medication rule violations may dilute the attention we would prefer they give to reports of illegal "super clenbuterol" or other substances allegedly being smuggled across the Border or manufactured in domestic compounding laboratories.

Question 7. Given the possibility that racehorse doping incidents could be part of race fixing schemes that constitute wire fraud, should state racing commissions report medication violations to the Federal Bureau of Investigation (FBI)?

Answer. Any assistance Federal law enforcement could give the state commissions in combatting incidents of race fixing or money laundering would be greatly appreciated. I believe most, if not all, state racing regulatory agencies would be happy to institute such a reporting mechanism.

It would be helpful if the following Federal agencies had a designated point of contact to liaison with state racing commissions to facilitate matters that may fall beyond the jurisdiction of the state racing commission and be within the jurisdiction of these agencies: DEA, FBI, USDA, FDA, IRS, Homeland Security and DOJ. It would also be appropriate for these agencies to attend and participate in the annual meeting of the state racing regulators that occurs each spring. They currently do not.

Question 8. Do racing rules require jockeys to be evaluated for head injuries after every fall?

Response. The RCI Model Rules do not require an evaluation after every fall, although we do require an annual physician examination in order to participate as a jockey.

The Model Rules give discretion to the Stewards to require that any jockey be examined after a fall before being allowed to ride again. This is determined on a case by case basis.

Question 9. Are most jockeys aware of the long term health risks of repeated head trauma?

Answer. RCI works closely with the Jockeys Guild on health and safety issues and I defer to them to properly answer this inquiry as to their assessment of the awareness of jockeys to the risks associated with their profession.

Question 10. Are state racing commissions taking measures to raise awareness of the dangers of concussions for jockeys?

Answer. The commissions rely on the racetracks and membership organizations representing the jockeys to raise such awareness. Commissions have taken steps to mandate the use of essential safety equipment such as helmets and safety vests by any licensee who is mounted on a horse or stable pony.

RCI Model Rules require that the helmet meet one of the following safety standards: American Society for Testing and Materials (ASTM 1163); UK Standards (EN–1384 and PAS–015); or, Australian/New Zealand Standard (AS/NZ 3838).

RCI Model Rules require that vests meet one of the following safety standards: British Equestrian Trade Association (BETA):2000 Level 1; Euro Norm (EN) 13158:2000 Level 1; American Society for Testing and Materials (ASTM) F2681–08; Shoe and Allied Trade Research Association (SATRA) Jockey Vest Document M6 Issue 3; or Australian Racing Board (ARB) Standard 1.1998.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. TOM UDALL TO SHEILA LYONS

Question 1. Is it fair to compare American horseracing medication testing and enforcement to how human athletes are tested in the Olympics or in other professional sports?

Answer. No Senator it is not a fair comparison at all.

By contrast, human athletes compete at a much more mature age than racehorses and some athletes have underlying medical conditions that could, for example, include hypertension, diabetes, allergic sensitivities and other common medical disorders. In this year's Olympic Games there is a competitor representing Japan in the individual dressage equestrian competition who is 71 years old.

The human sports regulators have determined that many human athletes require continued treatments for these responsibly managed medical conditions. Therefore, they sometimes allow, based upon a full review of medical records and history, the therapeutic use of some drugs as prescribed by the athlete's attending physician if it is determined that the medication is necessary to maintain normal health. They must also determine that the drugs will not enhance athletic performance.

Humans have a much higher incidence of chronic medical conditions than horses. Human athletes are therefore more likely to require the long term administration of therapeutic medications.

Another difference lies in the fact that horse racing is a Pari-Mutuel sport. Therefore, it is necessary to not only ensure a level playing field for the benefit of fairness for the athletes and the integrity of the sport, but we must also be sure that the bettors have confidence that the outcome of a horse race has not been tampered with or in any way been influenced through the use of drugs. Injury masking is a form of performance enhancement. Any Pari-Mutuel sport that allows the use of performance enhancing drugs deceives the public and steals bettors' money through race-fixing.

Question 2. Is there any difference between a human athlete choosing to take medication (for example, an aspirin tablet) before a competition and a trainer or veterinarian giving a racehorse a permitted medication like phenylbutazone before a race?

Answer. Yes there is a great difference.

First, the horse is a "prey" animal and as such in order to survive as a species it has adapted the tendency to minimize any overt sign of lameness, generalized unsoundness, or illness. What this means is that racehorses often show minor signs

of unsoundness when in fact they can have a serious and potentially destabilizing injury that sets them up for catastrophic breakdown if training and racing continue.

For example, I have examined several racehorses over the years that presented with very slight lameness upon gait evaluation, minor pain on deep palpation examination, and minimal inflammation detected upon examination of a limb—only to diagnose a non-displaced or incomplete fracture of a bone on radiographic examination. The severity of the lameness is not a good indicator of the severity of the injury or the potential risk to safety in racing. Indiscriminately removing the sometimes subtle signs of injury with the use of drugs such as phenylbutazone is unethical without an examination by a licensed veterinarian to determine the nature of the injury.

A standard dose of phenylbutazone can easily mask these minor signs of lameness that may in fact be an indication of serious injury. This common practice leads to breakdowns both during morning training and in racing. Horsemen and veterinarians then typically characterize the breakdowns as "*the horse took a bad step*" when in fact the incomplete fracture went undetected because the sign of injury was drugged away by phenybutazone.

Racehorses train on the racetrack every day and the possibility for injury is always present. Slight lameness or inflammation in any limb is an essential sign for horsemen to bring to the attention of their veterinarians so that a diagnosis can be made through professional examination and testing. Attention to these early warning signs is key to preventing catastrophic breakdown.

This is one reason we must ban all drugs in these racehorses, especially any drug like phenylbutazone, so that these critical warning signs of injury and potential precursors to catastrophic breakdown can be detected.

Phenylbutazone is a drug that is "restricted for use by licensed veterinarians only" due to the mortality risk associated with its indiscriminate use as well as the need to identify and address potential side effects such as gastrointestinal ulceration Humans taking aspirin in no way compares in effect to horses being drugged with phenylbutazone.

Question 3. The Racing Medication and Testing Consortium (RMTC) maintains an online "Recent Rulings" list of medication violations which lists dozens of medication violations involving controlled substances including anabolic steroids, clenbuterol, narcotics, stimulants, etc. (see: *http://www.rmtcnet.com/content_recentrulings.asp*). Such violations could possibly be the result of false positive test findings, environmental contamination, or the lawful administration of therapeutic medication within the current rules of horse racing. However, some of these violations may indicate the illegal use of controlled substances in horseracing. Should state racing commissions report medication violations involving controlled substances to the Drug Enforcement Administration (DEA)?

Answer. Absolutely. I believe that all controlled substance findings in racehorse testing should be automatically referred to the local DEA agency.

Question 4. Are there any reasons why a veterinarian might be reluctant to report professional misconduct involving racehorses to a state veterinary board?

Answer. Yes. Lack of professional ethics, financial motives of business and profit interests, and general peer pressure coupled with the failure of most state licensing boards to prosecute racetrack veterinarians who dispense medications improperly are but some reasons veterinarians do not report misconduct of their colleagues.

Specialists such as surgeons and referral clinics that provide high technology diagnostic services depend upon referrals from racetrack veterinarians to provide them with patients. In order to maximize profits these businesses avoid "biting the hand that feeds them referrals". These veterinary specialists typically have access to the complete records on the horses referred to their clinics. The evidence of drug abuse leading to unnecessary or exacerbated injury is clearly evident in these records and upon examination of the patients but the specialist does not report the unethical and illegal violations of the standards of practice in order to preserve a good relationship with the referral veterinarian.

One renowned referral practice in its presentation to colleagues at a veterinary conference boasted of profits in excess of one million dollars a year just from its pharmacy business. The sale of drugs for profit motive is not restricted to veterinarians who practice on the backside of racetracks.

Most state veterinary boards are set up to respond to complaints from the owner of any animal if they believe violations of the standards of practice have occurred. It is the owner who has the right to patient records upon request; the owner who has the business relationship with the veterinarian; and the owner who is part of the veterinarian-client-patient relationship that must exist in accordance with the state veterinary practice acts.

Racehorse owners have reported that they feel they cannot file a complaint against their veterinarian for violations of the standards of practice because if they do, no trainer will train their racehorses. They also fear that their horses may be refused care in the event of a life threatening injury or illnesses because no veterinarian will work for them if they have ever filed a complaint against a racetrack practicing veterinarian.

While veterinarians who have knowledge of possible violations of standards of care regarding colleagues can and should report this to the veterinary board, the retaliation against any veterinarian for so doing is great. I once reported direct knowledge of the continuous and illegal drugging of horses by a racetrack veterinarian at an official veterinary board hearing. Despite there being several officers of the court present as well as the chairman of the veterinary board and the board's administrator, no investigation was made following my sworn statement that drugs were being dispensed and administered illegally. I later became aware that these illegal activities continued unabated.

Question 5. If a horse is not fit or sound enough to race without raceday medication, should that horse be raced in the first place?

Answer. No. A horse that is unsound without medication is an unsound horse. Unfit or unsound horses should be prohibited from racing.

The extreme biomechanical demand that occurs with racing requires a fully sound and fit body to withstand the forces that exist on the horse's body. Any intrinsic weakness can result in complete breakdown. While this most often occurs in the limb with the weakness it can also occur due to overload in the sound limb.

Question 6. According to data from Equibase race charts, the horse Coronado Heights had a claiming price of $16,000 when he finished last in a January 12, 2012 race at Aqueduct racetrack. In his next race on February 25, *Coronado Heights* had a much lower claiming price of $7,500. According to the *New York Times, Coronado Heights* received 14 injections in the week before this race and broke down. (see: *http://www.nytimes.com/interactive/2012/04/29/us/one-horse-one-week-of-injections.html*). Does the example of Coronado Heights—who finished poorly in a race, was subsequently offered for sale in a lesser quality claiming race, and received more than a dozen injections in the week before that race—illustrate how therapeutic medications could potentially be abused to allow a horse with unsoundness problems to race?

Answer. Yes it does. This is a very common history.

Instead of stopping a horse from training when it becomes clear that it has injuries and unsoundness, the horse is drugged to mask the overt sign of lameness so that it can both pass the pre-race veterinary inspection and so that it will not feel pain when it races. Knowing full well that the horse will certainly develop much more serious injuries as a result of the drug-enabled training and racing, the trainer and owner elect to drop the horse down in class where it can more easily win a purse and where other trainers may claim it. This is nothing less than drug abuse to facilitate continued training and racing in order to maximize profit for owners and trainers when a horse is unfit and unsound.

In this illustration, Coronado Height's drugging history suggests a lack of adherence to the standards of practice by his veterinarian and betrayal of the Veterinarian's Oath to do no harm.

While the drugs that Coronado Height may have the potential for being therapeutic, in his case this is not the true because any horse in need of that much anti-inflammatory and pain-masking medication should not be allowed to race or train. The context makes it an abuse of medication and anti-therapeutic. The drugs administered would have caused additional harm to the horse within the context of enabled training and racing.

Question 7. Dr. Rick Arthur, the California Equine Medical Director, wrote that "horses entered to race have been documented as having received four different corticosteroids 2 days before racing and within current racing rules on top of multiple intra-articular corticosteroid injections a few days earlier" (*see:* Arthur, Rick M. "Welfare Issues in Horse Racing." in *Equine Welfare,* First Ed. Edited by McIwraith, C. Wayne and Bernard Rollin. Blackwell Publishing, 2011: 237). Should the rules of racing allow such "stacking" of multiple drug administrations in the days leading up to a race?

Answer. Absolutely not. This kind of stacking of injury-masking drugs is an example of something I mentioned in my written testimony. It demonstrates that horsemen and veterinarians look to the limits allowed by racing regulators for drug administration and dosing schedules as permission to administer them indiscriminately as long as they do not exceed those limits. This type of drug abuse directly harms the health of the animal in addition to enabling the racing of unsafe, lame

and unfit horses putting the lives of both the horses and their riders in imminent danger.

Question 8. In an article on "Welfare Issues in Horse Racing," Dr. Rick Arthur wrote that "[t]here is a real incentive to race horses in a claiming race when they have begun developing unsoundness problems" (*Equine Welfare,* First Ed. Edited by McIwraith, C. Wayne and Bernard Rollin. Blackwell Publishing, 2011: 239). A *New York Times* analysis of more than 150,000 race charts from 2009 through 2011 found that "[l]ower-tier claiming races are more dangerous for cheaper horses" than higher class races (*see:* "For Horse and Jockey, Risks Vary by State." *New York Times.* March 24, 2012. available at: *http://www.nytimes.com/interactive/2012/03/24/us/for-horse-and-jockey-risks-vary.html*). Presentations by a former director of the Racing Medical and Testing Consortium (RMTC) state that abuse of corticosteroids, "particularly intra-articular, is significant anecdotally especially in claiming horses" (*see:* Waterman, Scot. "Drug Testing in the United States." Presentation to Racing Officials Accreditation Program (ROAP) Stewards. Jan. 21, 2011. available at: *http://www.rmtcnet.com/resources/RMTC_ROAP_School_Presentation_1-26-11.ppt* and Waterman, Scot. "Update on Medication Issues." Presentation. Sept. 21, 2009. available at: *http://www.rmtcnet.com/resources/Stewards_CE-Wash_9-21-09.ppt*). What regulatory changes would improve the safety and integrity of claiming races?

Answer. Insist that the standards of practice as defined by state licensing boards are upheld at all times for all animals without regard for the class of racing they participate in. Adherence to these standards would prevent any horse from being treated to mask pain and injury or to use drugs that interfere with the healing process (as corticosteroid use does if the horse is not rested during treatment).

I would suggest requiring any horse that has been treated with intra-articular injections of corticosteroid to be automatically placed on the track vet's list and prohibited from racing and training until enough time has passed that the drug has no lasting effect. This would be approximately 1 month following joint injections with corticosteroid.

Require the reporting of all veterinary treatments in real time with continuous monitoring by officials. Patterns of drug use often suggest that a horse has injuries and unsoundness. Evidence of such patterns of drug use should be investigated by officials and reported to the state veterinary board if they may violate the standards of practice for licensed veterinarians.

Drug test every horse in every claiming race.

Question 9. Last September, RCI published a report titled "Drugs in Racing 2010: The Facts" that claims there were only 47 "doping" violations in 2010 (see: *http://news.ustrotting.com/pdf/DrugsinUSRacing2010-TheFacts.pdf*). However, the report's methodology excluded all so called "therapeutic overages" for "Class 3" drugs like clenbuterol. RCI also excluded dozens of total carbon dioxide or "milkshaking" violations that year. Could any of the milkshaking violations from 2010 be considered horse "doping"? Could the raceday administration of what RCI considers a "Class 3" drug like clenbuterol be considered "doping"?

Answer. Yes. Any attempt to artificially change the physiologic status of a racehorse at the time of a race is "doping" and an example of manipulating the outcome of a Pari-Mutuel event. Milk-shaking is an example of this. It is done to delay the onset of fatigue and thereby give the "milk-shaked" horse an artificially induced advantage over the other horses that have not had their blood chemistry manipulated. While the layman's term "milk-shaking" is typically meant to refer to administering baking soda and electrolytes, there are many ways to induce this artificial state in horses. This is why just because no direct evidence can be discovered that a traditional "milk shake" was administered does not mean that other equally artificial but undetectable means were not used to alter the horse's blood chemistry and physiology.

Clenbuterol is also a performance enhancing agent and should be considered "doping". The only legitimate therapeutic use for clenbuterol would be to treat a definitively diagnosed condition of bronchial constriction. Absent test and examination results in the prescribing veterinarian's patient records that document this disorder of the horse's respiratory system, any horse that has a prescription for or has been supplied with clenbuterol should be viewed as a drug supplied for "doping" to have an advantage in racing.

Question 10. If the Interstate Horseracing Improvement Act becomes law and there are racetracks that offer a horseracing gambling product that is not "on the level" due to doping, could the potential for a person to pursue a private right of action help enforce compliance with the anti-doping provisions in the new law?

Answer. I think that allowing a person to pursue a private right of action would present an appropriate opportunity to enforce compliance with anti-doping regulations and compensate the victims of the violations of law.

Horse racing exists only through the agreement of the public and this agreement is conditioned upon the acceptance and adherence to horse racing industry and veterinary profession regulations. The public should have the right to insist that the conditions are adhered to and to ask for remedies if the regulations are not enforced. These private businesses that make up the multi-billion dollar horse racing industry should be accountable to the public and to horse owners if they fail to comply with anti-doping regulations.

Indiscriminate drug use which enables the training and racing of unsound horses or enhances their performance steals money from and or deceives the public in many ways including:

(a) The direct influence on the outcome of the races-both positively and negatively.

(b) The expectation that the standards of practice for licensed veterinarians are being adhered to for racehorses. The public incorrectly assumes that veterinarians who work with race horses abide by these standards and only administer services that improve or protect the health and safety of the animals.

Question 11. What can racing industry participants do to ensure that racehorses never become so "unwanted or otherwise unusable" that they are sent to slaughter rather than retired or humanely euthanized?

Answer. Adherence to the standards of practice for racehorse veterinarians and the elimination of drugs in racing will be the best protection for racehorses against the development of chronic and debilitating injury as we see today. These conditions for licensure as veterinarians do not allow for horses to be treated to serve the profit interests of owners and trainers. Each horse must be treated as an individual and only in such a way as to improve or protect its health and safety. With no-drug racing, horses will retire from the sport if they cannot be sound without drugs and this will stop the compounding of injury that leaves most retired racehorses permanently crippled and therefore unable to find second homes as pleasure or show horses.

Every racehorse should be tracked though its exit from the industry so that we know the status and post racing disposition of each horse.

NY Times Editorial—Published: June 16, 2012

STRONGER MEDICINE FOR WHAT AILS HORSE RACING

Regulators in Kentucky, the heart of the horse breeding industry, have taken a significant step against the widespread doping that is putting horses' lives and the sport's credibility at risk at racetracks across the Nation. A diuretic drug routinely used on race days to shed water weight and boost horses' performance will be banned under an overdue regulation adopted last week by the Kentucky Horse Racing Commission.

This a good start, but regulators across the country will need to do a lot more to change the industry's cynical culture, which turns a blind eye to drug use and imposes only wrist-slapping penalties on trainers caught in the act.

Doug O'Neill, the trainer of I'll Have Another, the winner of the Kentucky Derby and the Preakness Stakes, has been repeatedly charged with administering illegal and dangerous performance-enhancing concoctions, but remains in the game. California's racing association even postponed his 45-day suspension so he could run I'll Have Another in the Belmont Stakes. The horse was pulled and retired before the race because of an injury.

Legislation from Senator Tom Udall, Democrat of New Mexico, and Representative Ed Whitfield, Republican of Kentucky, would ban race-day medications, and ban trainers who are repeat violators from the sport altogether. These safeguards and more are already in place at racetracks in Europe, which have a superior record for horse safety and trainer integrity.

Regulators in 39 states were asked this month to provide Congress with information on trainers who repeatedly boost horses with such risky devices as "milkshakes," a mix of baking soda, sugar and electrolytes, and shock-wave therapy, a tissue-healing tool abused as a speed enhancer.

Kentucky's ban is on race-day use of furosemide, a drug originally designed to protect a horse from lung hemorrhage but widely abused for weight loss. The practice is to be banned in stages until fully in effect for the 2015 Kentucky Derby.

Trainers and owners virulently complained about the ban, but it is well past time for them to accept stronger regulatory medicine. "We cannot succeed as a sport with drugs," Tracy Farmer, a member of the Kentucky racing commission, flatly warned. He is right.

New York Times multimedia feature: Breakdown – Death and disarray at America's racetracks
http://www.nytimes.com/interactive/2012/04/30/us/breakdown-horses-series.html

---

New York Times—Breakdown/Death and disarray at America's racetracks—March 25, 2012

MANGLED HORSES, MAIMED JOCKEYS

The new economics of horse racing are making an always-dangerous game even more so, as lax oversight puts animal and rider at risk.

By Walt Bogdanich, Joe Drape, Dara L. Miles and Griffin Palmer

RUIDOSO, N.M.—At 2:11 p.m., as two ambulances waited with motors running, 10 horses burst from the starting gate at Ruidoso Downs Race Track 6,900 feet up in New Mexico's Sacramento Mountains.

Nineteen seconds later, under a brilliant blue sky, a national champion jockey named Jacky Martin lay sprawled in the furrowed dirt just past the finish line, paralyzed, his neck broken in three places. On the ground next to him, his frightened

horse, leg broken and chest heaving, was minutes away from being euthanized on the track.

For finishing fourth on this early September day last year, Jacky Martin got about $60 and possibly a lifetime tethered to a respirator.

The next day, it nearly happened again. At virtually the same spot, another horse broke a front leg, pitching his rider headfirst into the ground. The jockey escaped serious injury, but not the 2-year-old horse, Teller All Gone. He was euthanized, and then dumped near an old toilet in a junkyard a short walk from where he had been sold at auction the previous year.

In the next 24 hours, two fearful jockeys refused their assigned mounts. The track honored two other riders who had died racing. As doctors fought to save Mr. Martin's life, a sign went up next to the track tote board: "Hang in there, Jacky. We love you."

On average, 24 horses die each week at racetracks across America. Many are inexpensive horses racing with little regulatory protection in pursuit of bigger and bigger prizes. These deaths often go unexamined, the bodies shipped to rendering plants and landfills rather than to pathologists who might have discovered why the horses broke down.

In 2008, after a Kentucky Derby horse, Eight Belles, broke two ankles on national television and was euthanized, Congress extracted promises from the racing industry to make its sport safer. While safety measures like bans on anabolic steroids have been enacted, assessing their impact has been difficult because many tracks do not keep accurate accident figures or will not release them.

But an investigation by *The New York Times* has found that industry practices continue to put animal and rider at risk. A computer analysis of data from more than 150,000 races, along with injury reports, drug test results and interviews, shows an industry still mired in a culture of drugs and lax regulation and a fatal breakdown rate that remains far worse than in most of the world.

If anything, the new economics of racing are making an always-dangerous game even more so. Faced with a steep loss of customers, racetracks have increasingly added casino gambling to their operations, resulting in higher purses but also providing an incentive for trainers to race unfit horses. At Aqueduct Racetrack in Queens, the number of dead and injured horses has risen sharply since a casino opened there late last year.

Mr. Martin's injury occurred in a state with the worst safety record for racetracks, a place where most trainers who illegally pump sore horses full of painkillers to mask injury—and then race them—are neither fined nor suspended and owners of those drugged horses usually keep their winnings.

The failure of regulators to stop that cheating is reflected in the numbers. Since 2009, records show, trainers at United States tracks have been caught illegally drugging horses 3,800 times, a figure that vastly understates the problem because only a small percentage of horses are actually tested.

In the same period, according to the Times analysis, 6,600 horses broke down or showed signs of injury. Since 2009, the incident rate has not only failed to go down, it has risen slightly.

The greatest number of incidents on a single day—23—occurred last year on the most celebrated day of racing in America, the running of the Kentucky Derby. One Derby horse fractured a leg, as did a horse in the previous race at Churchill Downs. All told, seven jockeys at other tracks were thrown to the ground after their horses broke down.

A state-by-state survey by *The Times* shows that about 3,600 horses died racing or training at state-regulated tracks over the last 3 years.

In one 13-day stretch of racing in 2010 at Sunland Park Racetrack and Casino in New Mexico, nine horses died racing, five were hauled away in ambulances and two jockeys were hospitalized, one in critical condition.

"It's hard to justify how many horses we go through," said Dr. Rick Arthur, the equine medical director for the California Racing Board. "In humans you never see someone snap their leg off running in the Olympics. But you see it in horse racing."

Even some of America's most prestigious tracks, including Belmont Park, Santa Anita Park and Saratoga Race Course, had incident rates higher than the national average last year, records show.

Why racehorses break down at such a high rate has been debated for years, but the discussion inevitably comes back to drugs.

Laboratories cannot yet detect the newest performance-enhancing drugs, while trainers experiment with anything that might give them an edge, including chemicals that bulk up pigs and cattle before slaughter, cobra venom, Viagra, blood doping agents, stimulants and cancer drugs.

Illegal doping, racing officials say, often occurs on private farms before horses are shipped to the track. Few states can legally test horses there.

"They are pharmacist shops," said Dr. George Maylin, the longtime head of New York State's testing laboratory. "Nobody has any control over what they are doing."

Even so, legal therapeutic drugs—pain medicine in particular—pose the greatest risk to horse and rider. In England, where breakdown rates are half of what they are in the United States, horses may not race on any drugs.

At higher levels, pain medicine can mask injury, rendering prerace examinations less effective. If a horse cannot feel an existing injury, it may run harder than it otherwise would, putting extra stress on the injury. As many as 90 percent of horses that break down had pre-existing injuries, California researchers have found.

"This is just a recipe for disaster," said Dr. Tom David, who until this year was chief veterinarian for the Louisiana Racing Commission. "Inflamed joints, muscles and mild lameness are masked by medication and therefore undetectable to the examining veterinarian."

While high-profile Triple Crown races get the most attention, the mainstay of racing in America is the lower tier, so-called claiming races. Horses in these races are most vulnerable, in part because regulators often give them less protection from potentially dangerous drugs.

The Times analysis found that horses in claiming races have a 22 percent greater chance of breaking down or showing signs of injury than horses in higher grade races. That lower level of race has been particularly affected by the arrival of casinos.

At Aqueduct, most of the 16 horses that have died so far this year were in the lower ranks, where purses have increased the fastest because of new casino money.

"It's hard to watch these poor animals running for their lives for people who could really care less if they live," said Dr. Margaret Ohlinger, a track veterinarian at Finger Lakes Casino and Racetrack in upstate New York. She performs pre-race inspections and treats horses injured in races but is not responsible for their overall care.

Last year at the track, Dr. Ohlinger counted 63 dead horses. That, she said, is more than double the fatalities of 5 years earlier.

Oversight Undermined

Race officials have always done their best to hide fatal breakdowns, erecting screens around fallen horses and then refusing to disclose the tracks' accident rates.

But amid criticism that individual state racing commissions lacked the will to make the sport safer, and the threat of Federal oversight, the industry promised changes, including new restrictions on the use of drugs, a program to accredit racetracks and drug-testing laboratories and uniform rules for punishing drug violators.

The industry also set up a national database where tracks were asked, but not required, to report injuries with the promise of confidentiality.

So far, the response to these reform measures has fallen short.

Fifty-five tracks pledged that they would seek accreditation, requiring among other things prerace inspections and postmortem examinations, or necropsies. Fewer than half have kept their promise.

"Some tracks do not have the money to spend to meet our standards; others think it's window dressing and why bother," said Michael Ziegler, executive director of the National Thoroughbred Racing Association Safety and Integrity Alliance. "Any follow up with tracks has gone unanswered."

The laboratory accreditation program, introduced in July 2009, has fared even worse. After calling the program an "unprecedented" step that "ultimately will change the face of drug testing in this country," a consortium of industry groups that manages it says not a single lab has been accredited.

An association of racing regulators wrote to Congress on May 14, 2010, boasting that with the exception of anti-bleeding medicine, "race day medications are not allowed." Yet records show that in Florida, a major racing state, trainers continue to use corticosteroids, an anti-inflammatory, on race day.

The national repository for injury reports, maintained by the Jockey Club, the most powerful racing industry group, has been more successful, gathering data from 92 percent of the racing days.

"We put it into a database, and we provide tools back to the racetracks where they can analyze and slice and dice the information themselves," said James L. Gagliano, president of the Jockey Club, who says the group has encouraged racetracks to make the statistics public. So far, 24 out of 86 tracks have done so.

To assess how often horses get injured, The Times bought data for about 150,000 races from 2009 through 2011, then searched for terms indicating that a horse encountered a physical problem, like "broke down," "lame" or "vanned off."

Although the people who chronicle the races, known as chart callers, can be stylistically different, they are taught to use standard industry terms, and their descriptions constitute the official record used by gamblers to evaluate horses.

The analysis showed that during those 3 years the rate of incidents for horses in the United States was 5.2 per 1,000 starts.

By contrast, Woodbine Racetrack in Toronto, which year after year has one of the lowest breakdown rates in North America, had an incident rate of only 1.4, according to the Times analysis. "One of the differences here is medication is not as permissive as it is in the U.S.," said Jamie Martin, executive vice president of racing at Woodbine.

According to the analysis, five of the six tracks with the highest incident rates last year were in New Mexico. All are casino tracks, commonly called "racinos." Ruidoso, where Jacky Martin was injured, topped the list in 2011 with 14.1 incidents per 1,000 starts. Ruidoso attributes its incident rate in part to the failure of horses to acclimate quickly to the track's elevation. Some horses that appeared to be injured, track officials said, may have simply needed time "to catch their breath."

Yet no accident over the last 3 years can match what occurred in a single race on Feb. 29, at Hollywood Casino at Charles Town Races in West Virginia. Eight horses started. Seven fell. One finished. Along the way, seven jockeys were left scattered on the ground.

The next and final race was canceled, not just because it took so long to clear the track, but also because too few jockeys were available or willing to ride.

Drug Violations

It was the day's first race in Hobbs, N.M. The track was fast and the weather clear. Shortly after noon on Oct. 16, 2010, nine young horses were loaded into the starting gate at Zia Park Casino.

With the finish line a mere 400 yards away, this would be an all-out sprint, horse racing's equivalent of a drag race. While these races, run by a breed called quarter horses, lack the ebb-and-flow suspense of a longer thoroughbred race, they make up for it in a pure adrenalin rush. The best quarter horses can hit nearly 50 miles an hour.

Three weeks earlier at Zia Park, Mark Anthony Villa was on the back of a quarter horse when it fell just past the finish line, throwing him to the ground. With a herd of thousand-plus-pound animals bearing down on him, Mr. Villa tried to crawl to safety.

He never made it. A horse's hoof struck him in the head with such force that his helmet shot like a bullet across the track. He died within an instant, leaving a wife and twin children.

For years, track veterans could only speculate as to whether racing quarter horses was more dangerous than racing thoroughbreds. In fact, the Times analysis shows that quarter horses have a nearly 29 percent greater chance of breaking down or showing signs of injury.

With Mr. Villa's death still on the minds of riders and spectators, a gray 2-year-old colt named I Glance at Chicks settled in the 6 hole waiting for the starting bell. For bettors, he was an animal to watch. The horse had won his only race and was trained by Andres Gonzalez, who, according to racing commission records, was not above allowing his horses to race with extra help. Illegal help.

A week earlier, another horse trained by Mr. Gonzalez had raced at Zia Park with 12 times the legal limit of a drug that mimicked steroids. By the end of 2011, Mr. Gonzalez would have amassed a dozen drug violations in just 4 years. His uncle, Ramon O. Gonzalez Sr., for whom he often worked, had his own lengthy list of violations, including accusations that he drugged 10 horses in just 2 months.

Whether I Glance at Chicks felt pain as he raced is unknown, but he never challenged for the lead. Shortly after crossing the finish line in fifth place, he broke down. The diagnosis: a bone fracture in his front left leg and ligament damage, injuries from which he could not recover.

A veterinarian, Dr. Clayton McCook, euthanized the colt with an injection of pentobarbital. Afterward, Dr. McCook wrote a note "to whom it may concern," expressing his distress to the authorities over this fatal breakdown and others like it.

"I have had to euthanize several horses due to catastrophic injuries and feel they are occurring in greater numbers than one should expect," Dr. McCook wrote. "I do not pretend to be an expert in racing surfaces, nor in the training of racehorses, but I do know that something appears to be amiss at Zia Park."

According to an analysis of race records, Zia Park in 2010 had the Nation's second-highest incident rate, 13.3. Last year, it ranked fourth with a rate of 11.9. After horse owners complained about the track surface, Zia Park officials said they spent $80,000 resurfacing it before the 2011 racing season.

During the 3-days that a Times reporter visited Zia Park last November, eight horses collapsed, died or were transported off the track. At the time, track officials said it was company policy not to allow a reporter access to the backside where trainers stable their horses.

Christopher McErlean, vice president of racing at Penn National Gaming, which owns Zia Park, said in a statement that the Times analysis used figures "produced by nonmedical professionals for the purpose of handicapping feature races."

Mr. McErlean also said some horses are vanned off as a precaution and may not actually have been injured.

But Zia Park officials said that last year, "a significant number" of horses had to be carried off the track because of exhaustion stemming from the possible abuse of a drug that mimics anabolic steroids as well as "other medication issues."

Mr. McErlean said Penn Gaming endorses tougher penalties for those who violate drug rules.

Without a postmortem exam of I Glance at Chicks, no determination could be made as to whether a pre-existing condition or some other unknown factor might have played a role in his demise. But tests did reveal that the horse had been dosed with a large load of a powerful painkilling medicine called Flunixin.

In at least two states, 2-year-olds may not race with any Flunixin. Not so in New Mexico, where they can run with up to 50 nanograms of the drug, more than double the amount allowed in a higher class of competition called graded stakes races.

But even that higher amount was not enough for Mr. Gonzalez. I Glance at Chicks carried 282 nanograms of Flunixin.

To put that figure in perspective, Dr. Mary Scollay, chief veterinarian for the Kentucky Racing Commission, said she had never seen such high levels in her state.

"When you look at the history of our medication violations—Flunixin—most are under 50 nanograms, 35 nanograms, something like that," Dr. Scollay said. In fact, she said she had never seen a violation in Kentucky over 104.

In New Mexico, it is common practice.

Tests on horses in New Mexico showed results over 104 nanograms on 68 occasions since 2009, with some registering 1,000 and even 2,400, records show. The levels are so high that regulatory veterinarians in other states say the horses must have been drugged on race day, a practice that is forbidden.

Before the New Mexico Racing Commission could pass judgment on the overdosing of I Glance at Chicks, another horse trained by Mr. Gonzalez tested positive for even higher levels of Flunixin. The extra dosing did not hurt performance. The horse finished first, and its owner, Mr. Gonzalez's cousin Ramon Gonzalez Jr., got to keep his winnings.

If Andres Gonzalez was worried about how the racing commission viewed his treatment of I Glance at Chicks, he need not have been. Records show he received a warning and nothing more.

Lax Penalties

New Mexico's racing industry—the tracks and their regulators—has been unusually slow in responding to the safety alarms.

Four of the state's five racetracks, including Zia Park and Ruidoso, are unaccredited, and the track where Mr. Martin's injury occurred does not report accidents or positive drug tests to groups that monitor such events.

New Mexico also recorded no positive tests in 2010 and 2011 for the most frequently abused pain medicine in racing, phenylbutazone, a nonsteroidal anti-inflammatory commonly known as "bute." After The Times asked why none had been found, the new executive director of the state's racing commission, Vince Mares, said that after researching the question, he discovered that the previous leadership "had cut back on the tests" for financial reasons.

Without a national law regulating drugs in racing, New Mexico regulators can be as lenient as they wish in disciplining drug violators.

Trainers in New Mexico who overmedicate horses with Flunixin get a free pass on their first violation, a $200 fine on the second and a $400 fine on the third, records show.

In Indiana, by contrast, winnings are forfeited after the first drug offense. "If someone who violates the rule thinks the penalties are going to be mild or nonexistent, then breaking the rules is just a cost of doing business," said Joe Gorajec, the executive director of the Indiana Horse Racing Commission.

New Mexico gives offenders another break: it wipes away Flunixin violations every 12 months, allowing trainers to again overmedicate horses without penalty. Dozens of huge Flunixin overdoses have resulted in warnings only.

Sometimes the same horse is illegally drugged twice. On May 9, 2009, Runawayslew, a horse trained by Andres Gonzalez, raced with two anti-inflam-

matory drugs. Nineteen days later, under another trainer, Runawayslew raced on cocaine.

To varying degrees, the picture is similar nationwide. Trainers often face little punishment for drug violations, and on the rare occasions when they are suspended, they are allowed to turn their stables over to an assistant. Since January 2005, 116 trainers have had five or more drug violations, and 10 trainers had 10 or more, records show.

In New Mexico, Cody Kelley, an Albuquerque lawyer who represents people accused of violating racing commission rules, including Andres Gonzalez, said punishments were too arbitrary.

"Are there people that cheat at horse racing in New Mexico? Yes, happens everywhere," Mr. Kelley said. "But I think our commission right now is not equipped to deal with it. What we need are national rules."

Mr. Mares, the New Mexico racing chief, agrees that his agency needs more uniform penalties to avoid charges of favoritism. "There is an issue of consistency—you can quote me on this," Mr. Mares said. "It is being addressed."

New Mexico recently became the first state to temporarily ban all horses from racing on clenbuterol, a drug that aids respiration, but that has been widely abused because it can build muscle.

In recent years, the state commission has had its embarrassments.

One former investigator faces trial on charges of stealing horses while working at the commission. Another trainer's doping violation was dismissed because the assistant attorney general handling the case neglected to show up in court. And the commission had to drop charges against Ramon O. Gonzalez Sr. for drugging 10 horses because it forgot to file the proper paperwork, according to the state attorney general's office.

Nonetheless, odds are slim that any of the Gonzalezes—Andres, Ramon Sr. or Ramon Jr.—will show up at a New Mexico racetrack any time soon. In late January, a Federal grand jury in Albuquerque indicted them on charges of participating in a drug trafficking scheme tied to one of Mexico's most notorious drug cartels. All have pleaded not guilty.

Andres Gonzalez was arrested at Sunland Park Racetrack and Casino in New Mexico. His uncle, Ramon Sr., was arrested while pulling a horse trailer that the authorities said was carrying 26 kilograms of cocaine and 500 pounds of marijuana.

Masking Pain, or Healing It

Breakdowns can be caused by a variety of factors, including poor track surface and jockey mistakes. But drugs, often used to mask existing injuries, are the prime suspect.

"It's not that these medications caused the injuries, but the trainers knew the horses were injured and gave them the meds to get them into the race," said Dr. Arthur, the veterinarian for the California Horse Racing Board.

Necropsies are considered essential to determining if an existing injury contributed to a fatal breakdown. However, only 11 states require them, a Times survey found.

In California, where necropsies are required, researchers found that a "large majority" of horses had existing problems at the site of their fatal injuries.

"To be fair, some of that is microscopic and may not be readily apparent," Dr. Arthur said. "We're trying to figure out why vets and trainers are not identifying injuries prior to catastrophic injuries."

But many prior ailments are indeed serious. The Times obtained hundreds of necropsy reports on racehorses that died racing in Pennsylvania and found problems that included "severe degenerative joint disease," "severe chronic osteoarthritis" and pneumonia with "severe, extensive" lung inflammation. One horse had 50 stomach ulcers. Another had just one eye. Pathologists also found metal screws in two horses that had broken bones from previous accidents.

In the United States, horses are usually allowed to run on some dose of pain medication, usually bute. The question, fiercely debated in the racing community, is at what level do therapeutic drugs make racing unsafe?

Virginia's fatality rate went up after regulators in 2005 raised the allowable level of bute to 5 micrograms from 2 micrograms. "Our catastrophic incidents increased significantly," said Dr. Richard Harden, equine medical director for the state racing commission.

Virginia returned to the lower level in 2009, though the fatality rate has not come down.

Iowa's fatality rate rose by more than 50 percent after the state in 2007 allowed a higher level of bute.

Regulatory veterinarians say the higher allowable levels make it difficult for them to spot lameness and injury during prerace examinations. In one study, researchers at Oklahoma State University said they found bute in most of the horses that died racing or training at Oklahoma tracks in 2010. Six had both bute and Flunixin, a dangerous practice called "stacking," the report said.

The researchers also expressed concern that despite fewer races, a record number of horses died, necessitating a "careful re-evaluation of track surfaces, medication/enforcement and prerace examinations."

But prominent owners and trainers, and even some veterinarians, say evidence linking drugs and breakdowns is unconvincing.

Kent H. Stirling, chairman of the national medication committee for the Horsemen's Benevolent and Protective Association, said there was "no scientific evidence whatsoever" that 5 micrograms of bute on race day is dangerous.

Mr. Stirling and others say sore horses should not be denied therapeutic medicine when needed. "If you're a horseman and you're trying to keep a horse going and keep him happy and healthy as you can, then these therapeutic medications are very helpful," he said.

Regulators typically view prescription drug violations as more benign than the use of banned substances on horses. And they constitute the bulk of the 3,800 violations that The Times found by surveying racing states.

But others, including racing regulators overseas, say horses should not compete on any drug regardless of type.

"Therapeutic drugs, by definition, are used for healing and curing," said Arthur B. Hancock III, whose farm produced three Kentucky Derby winners. "Drugs that mask pain and enhance performance are not 'therapeutic.' They are what they are: performance-enhancing drugs."

The industry group that runs graded stakes races had promised to ban all therapeutic drugs for 2-year-olds, but in late February backed off, saying it did not have enough time to bring state regulators on board.

George W. Strawbridge Jr., a prominent breeder and owner, resigned from the group over that decision, calling it "one of the most craven acts" he had seen.

"How on earth did we get to this sorry state?" Mr. Strawbridge said. "The first reason is that in this country there are no significant consequences for doping horses."

Respecting the Ride

Chris Zamora knows the sensation of riding a sore horse. But one ride in particular stands out.

On Nov. 25, 2008, Mr. Zamora was guiding his horse, Sinful Heart, into the first turn at Zia Park when he sensed something was wrong. "He didn't want to take the turn," he said. "He was in pain."

Sinful Heart drifted out, clipped heels with another horse and fell. A trailing horse tripped over them.

Mr. Zamora, the winner of more than 1,000 races, nearly died in the accident, fracturing his skull, pelvis, ribs and four vertebrae. His lungs collapsed, his liver was lacerated and his heart was compressed. "They had to insert a needle to take the pressure off of my heart," he said.

Sinful Heart survived to race three more times, in successively cheaper races, never winning before collapsing and dying on the track at Ruidoso.

Four months after his accident, in March 2009, Mr. Zamora returned to the track. But he had changed. No more cheap horses. "I tried to ride quality over quantity," he said. "I didn't ride a horse that somebody said was already sore. I scratched more of them at that time than I had in my whole life."

The best trainers might have been unhappy, he said, but they trusted his judgment and fixed the problem. "They were great horsemen," Mr. Zamora said, offering the ultimate compliment.

But not all were. Now, he said, some trainers just go to another rider. "These guys will head a horse up until it breaks down completely, and when there's a man on top of them, it's bad," he said.

Other injured jockeys tell similar stories. "I think more should be done for the horse to let him heal naturally than to be getting him to the next race so we can get one more race out of him," said Randy Meier, a winner of more than 4,000 races, many in the Chicago area.

Along the way, Mr. Meier broke his neck, collarbones, ribs, shoulder, legs, arms, wrist and sternum and developed a brain bleed.

New Mexico jockeys have been hit particularly hard. Not only was Mr. Villa killed and Mr. Zamora and Mr. Martin critically injured, Juan Campos died in an accident in August 2008; Jimmy Ray Coates fell the same year, his heart stopping twice after

breaking his femur, shoulder and collarbone; Carlos Rivas had no pulse en route to the hospital after rupturing his aorta in 2010, and the same year Kelsi Purcell fractured multiple vertebrae in a spill.

There were other injuries as well.

"We've been through this so many times," said Terry Meyocks, national manager of the Jockeys' Guild. More than 50 permanently disabled jockeys receive assistance from the Jockeys' Guild, he said.

After Mr. Zamora's accident, Mr. Martin, a friend and hunting partner, had told him not to abandon hope. "You'll be back," he said. "You're in great shape, it won't be that long. You're not done. You won't be in a walker."

Like all jockeys, Mr. Zamora knew the risks of riding. "Every time you do it, you take a chance one is going to break it off. Even with the soundest horse you take a chance."

Good jockeys can alter their ride if a horse is sore or about to break down. In some cases, though, there are no hints, no warnings. And that is when jockeys face the greatest danger.

Jacky Martin had no warning.

"I thought he was going to die," said Adrian A. Ramos, who was riding in the same race. "He hit the ground hard, real hard. I was behind him and I saw everything."

A Second Chance

The question almost everyone at the track wanted to ask was why. Why did Mr. Martin, at the top of his game, the winner of a record seven All American Futurities, agree to ride a cheap claiming horse with no victories just 3 days before he was to ride the favorite in the $2.4 million Futurity?

The favorite did eventually win and would have paid him $120,000, the jockey's standard share. For riding the horse that broke his neck, Mr. Martin took home little more than the cost of a tank of gas.

Until that wrenching moment in the Ruidoso dirt, Mr. Martin at age 56 had been on a redemptive journey to right the wrongs in his life, to help younger jockeys avoid the mistakes he had made and to regain what he had lost: an opportunity to sit atop a racehorse and to coax from it all the power it was willing to give, and nothing more.

For 4 years, Mr. Martin had been barred from racing after being sentenced to probation in 2006 for poaching deer and possessing less than a gram of methamphetamine. He and his wife, Tracey, also his agent, moved to Louisiana. "I worked horses every day for three and a half years being a gallop boy," Mr. Martin said. "That's all I was, a $10 gallop boy."

In the afternoon, Mr. Martin helped to build fences and even a barn, his wife recounted. "We actually bagged horse manure and sold it and delivered it just to get through," she said.

It was a steep fall for a man so highly revered in the sport that Mexican businessmen would send armed guards to escort him to high-stakes races south of the border.

"After a time, he took ownership for the wrong things that he did and worked his way through it," Ms. Martin said. Just as important, friends say, he developed an even deeper appreciation for the role others played in racing, from grooms to horse owners struggling to stay in the game.

In the summer of 2010, Mr. Martin was finally cleared to race, and he returned to Ruidoso unsure of how he would be received. When word spread that "Jacky was back," owners were eager to extend a helping hand, but most of all, they were eager to win.

And win he did. With the racing season half over, Mr. Martin stormed into the lead to become the top winner and champion jockey for 2010.

"He was so grateful he got a second chance," Ms. Martin said in December. "He was on the radio saying: 'People out there need to know that they can be forgiven and succeed. If I can fix my screwed up life, you can too.' "

In Mr. Martin's quest to win an eighth Futurity in 2010, his horse lost by a nose in one of the biggest upsets in the history of that race. But the loss did not diminish the joy he felt competing again.

"It's just a fairy tale for it to turn out the way it has," Mr. Martin told a racing publication in 2010.

Mr. Martin fell a year later, on the Friday before Labor Day at the beginning of the final, biggest weekend of racing at Ruidoso. The tens of thousands of spectators, who would later fill the stands and line the distant highway with parked cars, had yet to arrive.

Only a small, quiet crowd, including relatives of riders, trainers and owners, was on hand to watch Mr. Martin go down. One woman screamed because she mistakenly thought her husband had been the one injured.

The authorities did little to determine why Mr. Martin's horse, Phire Power, broke down. The commission said drug tests found no prohibited substances, but the scope of those tests is unclear, including whether the horse was tested for bute. The state also said the horse's body did not undergo any postmortem exam before it was destroyed.

Within minutes, Ms. Martin was escorted onto the track to be with her fallen husband. Over the next 6 months, she would rarely leave his side.

In 2 days, Mr. Martin had been scheduled to sign autographs at Ruidoso to raise money for injured jockeys. Instead, other jockeys signed autographs to raise money for him.

Since the accident, Mr. Martin has been in and out of hospitals in three cities. He has suffered through infections, pneumonia, nausea, weight loss, bed sores and other problems. He remains paralyzed, unable to move his arms or legs. He breathes with a respirator.

Meanwhile, the racing community has rallied to his side, sending not only words of support but also money to help defray his mounting health care costs. Ruidoso's owner, R. D. Hubbard, promised $100,000. There have been silent auctions and other fund-raisers. His wife worries that it may not be enough.

Through it all, Mr. Martin refuses to feel sorry for himself.

In December, as he struggled to breathe in a Houston hospital, he told a reporter softly that he had no regrets.

"It's a bad deal," he said. "But if I could do it again, I would be right out there doing it. I ride horses. It's the risk every jockey takes."

Back home in El Paso, Ms. Martin says her husband derives one of his few pleasures from sitting in his wheelchair next to a window watching horses train silently in the distance.

Mr. Martin's injury deeply affected Mr. Zamora. He was not only losing a friend from the jock's room, the sport was losing a rider, a gentleman, who had come to represent the best it had to offer.

"He rode the best horses in the world, but he was worthy of the best horses in the world," Mr. Zamora said. "He had great hands. He let a runner be a runner instead of going to the whip too early. Them animals loved him, and they ran for him and he understood them. When one didn't want to run, he let them not run. He didn't take to the whip. You have to understand them—that's what makes a great horseman. And he was. He was special."

Last fall, several weeks after Mr. Martin's spill, Mr. Zamora left the jock's room for the last time.

"I knew I had come so close, and I couldn't deal with that."

Pain, Up Close

It was the third race at Ruidoso on July 11, 2009.

In the stands, Laura and Armando Alvarado sat with their two grandchildren, ages 11 and 14.

The Alvarados were not racing fans, but this was a vacation—they had driven up to the mountain resort from El Paso—and they thought their grandchildren might enjoy watching their first horse race.

Mr. Alvarado took the children down to the rail for a closer look. Ten horses sprinted out of the gate, including a gray Texas-bred quarter horse named Sinful Heart, the same horse that fell several months earlier, nearly killing Chris Zamora.

Just past the finish line, Sinful Heart, with another rider on its back, broke down, collapsing on the track. "The horse is bleeding!" one of the children cried out.

The children were not visibly shaken, but Ms. Alvarado said she was sorry they had to witness death at such a close range. After a few more races, they went shopping.

Five days later, a relative with a passion for racing was visiting the Alvarados, and they all went to the track.

"It was going to be an all-day experience, and I thought how nice to have this man give them all this history and details," Ms. Alvarado said.

Once again, Mr. Alvarado took the children to the rail to watch the finish of the day's first race.

This time, a horse broke its leg, pitching its rider—who happened to be Chris Zamora—into the ground, where rider and animal rolled like tumbleweeds across the finish line.

"It was awful," Mr. Alvarado said. Although Mr. Zamora was not seriously injured, the horse was. "The bone was showing through the skin," Mr. Alvarado said.

Both children began to cry. "I have never seen anything that horrible close up," Mr. Alvarado said. "The kids were terrified."

The horse was euthanized on the track. The family quickly left the premises. Ms. Alvarado said: "I told Armando, just drive. We wanted to get out of there."

Afterward, her granddaughter said, "I don't want to go to a racetrack ever again."

Ms. Alvarado wrote a letter to the editor of the local paper.

"For the sake of the animals and children, we felt compelled to let city officials, agencies and others know of this painful experience and urge you to investigate," she wrote.

She said she sent copies of the letter to the mayor, the track, its chief veterinarian, the Humane Society and the American Society for the Prevention of Cruelty to Animals.

Ms. Alvarado expected a response.

She never got one, she said.

Rebecca R. Ruiz and Matthew Orr contributed reporting from New York.

A version of this article appeared in print on March 25, 2012, on page A1 of the New York edition with the headline: Mangled Horses, Maimed Jockeys.

The New York Times—Breakdown/Death and disarray at America's racetracks—April 30, 2012

BIG PURSES, SORE HORSES, AND DEATH

Large payouts to owners make it profitable for owners to field thoroughbreds that are past their prime, sometimes with fatal results.

By Joe Drape, Walt Bogdanich, Rebecca R. Ruiz and Griffin Palmer

As he trained for his first race, at Aqueduct Racetrack in Queens, the 3-year-old thoroughbred Wes Vegas galloped on the track most mornings and had two timed workouts. But his handlers also prepared him in another way: In the month before the race, records show, he received 10 intravenous injections of potent drugs for pain, one the day before he ran; two injections of a drug for joint disease; corticosteroid injections in his two front ankles; a sedative; and an ulcer drug.

For all the preparation, that first race, on March 3, turned out to be his last.

As he approached the first turn, Wes Vegas broke a leg and had to be euthanized.

A week earlier, another horse, the 4-year-old Coronado Heights, who records show had "early degenerative joint disease," suffered a fatal breakdown at Aqueduct after receiving 13 injections for pain and cartilage damage in the month before his race.

Since a casino opened at Aqueduct late last year, offering vastly richer prizes, 30 horses have died racing there, a 100 percent increase in the fatality rate over the same period the previous year. Like Wes Vegas and Coronado Heights, many had been injected repeatedly with pain medication in the weeks before their breakdowns, according to a review of veterinary records by *The New York Times*.

Pain medication during training is legal as long as it does not exceed certain levels on race day. But the prevalence of drugs is a graphic illustration of how the flood of casino cash has created powerful and dangerous incentives to run sore, tired or otherwise unfit horses in pursuit of that big score.

"If the public knew how many medications these horses were administered after entry time, I don't think they would tolerate it," said Dr. Rick Arthur, equine medical director of the California Horse Racing Board.

Amid the uproar over the Aqueduct death toll, Gov. Andrew M. Cuomo of New York ordered an investigation to "ensure against needless injuries to horses and to riders." Experts are examining various factors—not just drugs, but issues like track conditions and pre-race inspections.

But what is indisputable is that casinos opening at Aqueduct and a growing number of racetracks have recalibrated the age-old economic equations of the horse-racing game.

To survive amid a riot of new, technologically advanced gambling options, track owners have increasingly succumbed to the gambling industry's offer to sweeten racing purses with slot machine revenue. But if casinos promise to prop up a struggling sport, they can also erode the loyalty that owners and trainers feel toward their horses, turning them, in the words of Maggi Moss, a leading owner, into "trading cards for people's greed."

The casinos' impact is greatest at the sport's low end, the so-called claiming races, a world away from the bluegrass pageantry of Saturday's Kentucky Derby. In the claiming ranks—where some of the cheapest horses fill starting gates at tracks like Aqueduct, Penn National, near Harrisburg, Pa., and Evangeline Downs in Lou-

isiana—the casino money has upset the traditional racetrack balance of risk and reward.

"It's strictly self-centered greed of not thinking about the horse but thinking about maybe I can get one more race out of him and get a piece of the game," said Dr. Tom David, until recently the chief veterinarian for the Louisiana Racing Commission.

To better protect the horses, some industry experts say, purses should be limited so the potential winnings in any race do not exceed the value of the horses running in it. That way, the incentive for the owner is to care for the horse over the long haul, rather than risking it for a single payday. A prominent veterinarians group, the American Association of Equine Practitioners, recommends that no purse exceed a horse's value by more than 50 percent.

Yet that recommendation is widely ignored, *The Times* found.

At Aqueduct, horses worth $7,500—at the lowest level of competition—recently raced for a $40,000 purse, nearly four times the recommended maximum. Two of them broke down and had to be euthanized. Both had been given pain medication in the days leading up to the race. In all, 19 of the 30 Aqueduct deaths occurred in races where the veterinarians' standard was violated.

Nationwide, 57 percent of thoroughbred claiming races at casino tracks exceeded that 50 percent standard, and horses broke down or showed signs of injury at a 29 percent higher rate in those races, according to a *Times* analysis.

In a statement, the New York Racing Association said "it would be inappropriate and irresponsible of *The New York Times* to speculate on the reasons for breakdowns and injuries" before the Governor's task force has finished its inquiry.

Big purses have destabilized the racetrack economy in another way. Every claiming race is essentially a marketplace, with all horses for sale at a fixed price. But the casino money has set off a frenzy of horse trading at Aqueduct, with owners eager to buy and also to sell to slake the surging demand. Since the casino opened late last fall, nearly 500 horses and $10.7 million have changed hands, more than double the previous year, records show.

Again, the incentive is to push horses, fit or not, out onto the track.

"If horses don't win, people just get rid of them," Ms. Moss said.

The turmoil at Aqueduct over the last 6 months caught many in the industry by surprise. But a cautionary tale played out 2 years before at Penn National, where nine horses belonging to a single owner died while racing, prompting a boycott by jockeys. State investigators discovered evidence of serious problems in the owner's operation: trainers and other employees injecting horses with illegal drugs and administering other illicit treatments at an off-track training center.

When the Hollywood Casino arrived in 2008, Penn National became part of a casino expansion that now encompasses more than a third of the Nation's thoroughbred racetracks. Gambling companies, state budgets and some horse owners have benefited, but the spread of casinos has left many people wondering if in the long run, casino gambling is hurting racing and the horses themselves.

"In spite of what they say, and they are my friends whom I love dearly, they do not care about horse racing," William Koester, of the Ohio State Racing Commission, said recently of the casino industry. "They care about gaming. That is their mission."

Lame and Still Racing

Melodeeman, a 10-year-old thoroughbred, had earned a rest.

He raced gallantly for six owners. He set a track record at Aqueduct for the fastest five and a half furlongs and earned more than $250,000 in his career. He raced even after a broken leg was put back together with three stainless-steel screws.

But by the evening of Jan. 21, 2010, Melodeeman had hit the bottom of the racing world. As the temperature hovered near freezing at Penn National, he prepared to compete among the lowest quality thoroughbreds.

In a different time, Melodeeman might have skipped this race, or retired altogether. Not now. Not here. Profits from the track's casino had fattened the purse to $18,000, far more than the $4,000 for which each horse could be purchased, or claimed—precisely the kind of cost disparity that prominent veterinarians had warned against.

Eager to get in on the action, three people filed claims to buy three horses in the race.

No one tried to buy Melodeeman.

According to one exercise rider who saw the horse well before the race, Melodeeman was clearly lame. But Melodeeman raced anyhow that evening.

Turning for home, his front legs buckled, sending his jockey, Angel Quinones, flying. Melodeeman had snapped his right cannon bone and was euthanized at the track, almost 4 years to the day after he set his Aqueduct record.

State regulators were suspicious. Other horses belonging to the same owner, Michael Gill, had been breaking down in large numbers, and jockeys were complaining.

A subsequent necropsy revealed that Melodeeman not only had degenerative joint disease in the lower part of his two front legs, but that his fatal fracture occurred next to the earlier break mended with three screws. The examiners were concerned enough to have snapped a color photograph of the screws.

A prohibited sedative, fluphenazine, was also found in Melodeeman's brain, according to records obtained by *The Times*. Fluphenazine can calm a horse that becomes agitated because of discomfort or injury, according to two veterinarians.

Melodeeman's fatal breakdown was not quickly forgotten by jockeys on the backside at Penn National. A revolt was brewing.

Jockeys Fight Back

Mr. Gill made his fortune in the mortgage brokerage business before becoming one of the Nation's most successful—and controversial—thoroughbred owners. He was a winner of the Eclipse Award as the Nation's outstanding owner, but tracks in several states denied him stable space because of brushes with regulators over his treatment of horses. He set up a training center in Chester County, Pa., giving him easy access to three casino tracks, among them Penn National.

Although the casino there does a steady business, the track itself seems almost an afterthought. It sits behind the parking garage, barely visible from the gambling floor. On many nights, the few racing fans who show up outside buy programs from a vending machine and beer at a single counter.

But there was no secret why Mr. Gill had made Penn National the hub of his operation: the hefty purses.

Now, Melodeeman's death threatened to upend it all.

The next morning, Thomas Clifton, a veteran jockey, complained to the state racing commission's office at Penn National that Mr. Gill's horses were unsafe. He had been making similar complaints for a month.

"The horses go perfectly sound right up to the second they snap their leg off," Mr. Clifton said. The following day he came back with a warning: "If we have one more horse break down, we are going to have a major problem on our hands."

That night, riding in the fifth race, Mr. Clifton heard a bone snap and saw another jockey, Ricky Frazier, vaulting off a horse named Laughing Moon. Mr. Clifton yanked his own mount, but they still went soaring over Laughing Moon.

Within minutes, Mr. Frazier was in an ambulance and a veterinarian was administering a lethal injection to Laughing Moon, the ninth Gill horse to die racing in 10 months.

That is when the jockeys decided to take a stand: They would not ride in any race with a Gill-owned horse.

Their boycott cast a harsh light on the Pennsylvania Racing Commission and Penn National Gaming, which owns the track.

"It wasn't the commission or the racetrack or anyone with any responsibility for horses and riders who took action," said George Strawbridge, a prominent breeder and owner. "It was the jockeys who feared for their life. That's not a shame. That's a disgrace."

Track officials and regulators had ample reason to question the integrity of Mr. Gill's operation well before the boycott.

Regulators did not have the authority to monitor the treatment of horses on Mr. Gill's ranch, but 3 months before the boycott, the commission and track security officers searched a van delivering Mr. Gill's Lion's Pride, who was scheduled to race that day. They found four syringes, and Lion's Pride tested positive for a corticosteroid used to treat joint inflammation.

Lion's Pride was not allowed to race that night. But on Dec. 18, 2009, after running barely a quarter of a mile, he suffered a fatal breakdown.

By then, an employee of Mr. Gill's ranch had already told state police investigators that horses were being injected with drugs on race day, which is illegal. Investigators later heard accounts of snake venom injections and other performance enhancing treatments on race day, according to records obtained by The Times.

Dr. Jerry Pack, a former veterinarian for the racing commission who now works for Penn National, told the police that he suspected Mr. Gill's horses received an illegal performance enhancing substance. He also said trainers were using shock wave therapy, which can mask injury. "This is also dangerous to the welfare of the horse," he told investigators.

Suspicions were heightened by the backgrounds of some employees of Mr. Gill, including two trainers, Cole Norman and Darrel Delahoussaye.

Mr. Norman had been fined or suspended 30 times in four states for drugging horses. The authorities had accused him three times of administering an illegal "milkshake"—a concoction of baking soda, sugar and electrolytes delivered through a tube down a horse's throat to combat fatigue by breaking up lactic acid. Mr. Norman was also incarcerated for killing a driver in a head-on collision while under the influence of prescription painkillers.

In 1984, Mr. Delahoussaye lost his Louisiana training license after a conviction for check fraud, and Ohio later suspended him for possessing syringes and drugs and for using a makeshift electric cattle prod on a horse. Mr. Gill himself had once been suspended from racing after syringes and needles were found in his barn at a New Hampshire racetrack.

A grand jury in Dauphin County, Pa., investigated reports of horse doping and other corrupt acts. But Mr. Delahoussaye was the only one charged, with doping. A plea agreement kept him out of jail—and out of racing in Pennsylvania.

In the face of the boycott, the racing commission ejected Mr. Gill and his racing manager, Anthony Adamo, from Penn National. They filed a Federal lawsuit, saying that they were expelled for no valid reason and without a hearing. A trial took place last week and a decision is expected soon.

Alan Pincus, a lawyer for the men, said that they have been unfairly tainted with "all kinds of innuendo and lies for over 2 years," and that the testimony showed that their ejection "was not based on any culpable wrongdoing."

Mr. Gill said that he rarely visited Elk Creek Ranch, his Pennsylvania training center, and that he never instructed anyone to break racing rules.

Chris McErlean, vice president of racing at Penn National, said the investigation of Mr. Gill and the enforcement of racing rules was the responsibility of the state racing commission, which declined repeated requests for an interview.

Since the jockey boycott, change has come slowly at Penn National. The track began doing pre-race inspections of horses—routine at most racetracks in North America—only last October.

The track's owner has declined to seek accreditation or to contribute to a fund for jockey benefits.

In September, an injured filly had to wait more than an hour to be euthanized because Penn National had no licensed veterinarian on duty during morning training. The company said it was not the track's responsibility, though it is a requirement of accreditation.

"There's cost issues and there's problems we have with the process," Mr. McErlean said of accreditation. "They are making racetracks solely responsible, presenting it as a racetrack-only issue. They don't accredit horsemen, or breeders."

Bought and Sold

Aqueduct has never been the most glamorous track. The sound of pounding hooves is often drowned out by the roar of jets at nearby Kennedy International Airport. The bulk of its racing is conducted in the winter, when top owners move their horses to Florida to race.

Aqueduct is a neighborhood track for working-class horsemen, where low-level horses are bought and sold in claiming races, which account for nearly 70 percent of American racing.

In claiming races, horses are grouped by ability and price. In a $10,000 claiming race, for example, any horse can be "claimed" or bought for that price. The goal is to lure a group of evenly matched horses to attract bettors but also to ensure a level playing field. The deterrent to entering a high-caliber horse in a low-level claiming race is the risk of losing it for a pittance.

Aqueduct is a case study of how casinos have altered the economics of claiming races. Purses there have jumped by about $130,000 a day compared with the previous year. At the same time, crops of thoroughbreds nationwide have declined and, many experts say, so has their overall quality. The result, at Aqueduct and other casino tracks, is daily cards of low-level claiming races being run for higher purses and a spike in the claiming of horses by owners seeking a quick profit.

Among them was Bojan, a valuable commodity, but a disposable one, too.

Bojan possessed enough good looks and pedigree to fetch $107,000 at a yearling sale in Kentucky in 2008. Now it was April 6, 2012—Good Friday—and just as Bojan was about to run in the first race at Aqueduct, a trainer named Juan Serey dropped a slip of paper into a box in the racing office, agreeing to pay $10,000 for him on behalf of an owner who employed him. But the horse would not be his until after the race.

Mr. Serey, who has been the leading trainer at Aqueduct, knew the horse had a fragile tendon and puffy ankles. It was why Bojan kept coming up for sale at the bottom of the claiming ladder, why he had changed hands twice in 2 months.

Even so, Bojan had continued to prove a sound investment. He had earned more than $19,000 for one owner and trainer, Linda Rice, in the span of 16 days, and his current co-owner and trainer, David Jacobson, had owned Bojan for a single race—a victory worth $17,400.

Mr. Serey decided to roll the dice.

"Everybody just wants a horse, and they want him now to race in 10 days," he said. "I want a horse today and I don't want it tomorrow. I'm a businessman."

Turning for home, Bojan led the field and it looked like Mr. Serey had chosen well. Suddenly, however, the horse faltered and his jockey stood up in the saddle. They hobbled home, finishing fourth. Moments later Bojan was boarding a horse ambulance.

"They tried to roll him and win the race and get the money," Mr. Serey said of Bojan's owners.

Indeed, the owners walked away with the $1,150 fourth-place check.

Mr. Serey had no regrets. "You've got to take the good ones and the bad ones," he said, adding, "If somebody takes my bad horses, it's good."

Since the casino opened at the end of October, Aqueduct has seen a sharp rise in the number of horses injured and killed. Horses have broken down or shown signs of injury at Aqueduct at a rate of 10.2 per thousand starts, or more than double the national rate of 5.0 per thousand starts for thoroughbred racing, according to a Times analysis.

Similar trends are evident at some tracks around the country. The five casino tracks in New Mexico have rates for thoroughbred breakdowns that are double the national average, with Ruidoso Downs and Zia Park topping the list with 12.5 and 12.1, respectively, per thousand starts.

Coleman Lloyd, the racing secretary at Evangeline Downs Racetrack and Casino in Louisiana, told the state racing commission that the only conclusion that can be drawn from Evangeline's high fatality rate was it "runs more races and cheaper horses," according to the minutes of an Aug. 30, 2010, meeting.

Joe Gorajec, executive director of the Indiana Horse Racing Commission, said his state capped the number of racing days at 75 and mandated that low-level claiming races make up only 30 percent of the program.

"If you had just what I would call obscene money on these lower-level horses, it would affect the judgment of those horsemen," he said.

Beyond the numbers, veterinary records obtained by *The Times* on Aqueduct's 30 horse deaths show in raw terms how pain medication is used in racing.

In the week leading to a $7,500 claiming race with a $40,000 purse in early March, Big Polk a Dot's right front ankle was injected with powerful cortisone, his feed was laced with a potent anti-inflammatory and he was shot with a painkiller, records show.

One of his rivals, Almighty Silver, got his left and right lower hocks injected with a painkiller and his front ankles with synthetic joint fluid. He also got an injection to dilate his airway, records show.

Big Polk a Dot ran barely an eighth of a mile before his right front cannon bone snapped and he was euthanized. Almighty Silver managed to finish third, despite a fractured right front leg.

While his effort earned $4,000 for his owner, Almighty Silver was taken by ambulance to Aqueduct's backside where he, too, was put out of his misery.

These horses got little protection from state regulators or the racetrack. Even as the death toll was rising, necropsies were not performed to determine if pre-existing injuries had contributed to the fatal breakdowns. Nor were toxicology exams conducted.

In March, days after Governor Cuomo announced he would appoint a task force to investigate the fatalities, New York Racing Association veterinarians became more aggressive in keeping unfit horses out of the starting gate, which Dr. Anthony Verderosa, its chief examining veterinarian, called "a coincidence."

The State Racing and Wagering Board announced an emergency rule voiding a claim if a horse had to be euthanized on the track. Among the 30 dead horses, 7 had been claimed in the race in which they had broken down.

But in the ethic of horse traders—in which you are just as likely to sell a damaged horse as buy one—not everyone believed that prohibiting the claiming of dead horses was a good idea.

"This is a game," Mr. Serey said, "and we have to know how to play."

A Fight for a Horse

Horses have never been a game to Earle Mack. A real estate developer, philanthropist and former Ambassador to Finland, Mr. Mack began breeding and racing thoroughbreds more than 50 years ago. He spent 7 years in the 1980s as chairman of the New York State Racing Commission.

Over the past 9 months, Mr. Mack has had a frustrating, front-row seat for how horses are treated in the casino era of horse racing. In 2008, he brought a beautifully bred horse from Argentina named Star Plus to the United States. Star Plus won one race and took second in another. Although minor injuries sidelined him in 2009, he won a race the following year. But on March 28, 2010, at Gulfstream Park, he suffered a career-ending ankle injury. The veterinarian recommended he never be ridden again.

Mr. Mack retired Star Plus to a farm in Florida. But last summer, Mr. Mack said he sold the horse for just $1,000, after the new owners agreed not to race him again.

Instead, the new owners, George Iacovacci and Kelly Spanabel, began training Star Plus. Records show that Mr. Iacovacci, an owner-trainer, and Ms. Spanabel, a jockey, eke out a living at casino racetracks, which often pay purse money through last place. Last year, for example, horses Mr. Iacovacci owned made more than $90,000, despite winning only five times.

When Mr. Mack found out Star Plus was training, he alerted racing officials and offered to buy him back. The couple refused. Last July, they ran Star Plus in Michigan and, in November, in two races at West Virginia's Mountaineer Park. He finished last all three times.

On Jan. 9, after discovering Star Plus was entered to run 2 days later at Charles Town, Mr. Mack faxed a letter to the West Virginia Racing Commission.

"As you are undoubtedly aware," he wrote, "with an impaired ankle this horse is a danger to himself, his rider and everyone on any track where he is allowed to work and race." Darcy Scudera, who cares for Mr. Mack's horses in Florida, also contacted West Virginia officials, but was told there was nothing they could do.

Three weeks later, Mr. Mack wrote to the Pennsylvania Horse Racing Commission, but he said he never heard back.

On Jan. 28, Star Plus was again outclassed by six other horses, clomping home 43 1/4 lengths behind. Even so, he earned his owners $1,000.

"This is clearly abuse, and anyone interested in animals should have stopped it," Mr. Mack said. "But these tracks need full fields and have got to fill races. That's why they pay $1,000 for last place."

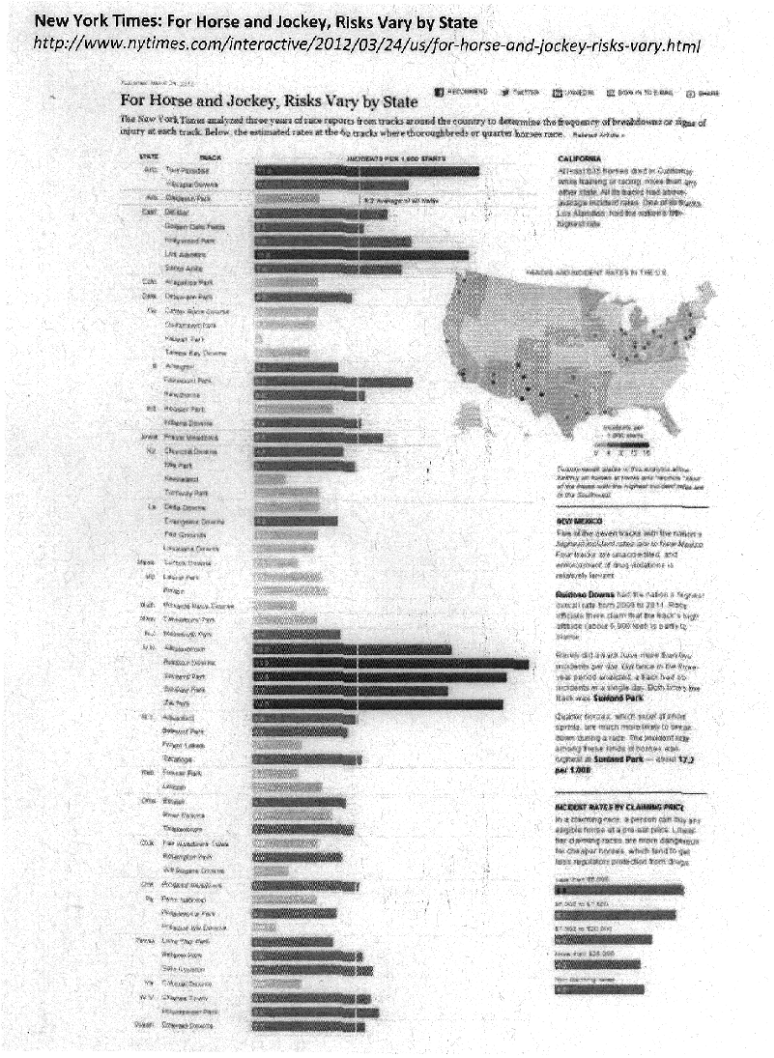
Last month, after the West Virginia attorney general's office persuaded state racing officials to hear the case, Mr. Iacovacci and Ms. Spanabel sold the horse back to Mr. Mack for $7,000. Ms. Spanabel said that she and Mr. Iacovacci never agreed to retire Star Plus, and that they decided to sell the horse back when it became clear he was not going to be allowed to compete.

Star Plus is now retired in Kentucky.

"These horses have fought so hard for us and given us so many great thrills and happiness," Mr. Mack said. "Don't they deserve to be cared for? Don't they deserve better than what we're giving them?"

Dara L. Miles contributed reporting.

A version of this article appeared in print on April 30, 2012, on page A1 of the New York edition with the headline: Big Purses, Sore Horses, and Death.



The New York Times—April 30, 2012

HOW THE DATA WAS ANALYZED

To assess how often horses break down or are injured, *The New York Times* bought official data covering more than 150,000 race results from 2009 through 2011. The data are compiled by trained "chart callers" and used to put together result charts that bettors use to evaluate horses. *The Times* searched the data for terms indicating that a horse encountered a physical problem: broke down, vanned off, injured, lame, euthanized, died, collapsed, bleeding or went wrong.

Although the chart callers can be stylistically different, they are taught to use standard industry terms and their descriptions constitute the official record. *The Times* approached the analysis conservatively, ignoring a number of terms—taken up, pulled up and eased, for example—that are often indicative of injury, but also

can indicate that a jockey has stopped urging a horse on because it has fallen far behind.

Track officials say horses may be "vanned off," or removed by an ambulance, as a precaution and are not always injured. But ambulances remove a horse only if track veterinarians or other experts see something in an animal's performance indicating a physical problem or injury. Some injured horses return to racing with the help of drugs.

A version of this article appeared in print on April 30, 2012, on page A12 of the New York edition with the headline: How the Data Was Analyzed.

The New York Times—July 11, 2012

RECORDS SHOW TRIPLE CROWN CONTENDER HAD HISTORY OF AILMENTS

By Joe Drape and Walt Bogdanich

I'll Have Another, the horse attempting to become the first Triple Crown winner in 34 years, had physical ailments well before he was withdrawn from the June 9 Belmont Stakes on the eve of the race, and he was being treated with painkillers and anti-inflammatory drugs even as anticipation built for his bid at racing history.

According to veterinary records obtained from New York State racing authorities, I'll Have Another's front ankles and knees were X-rayed only 4 days after his triumph May 19 in the Preakness Stakes, the second leg of the Triple Crown. Those X-rays revealed that he had osteoarthritis.

Then, only 2 days before the Belmont, which I'll Have Another needed to win to complete his Triple Crown quest, the colt was injected with two powerful painkillers as well as a synthetic joint fluid, the records show.

The next morning, the colt's trainer, Doug O'Neill, abruptly announced that I'll Have Another would be retired because of a "freakish" injury involving his left front tendon.

But the veterinarian records show that the colt's ailments had been developing for some time, a fact underscored by a veterinarian, Dr. James Hunt, who did the X-rays after the Preakness and then performed an ultrasound examination on the colt the day before the Belmont.

It was after the ultrasound that Hunt concluded that I'll Have Another had "chronic/active tendinitis." He was immediately scratched from the race, the records show.

The records do not show whether I'll Have Another was ailing during either the Kentucky Derby or the Preakness, and whether he was being given various painkillers as he prepared for those two races.

However, Dr. George Maylin, a veterinarian and longtime head of New York State's testing laboratory for racehorses, said it was clear that "osteoarthritis has been with this horse for a period of time," adding that "the tendon problem has also been existent for some period of time."

Maylin was one of four veterinarians who did not treat I'll Have Another but reviewed the records on behalf of *The New York Times*.

Maylin said he could not determine from the records just how serious I'll Have Another's problems were. "There is something there," he said. "Otherwise, they wouldn't be treating it."

New York authorities had access to the records only because they insisted that O'Neill, who has had repeated drug violations, provide them if they were going to license him in New York for the race.

The use of pain medication and anti-inflammatory drugs is neither illegal nor uncommon in racing. But the fact that drugs were being used on I'll Have Another in the days before a race of immense national interest, and were being ordered by a trainer with a controversial past, underscores the uneasiness the issue of drugs is creating in American racing.

Racing authorities are concerned that painkillers are being increasingly employed by trainers to keep unsound horses racing in pursuit of larger purses.

Those officials are also aware that American racing continues to be among the world's leaders in the catastrophic breakdown of horses, a fact that will undoubtedly be noted when the U.S. Senate Committee on Commerce, Science and Transportation holds testimony Thursday on the use of legal and illegal medications in racing and the damage those drugs can do.

Twenty-four horses a week die at the Nation's racetracks, according to an analysis by The Times, and they break down or show signs of injury at the rate of 5.1 per

1,000 starts. This past winter, 30 horses died at Aqueduct racetrack in New York, a 100 percent increase in the fatality rate over the same period the previous year.

Many of the horses had been injected repeatedly with pain medication in the days and weeks before their breakdowns, according to a review of veterinary records by The Times.

O'Neill maintained Tuesday that I'll Have Another was healthy and sound right up until the eve of the Belmont and that the diagnostic work he had Hunt perform in the weeks before the race and the medications being given to the colt were simply to ensure that I'll Have Another was in peak shape.

"Your nerves are tested when you're a trainer because the horses are in your care," said O'Neill, who prepared I'll Have Another for the Belmont with daily gallops in New York. "I X-ray them routinely. We were coming up to the biggest race of his life, and I wanted to make sure that he was perfect."

He said he was unaware that Hunt had diagnosed osteoarthritis in the days after the Preakness.

"He was sound," O'Neill said of I'll Have Another. "He had legs of iron or wouldn't have been able to do what he did."

Hunt did not return phone calls seeking comment.

Dr. Sheila Lyons, a veterinarian who is testifying before the Senate panel Thursday and has examined many top-quality racehorses, said that osteoarthritis was not something a doctor expects to find in a relatively young horse like I'll Have Another.

Lyons said the seriousness of the colt's condition was evident in what occurred in the 2-days leading to the Belmont. First, she noted, I'll Have Another received the two large doses of anti-inflammatories and a synthetic joint fluid. Then, the next day, O'Neill, in announcing the horse was being scratched, said I'll Have Another showed signs of heat and swelling after an early morning gallop.

"The fact that response was able to present itself in the face of those two powerful anti-inflammatories is just evidence that this was a very significant injury," said Lyons, the founder and director of the American College of Veterinary Sports Medicine and Rehabilitation.

The veterinarian records for I'll Have Another provide a glimpse into the care and treatment of a top-level horse. The colt captured five of his seven races, including the Derby and the Preakness, before he was retired. I'll Have Another was subsequently sold as a stallion for $10 million to a Japanese breeding farm by his owner, Paul Reddam.

Reddam said Tuesday that he did not believe I'll Have Another had any injuries before the Belmont and that he recommended to O'Neill that an ultrasound be performed on his colt. He said that he was not aware that I'll Have Another had been X-rayed after the Preakness but that he was not surprised that he had been, or that he had been given medications and painkillers.

"I know the horse was under vet care routinely," he said, "and there are things you do. Horses are like athletes and they have little aches and pains."

New York racing authorities forced O'Neill to document every form of treatment the horse received in the weeks leading to the Belmont because of his own résumé.

He has been cited for drug violations more than a dozen times in four states and in August will begin serving a 40-day suspension for manipulating the carbon dioxide levels of his horses, a performance-enhancing technique he has been found guilty of employing on four occasions.

John D. Sabini, the chairman of the New York State Racing and Wagering board, said that the conditions for licensing O'Neill in New York came in the wake of the California suspension and that his agency had been trying to instill some transparency with the Triple Crown on the line. The board also established a barn in which each horse entered in the Belmont Stakes was stabled and monitored by state authorities.

A version of this article appeared in print on July 11, 2012, on page A1 of the New York edition with the headline: Records Show Triple Crown Contender Had History of Ailments.

Miami New Times—Published: August 09, 2012

CHEATERS PROSPER AT CALDER RACE COURSE

By Michael E. Miller

One by one, horses strut into the stadium for the second race of the day. Each is a sleek machine shining under the sweltering midday sun. Their sinewy legs sway under muscular torsos rippling with veins like river deltas. Portly Jamaicans and

aging sailors with faded forearm tattoos stand in a semicircle, scrutinizing the contestants.

The bookmaker's favorite is On Appeal, a powerful animal that has won two races at Calder Casino & Race Course in the past month. His advantage is obvious: He's 100 pounds heavier and a hand taller than the smallest horse, a light-brown gelding called Sole Runner. The runt is a 16–1 underdog, for good reason. He has yet to win this year in six attempts.

The seven thoroughbreds line up on the far side of the gray dirt track in the shadow of Florida's Turnpike. An electronic bugle signals they are ready. With a crash of collapsing metal doors, the horses are off. In an instant, they are a blur of black and brown, moving almost as fast as the cars on the expressway above.

As the horses reach the end of the back stretch, On Appeal is predictably at the head of the pack. Amazingly, though, Sole Runner is right next to him, having the race of his life. As they round the bend, Sole Runner edges ahead, running as if possessed. On Appeal drops back, and suddenly Sole Runner is true to his name.

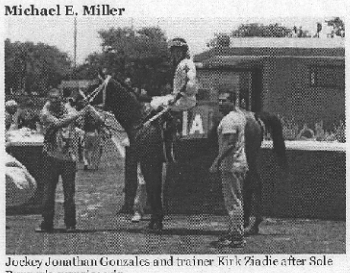
"Sole Runner has run them right off their heels so far!" announcer Bobby Neuman shouts. The beasts burst down the home stretch. "Nobody's gaining ground on Sole Runner!" Neuman says in disbelief as the horse cruises to a five-length victory.

Jockey Jonathan Gonzales guides the champion to the winner's circle. The animal, whose head is covered by a white hood with blinders, is a quivering mass of muscle. Cameras click as Gonzales poses atop his mount.

Michael E. Miller

Sole Runner races to victory on June 28.

Michael E. Miller



Jockey Jonathan Gonzales and trainer Kirk Ziadie after Sole Runner's surprise win.

Michael E. Miller

Mark Cantrell received 13 months in federal prison after telling prosecutors about his involvement in a $5 million fraud operation at Calder.

Subject(s):

Calder Race Course, Miami Gardens

"Returning to the winner's circle . . . Sole Runner," Neuman says. "He's owned by Frank Calabrese and trained by Kirk Ziadie."

"Kirk Ziadie?!" exclaims a wiry old Jamaican in an oversize shirt, belatedly recognizing the muscular man in ripped jeans who has entered the circle to hold the reins. "Aw, man. If I had known, I would have bet on him. He's a helluva trainer. He was trainer of the year a couple years ago.

"Then they suspended him," he adds in a whisper. "Something about using drugs on the horses."

In fact, this time last year Ziadie couldn't set foot inside Calder. That's because from 2004 to 2009, the trainer was cited 38 times by state regulators for pumping his horses full of banned steroids, tranquilizers, and painkillers—by far one of the worst records in the state. Many of those violations were at Calder. Yet Ziadie continued racing until one of his own employees blew the whistle. Now, after a short ban, he's back to winning. Fellow trainers are furious.

At tracks across the nation, a dark cloud of doping accusations hangs over the sport. Top trainers are routinely suspended for injecting animals with strange cocktails, including cobra venom and frog poison. The drugs mask the animals' injuries, which cause horses to break down and die on live television. Not even prestigious races such as the Preakness Stakes and the Kentucky Derby are free of suspicion.

Calder shows exactly why. Records reveal dozens of cases of horse doping. Two ongoing lawsuits claim course officials conspired to steal horses, rig races, and ban anyone who raised objections. In May, three men connected to the track were sentenced to Federal prison for running a $5 million scheme out of Calder for more than a decade.

Calder officials deny there is any widespread problem at the track, calling Ziadie's violations isolated and the fraud scheme a product of previous management.

"Calder is an industry leader for racetrack safety," says John Marshall, Calder's vice president of racing.

Yet a *New Times* investigation shows Calder officials knew for 5 years about Ziadie's record of positive drug tests but did nothing. Interviews with former Calder employees and horsemen also suggest the course cared more about keeping mum and making money than protecting horses and jockeys.

Larger blame also lies with the State of Florida, which has some of the laxest regulations in the country. With deliberately outdated testing techniques, fines that are a pittance compared to the prizes for winning dirty, and criminal charges completely unheard of, Florida practically encourages cheating at the track.

"Any time you're talking about a place with a lot of money, there is going to be fraud and rule-breaking," says Bob Jarvis, a law professor at Nova Southeastern University and an expert on gambling and sports. "The thing about racing is that the horse never testifies."

Long before Sole Runner's surprise victory, Kirk Ziadie was mysteriously turning mediocre horses into winners and making millions in the process. On one serene September afternoon in 2008, for instance, he entered a 4-year-old stallion named Cenzontle into a high-stakes Calder race.

Cenzontle started slowly. After a quarter-mile, the long-shot was laboring at the rear of the nine-horse herd. But as he rounded the bend, the stallion surged, blowing past two favorites and finishing a neck in front. Bettors quintupled their money. Ziadie and the horse's owner earned a cool $30,000 in just 88 seconds.

Long after the winnings were cashed, however, Cenzontle's stunning upset came under scrutiny. Blood and urine samples tested positive for high levels of clenbuterol, a drug that boosts a horse's breathing ability but also functions like a steroid to build muscle mass. It wasn't Ziadie's first drug infraction. In fact, at the time of Cenzontle's big win, Ziadie was appealing a 60-day drug-related suspension from the previous year.

Because of Cenzontle's failed tests, Ziadie was given a $500 fine and 15-day suspension, but he kept racing and breaking the rules. It was a pattern that would repeat itself again and again in his controversial career. In less than a decade, Ziadie built an incredible record, winning an astounding 551 races worth nearly $11 million, all while breaking doping rules 41 times. Yet Ziadie has served only brief suspensions and been fined a total of just $13,100.

"A trainer with 41 drug violations should be kicked out of the sport," says Dr. Sheila Lyons, one of the Nation's leading horse veterinarians. "We are putting both the horses' and the riders' lives at risk by allowing these drugs."

Ziadie is a racing thoroughbred in his own right. He was born in Jamaica in 1968 to a long line of Lebanese horsemen; his father, Ralph, conditioned the Jamaica Derby winner in 1970 before moving the family to Miramar in 1977. Ralph sold cars for 5 years in South Florida before the bugle beckoned him to a recently built racetrack in Miami Gardens.

Calder was a gambler's dream. After opening in 1971, the mile-long track earned a reputation as a no-nonsense alternative to the grander Gulfstream Park in Hallandale Beach. Calder was open for 8 months a year, compared to Gulfstream's five, and soon became a proving ground for young horses on their way to bigger tests such as the Kentucky Derby. In 1999, Churchill Downs, the company that hosts the Derby and owns many of the Nation's top racetracks, bought Calder for $87 million. Calder's annual Summit of Speed soon became one of the state's biggest affairs; in 2004, nearly $11 million was wagered during the 1-day event.

Once Ralph found a spot at Calder, it didn't take him long to dominate. He won three straight training titles beginning in 1990. By 2001, he was in the Calder Race Course Hall of Fame.

Kirk was his sidekick. He's handsome, with dark features and deeply tanned skin from working outside with his father's horses. But the two had a falling-out on August 17, 1996, when they got into a screaming match at the track. The younger Ziadie began punching his father in the head, according to a police report. The case was dropped, but a judge ordered Kirk to stay away from his old man.

By 2002, Kirk Ziadie had made his own name. He won four races his first year, 14 the next, and then 41. By 2006, he was statistically among the best trainers in Florida, guiding horses to nearly $2 million in prizes (purses are usually shared between a horse's owner and trainer). During the 2006–7 season at Calder, Ziadie won 53 percent of his races on his way to being crowned trainer of the year. His win rate was incredible—in both senses of the word.

"All things being equal, you would expect a trainer to win 12.5 percent of the time in an eight-horse race," says journalist Ray Paulick, who covers the industry. "There are some very good trainers that win 25 percent of the time. Then there are some that win more than that, and that raises red flags."

In fact, there were signs of systematic rule-breaking. Like other states, Florida permits trace amounts of medications in a horse's system. Ziadie's thoroughbreds, though, began routinely exceeding those limits in 2004. That year, three of his animals tested positive for drugs: twice after winning and once after finishing second. Despite netting $27,130 from the three suspect results, Ziadie was fined only $1,100 and suspended for 15 days.

A pattern quickly emerged. In 2005, two more of Ziadie's horses won, only to fail post-race tests. The trainer was fined just $550 and allowed to keep more than $20,000 in purse money. Then, in 2006, seven of his horses flunked tests, most of them for high levels of a powerful anti-inflammatory called phenylbutazone, commonly known as "bute." One horse, a filly named Rgirldoesn'tbluff, won a race worth $24,000 before testing positive for excessive bute. Ziadie was fined $1,000.

"Just about every trainer has made an honest mistake with therapeutic medications," Paulick says. "But it just struck me as amazing for a horse trainer to have so many medication violations in such a short period of time."

When Ziadie's horse Not Acclaim won a race on April 19, 2007, but then tested positive for a tranquilizer, it seemed as if the state's Division of Pari-Mutuel Wagering would finally make an example of him. The agency fined him $1,000—still only a fraction of the winnings—but suspended him for 2 months.

Ziadie appealed, though, and won a Tallahassee court injunction. His punishment wouldn't be confirmed for another couple of years, even after he admitted to giving the tranquilizer to his horses. Ziadie pleaded for leniency, arguing that his finances were "in chaos" but that he wasn't deliberately cheating.

As his case dragged over 2 years, more than a dozen Ziadie thoroughbreds failed drug tests. Cenzontle failed twice. Yet when Ziadie's luck finally did end, it was no thanks to state regulators.

In July 2009, the Division of Pari-Mutuel Wagering received three anonymous complaints. "He . . . come[s] late at nights when no one is there to give his 'vitamins,'" began a letter from someone who said he worked for the trainer. "He carries a black briefcase and sometimes he takes the needles out of it to inject the horses."

The letter continued, "If you get someone to search the car or truck, you will find the drugs there. . . That is the real stuff that he gives the horses to make them run faster or hide their pain so they could run on race days."

Another letter claimed, "I have known this young man since his teenage years and ever since then, he was filled with greed to win races." A third accused Ziadie of avoiding suspensions by racing his horses under other trainers' names.

One of Ziadie's employees began cooperating with Calder. The unnamed assistant gave the track's security manager, Steve Diamond, hypodermic syringes full of drugs that he claimed Ziadie had told him to inject into various horses shortly before their races.

"I hope I am not placed in danger and that my name is not revealed," the informant wrote, adding that Ziadie often killed barn pigeons with a shotgun. "[If] he finds

out . . . he is crazy and capable of killing me or paying someone else to do it for him."

On August 20, 2009—five years after Calder was first informed of the trainer's drug violations—Ziadie was finally banned from the track. Calder officials gave him 72 hours to remove his 50 horses.

Incredibly, state regulators closed their case against Ziadie a few months later when the informant abruptly disappeared. Even more outrageous: Despite 38 drug violations in less than 5 years, Ziadie never returned a cent of the more than $10 million his horses won. State law allows the Department of Business and Professional Regulation to reclaim winnings after tainted races, but the agency simply never asked. Instead, it fined Ziadie a total of $13,100—less than the prize for a single race.

He was also banned from other tracks in Florida, including Gulfstream and Tampa Bay Downs. But other states weren't aware of Ziadie's record. It wasn't long before Laurel Park in Maryland gave him ten stalls. And Chicago horse owner Frank Calabrese hired him to train his thoroughbreds. Soon, Ziadie was back in Florida. Gulfstream agreed to give him a stall in February 2011. Then, last October, Calder granted the disgraced trainer five stalls and permission to race.

Calder officials defend their handling of Ziadie's violations. Marshall says the track took action to ban Ziadie before the state's 2-month suspension, and denied numerous reinstatement requests from the trainer until they were satisfied he'd reformed.

"It's important to understand that legal medications are a part of racing," Marshall says. "Most of those violations on Kirk's record weren't for illegal drugs; they were for legal medications that exceeded state limits."

Ziadie is now back to his winning ways. Last fall he won 33 percent of his races, fifth-best among trainers who raced at least ten horses. So far this year, he has won 23 of his 68 races (34 percent), putting him on track to finish as one of Calder's top trainers.

His other habits have resurfaced too. His horses have already tested positive for high bute levels three times this year, including twice at Calder. Because state regulators recently lowered the allowed limit, however, they gave him a free pass. Other trainers at Calder are furious that the race course has allowed Ziadie to return. "After all those positives?" said one, who asked to remain anonymous. "It's unbelievable."

In an interview with *New Times,* Ziadie gives contradictory statements. He claims his 2-year ban was due to financial problems after several horse owners stopped paying him. Confronted with records showing the ban was actually due to drug infractions, he admits to having "some positives." But he describes the drugs as "low-grade medications similar to aspirin for humans."

Ziadie says he's a winner because he treats his horses better—not worse—than other trainers. "I love my horses. My horses run because they are happy. They are treated like King James in my stalls," he says. "They've got no proof of me doing anything wrong. They've never found a needle on me."

Presented with specific evidence of doping—including the drug-filled syringes his employee handed over to Calder—Ziadie admits to making "mistakes."

"How many horses have I trained?" he says. "Over a thousand. So to me, [41 positives] is nothing. That's just carelessness."

Then Ziadie becomes defiant, calling the employee who ratted on him a "faggot."

"I didn't want no faggots working for me, so I fired him."

And he blames his bad reputation on the "enemies" he's made by winning at the track.

"Look at Michael Jordan or Kobe Bryant," he says. "Any time you do anything in life and you are successful, they are always going to try to bring you down."

Mark Cantrell had just finished climbing the Sydney Harbour Bridge when he saw the message blinking on his phone. With long, stringy hair and a supersize upper body, Cantrell resembled a professional wrestler past his peak. He was on vacation with his fiancée in Australia, but suddenly he became very worried. The message was from Steve Cross, Calder's track superintendent. Cantrell excused himself and called Cross. Over the whipping South Pacific winds, he could just make out Cross's message: The jig was up.

"Churchill Downs has lawyers all over this place," Cantrell remembers Cross telling him in March 2008. "They are on to us."

For 10 years, Cross, Cantrell, and a man named Israel Campos had run a massive fraud operation out of Calder. As the person in charge of maintaining the grass and track, Cross ordered nearly $4 million of chemicals from Cantrell and Campos (plus almost another million from unidentified plumbing, welding, and painting contrac-

tors). But the goods were never delivered, and Cross received roughly $2 million in kickbacks from the phony vendors.

The trio was finally charged this year. On the surface, it seems like an open-and-shut case of employees ripping off their clueless bosses. But there is more to the story, Cantrell claims. He says Cross could never have ordered $5 million of fake goods without his supervisors noticing.

Current Calder officials acknowledge the track had management problems that contributed to the scheme but say they've solved the problems with new leadership. "I didn't have the pleasure of knowing Steve Cross, but our company has identified the improprieties under his watch through a thorough audit process," Marshall says.

When Cross first met Cantrell in 1999, he was convinced the guy was a cop. But Cantrell was in trouble. He and his dad owed thousands after a failed exterminator business. Cantrell had two kids, and his wife was pregnant with twins.

A friend had told Cantrell about the operation Cross and Campos had started the year before at Calder. It was as easy as filling out fake receipts and then cashing the checks, the friend said. Cantrell showed up at Cross's trailer on the backside of Calder. Eventually convinced that the cash-strapped mess wasn't a cop, Cross cut Cantrell in on the scam.

Every week for the next decade, Cantrell stopped by Cross's trailer and exchanged a phony receipt for a real check, issued by the Calder accounting department. Then Cantrell would pass Cross an envelope with his half of the fraudulent funds, usually $3,000 to $5,000. Campos did the same. The simple deception earned them each roughly $150,000 a year, while Cross made twice that much.

Flush with cash, Cross began driving a Corvette and taking gambling trips to Las Vegas and Atlantic City. Cantrell, meanwhile, went downhill after his divorce. He wallowed in drugs and prostitutes for a couple of years, he admits.

There was too much missing money to hide forever, though. Campos had Cross issue the checks to one of his employees, but cashed them himself. When the woman received a W–2 listing income of more than $300,000, she freaked out and went to the IRS. By March 2008, Calder was swarming with Churchill Downs attorneys. That's when Cross called Cantrell in Australia and told him to keep quiet.

But when Cantrell returned to Florida, there was a subpoena waiting for him. He promptly spilled his guts to Calder's lawyers about the $4 million scheme in return for immunity from a lawsuit.

"You can call me a fucking rat. I don't care," he says. "In the end, it's your own skin that you're worried about."

Calder fired Cross and then sued him. The case remains open.

Cantrell's deal with Calder didn't protect him from Federal investigators. He and his co-conspirators were indicted this past February. Again, he cooperated in hopes of reducing his sentence. It worked. On May 22, he got 13 months in prison. Campos received 33 months, and Cross nabbed nearly 5 years. In court, prosecutors admitted that Cantrell had made their case.

Standing beneath the hulking stone awning of the Federal courthouse in downtown Miami, Cantrell seems at peace. After a decade of thrills financed by fraud, he no longer looks much like a cop. His long hair is greasy and streaked with bleach like a surf bum's. His face is half-frozen by all the Xanax and codeine syrup he's been taking to avoid violating his parole. And he's wearing a blue Smurf T-shirt that reads, "Call Me Big Papa."

Yesterday was Independence Day; today he's turning himself in. "I never lied to anybody," he says in the shadow of the Federal prison where he'll be locked up for the next year. "As soon as I got caught, I turned myself in and told them everything."

Two things still bother Cantrell, though. First, he'll miss a year of his kids' lives. But he's also pissed that it's business as usual at Calder. The race course recouped most of the stolen money thanks to its employee theft insurance. Cross was the only Calder employee charged in the scheme; he told prosecutors that his bosses played no part in it. Cantrell claims Cross was simply covering for his higherups.

He walks into the tomb-like building and hands his parole card to a U.S. Marshal. "It's time to pay the pied piper," he says, but not before one last warning: "Calder is one of the dirtiest racetracks around. There are a lot of secrets still buried there."

That claim is backed up by an unlikely source: Steve Cross. A few weeks before beginning his own prison sentence, Cross gruffly answered one question before hanging up on *New Times*. "What really goes on behind the scenes at Calder?" he asked, repeating a reporter's question. "Everything."

At Calder, crime goes well beyond fraud cases and drug violations for trainers like Kirk Ziadie. Records show cops responded to the track and its attached casino nearly 500 times in the past 5 years. More than 600 pages of state and city records suggest that guns, drugs, and counterfeit cash are common at the track.

These crimes bolster claims contained in two lawsuits pending against Calder in South Florida courts that claim Calder officials ignored rampant wrongdoing at the racetrack and banned horse trainers who complained. The suits allege:

- the track banned a horse owner named Dennis Fisher after he complained about race fixing and drug abuse at the track;
- track officials helped a horse owner claim animals belonging to trainer Rene Wagner after she ratted on abuses, including the use of electric "buzzers" to spur horses during races;
- and a breeder named Gina Silvestri lost horses after a track secretary illegally transferred their ownership.

Calder officials declined to comment specifically about any of those cases because both remain open. Fisher says the cases, taken together, demonstrate that track leaders try to throw whistleblowers out rather than take allegations seriously.

"Calder higherups believe that they are holier than thou, but I caught them breaking every rule in the book," he says.

Fisher, a bear of a man with a belly that barely fits under his shirt, was a successful horse owner and trainer for two decades in his native South Africa, he says, before he was forced to leave after speaking out about corruption and racism in that nation's racing industry.

After moving to Miami and setting up his operation in 1997, Fisher won 14 races worth $116,000 around the country over the next 13 years. But he never won at Calder, which he found suspicious.

Fisher says Calder officials constantly tried to influence races. Some, like former racing secretary Bob Umphrey, secretly owned horses and wanted them to win, Fisher claims in court records. (Speaking on the condition of anonymity, a former Calder official told *New Times* that Umphrey indeed owned horses and bet on races—in violation of track rules. Umphrey died in 2005. Marshall says that to his knowledge, no course official has ever improperly influenced a race.)

Fisher insists the formula was simple. With its private security force, Calder could rule off or ban anyone at any moment. Meanwhile, drug use was rampant among jockeys and employees on the backside. But officials looked the other way if employees followed orders, he says. Other track insiders echo that accusation.

"For big races with lots of money in them, the officials actually set up the race ahead of time," claims Gabriel Myatt, a former jockey and security guard at Calder. "They pick the horses, then they set up the odds and tell the jockeys: 'You are fourth, you are fifth,' and so on. If you're a jockey and you listen, you might make some extra money. If you don't listen to them, you don't get paid and you get blackballed."

Marshall says he's never heard an official complaint from Myatt, who worked at the track from April 2006 to May 2007. "We take these kinds of allegations very, very seriously," he says.

Fisher also claims that his complaints led to mysterious retaliation. In 2005, his horses at Calder began to go crazy. After finding them banging their heads against the wall or scratching their hooves raw, he suspected they were being drugged. He once found filly urine spread in his barn to make his male horses go wild, he says. Another time, he arrived early in the morning to find Majestic JCE—one of his most prized horses—with fractured legs after escaping from his stall the night before. He had to put the stallion down.

In December 2005, Fisher went to the FBI. He told agent Cynthia Levinson that Calder officials were fixing races, allowing drug use, and securing false social security numbers for undocumented immigrants to work at the track. (Miami-based FBI spokesman Mike Leverock declined to comment about Fisher's claims.)

Days later, Fisher met with Calder officials. He claims they demanded he drop his complaints. Fisher refused and was banned from the course. He sued several months later.

Calder conspired to defame Fisher because of his knowledge of foul play, corruption, and race fixing, he claimed in his suit. Track officials then "banished" him as "retaliation for speaking out." The case remains open.

Marshall declined to talk about Fisher's accusations. "He hasn't presented these complaints directly to me or come to me with these allegations," he says.

Fisher's close friend Rene Wagner, another South African trainer, has also battled track officials. When Fisher was ruled off, Wagner trained both of their horses. Like Fisher, she soon began to suspect that jockeys, horse owners, and Calder officials were conspiring to rig races.

In a complaint to the Division of Pari-Mutuel Wagering filed in April 2010, Wagner accused horse owner Allen Bruce Gottlieb of instructing jockey Carlos Camilo

to zap horse Raisinaboveonly with a battery, or electric buzzer, hidden in his hand. The horse went wild and finished last. Wagner's complaint set off a bitter feud. Gottlieb sued her, calling Wagner and Fisher "scam artists." But Wagner won in court, claiming Gottlieb conspired with Calder officials to have her blacklisted. (Gottlieb declined to comment.) Wagner is now planning her own lawsuit against Calder.

The second suit comes from horse breeder Gina Silvestri. In 2006, she had more than a dozen stalls at Calder. When another owner died in November, she agreed to take on a horse named Greenwood Mystery. Silvestri's trouble began 6 months later, when someone else claimed ownership of the animal.

Sure enough, when Silvestri checked the horse's papers, she says she discovered the transfer had been signed in December—not by the dead owner, but by Calder racing secretary Michael Anifantis. When Silvestri and 15 witnesses turned up at a hearing to determine how a corpse could have given Silvestri a horse, the event was abruptly canceled. Steward Jeffrey Noe refused to take depositions. Three more hearings were scheduled and then canceled. In January 2008, Silvestri was banned from Calder for life. She sued the track in Broward County Court and sold all of her horses to pay nearly a half-million dollars in legal bills.

"Everybody is scared to death of Churchill Downs," she says. "But it's not fair that people are treated like this."

In court, the track's attorneys have sought to discredit Fisher, Wagner, and Silvestri. But some of the trio's allegations are supported by police reports and state regulators' investigations.

Fisher and Wagner's claim that Calder is awash in drugs is corroborated by repeated narcotics arrests at the racetrack. On July 12, 2009, for instance, a groom was arrested for selling cocaine and marijuana out of his room on the backside of Calder. Two months later, another horse handler was busted for selling and smoking crack. A year later, another dealer was caught with ten grams of pot and a digital scale. At least six arrests related to drugs have been made in the past 5 years.

Meanwhile, shady business abounds at the track. According to police reports, Calder employees accepted stolen checks and credit cards. One man lost $7,000 when his bank account was hacked by someone at the track.

There's at least one undeniable villain in the eyes of those who value clean contests at racetracks: the State of Florida. The Sunshine State not only has some of the most lax penalties in the nation, but state law also mandates testers to use outdated equipment that can't screen for a majority of modern cheating methods.

"Many drugs simply aren't detectable at all" in Florida, says Richard Sams, who used to run the University of Florida's Racing Laboratory, which tests all post-race samples in the state.

For horses and jockeys, the issue isn't just about fairness—it's life-or-death. Trainers who use powerful painkillers and stimulants to force horses to run through their injuries make accidents more likely. A recent investigation by the *New York Times* found that the rate of deadly breakdowns doubled when drug restrictions were loosened. Race horses die twice as often on the track in the United States as they do in England, where drugs aren't allowed.

"The only way to protect horses and jockeys is to get rid of the drugs," says Lyons, the equine-sports veterinarian. "The public is tired of seeing carnage on the racetrack."

There's a long history of politics undermining drug detection in Florida. Wayne Duer was in charge of drug-testing horses in the state from 1977 to 1986. In 1984, he and his fellow lab technicians discovered such rampant doping among quarter horses at Pompano Park that Florida banned quarter-horse racing for an entire year.

When racing restarted in 1986, Duer and his team resumed testing—at least until Bob Rosenberg, then the head of the Division of Pari-Mutuel Wagering, sent his staff into the laboratory. "They took our samples—which constituted evidence that doping was going on again—and sent them to a lab in Colorado that couldn't even test for the drug that was being used," Duer says. He was fired, and it was back to business as usual at tracks around the state.

"It was all covered up," Duer says.

Politics again stymied efforts to clean up the sport in the 1990s. After the testing lab at UF began using newer techniques, the number of violators skyrocketed, as did fines and suspensions. Owners, trainers, and track officials, in turn, lobbied legislators to change state law to mandate the older, outdated methods. "It wasn't a budget issue," Sams says. "It was motivated by a desire to avoid longer detection periods."

Sams left UF in 2010 for a state-of-the-art private lab in Kentucky. He doesn't miss working with limited funds and one hand tied behind his back. "They were crude and outdated methods," he says. "I wouldn't propose that anybody use them."

Florida combines lax testing with some of the Nation's weakest penalties. Consider: Of 15 recent violations in seven states for use of caffeine (which can boost horses' performance), 14 resulted in trainers being suspended or horses being disqualified. Not in Florida, however, where the trainer escaped with just a $250 fine.

State leaders seem disinclined to address the issue. Of more than a dozen pari-mutuel bills proposed by this year's Legislature, none suggested harsher penalties or increased testing standards.

On a Federal level, meanwhile, the *Times* investigation has spurred some action. Thirty-four years after Congress last regulated horse racing, New Mexico Sen. Tom Udall called a hearing last month to discuss the "alarming level of corruption and exploitation" in the sport. "Horse racing. . . has run off the rails," he said. "The chronic abuse of horses with painkillers and other drugs is just plain wrong."

Udall is proposing a stark reform: banning all drugs from horse racing, with no variations between state and Federal oversight. Any positive drug test would disqualify a horse and suspend its trainer. Three violations would ban a trainer for life.

Don't expect that kind of change to come easily. Among those testifying in Washington were Kent Stirling, executive director of the Florida Horsemen's Benevolent and Protective Association.

"The *New York Times'* assertions are badly flawed and seriously misleading," Stirling said before bizarrely claiming a drug ban would be dangerous. "The call for a medication ban is premised on misconceptions by industry participants who put their own agenda ahead of the welfare of horses and jockeys."

Marshall says Calder would consider supporting a Federal agency overseeing horse-racing standards. "If it would make racing a better sport, sure, we'd consider it," he says.

Ironically, the biggest threat to Calder might not be corruption, drug use, or regulation, experts say. Rather, as at tracks across Florida, slot machines are replacing the messier, more expensively maintained world of trainers, jockeys, and thoroughbreds. Like Gulfstream Park and Hialeah Park, Calder is now a "racino," having added slots and card tables in 2010. On some race days, a couple dozen old-timers watch a race from the grandstands. Meanwhile, inside Calder's new casino, thousands tempt their fate with the tap of a computer screen.

"Track owners don't want to have horse and dog racing," gambling expert Jarvis says. "It's very expensive. Profits are just not very good."

For now, Calder and other tracks can operate casinos only if they maintain their horse racing. Marshall says, "Horse racing remains at the center of everything we do."

But Calder and other racetracks' promise to Florida that winning purses would increase with the casino revenue hasn't happened, according to Jarvis. "That was the lie that was told," he says. "Their argument was that gambling meant bigger purses, better horses coming to Florida, more people at the tracks, and more people gambling. It was supposed to be good for the state and good for racing. But it was nonsense."

THE HUMANE SOCIETY OF THE UNITED STATES
Washington, DC, July 12, 2012

Hon. JOHN D. ROCKEFELLER IV,
Chairman,
Senate Commerce, Science, and Transportation Committee,
Washington, DC.

Dear Chairman Rockefeller:

The Humane Society of the United States, on behalf of our 11 million supporters nationwide, and the Humane Society Veterinary Medical Association, representing 4,500 veterinary professionals, commend you for holding today's hearing on Medication and Performance Enhancing Drugs in Horse Racing. We are pleased to jointly endorse S. 886/H.R. 1733, the Interstate Horseracing Improvement Act, that will bring much-needed improvements to the horse racing industry—prohibiting horses from racing under the influence of performance-enhancing drugs, requiring testing of racehorses by accredited labs, establishing accountability for host racing associations, and instituting progressively more stringent penalties for those for those who drug horses, culminating in a three-strikes-and-you're-out permanent ban on participation in interstate horse racing activity. Passage of this legislation is urgently

needed given the patchwork of conflicting state laws and the failure of industry to self-police in a meaningful way, which has led to rampant abuse that jeopardizes the health and safety of both horses and jockeys, creates an unfair playing field, and corrupts the integrity of the sport.

According to a 2012 investigative report series in the New York Times, *Death and Disarray at America's Racetracks,* racehorses are often "overmedicated and ultimately disposable athletes." The investigative journalists reviewed and analyzed thousands of race reports from tracks across the country, including injury reports and medical tests, and found "a culture of rampant cheating and feeble regulation, where injured and fragile horses are forced to run while drugged, to the great peril of both the animals and jockeys." According to the report, an average of 24 horses die while racing at U.S. tracks every week. This is absolutely unacceptable. Often drugged with painkillers and performance-enhancing substances, racehorses are pushed beyond their limits, leading to breakdowns that cause severe or fatal consequences for both horses and jockeys.

We support this vital legislation that will compel the U.S. horse racing industry to finally clean up its act, and urge Congress to swiftly enact it for the sake of racehorses, jockeys, and the industry overall in this country.

Sincerely,

WAYNE PACELLE,
President and CEO,
The Humane Society of the United States.

NICHOLAS DODMAN, BVMS, DVA, DACVA, DACVB
Leadership Council Member,
Humane Society Veterinary Medical Association.

BLADERUNNERS
Brooklyn, NY, July 12, 2012

Hon. JOHN D. ROCKEFELLER IV,
Chairman,
Senate Commerce, Science, and Transportation Committee,
Washington, DC.

Dear Chairman Rockefeller:

Unlike every other sport or racing jurisdiction in the world, horse racing in the United States does not have a centralized authority with any enforcement powers whatsoever on a national scale. There is no national racing commission similar to what the National Football League has for example. There is no one horse racing authority. Instead, there are 38 separate state racing jurisdictions in the United States, each with its own racing commission with its own set of rules and penalties, and each with varying degrees of funding and staffing resources. There is very little if any standardization on a national scale, and there are even situations where the rules within a state itself differs.

For example, in the state of New York standardbred horses are allowed to race with a nasal-strip, but thoroughbreds are not allowed to do so. Some states allow an adjunct anti-bleeding medication on race-days; other states do not allow its use.

Although the policing and enforcement of cheating with illegal substances is a continual process, the detection testing technology has improved to an amazing level of accuracy and can detect substances a million times weaker than what was detectable just a decade ago. But the actual testing procedures and protocols differ from state to state.

Can you imagine a situation whereby the Yankees are playing the Red Sox but they have completely different rules in each state? So it goes with horse racing in the United States. If a horse races in one state where a certain threshold level of a particular medication is allowed, that same horse could be penalized when it goes to another state that has a lower threshold for the same drug.

Regardless, the number of incidences of cheating with illegal controlled substances is a drop in the ocean compared to the massive overuse—to the point of abuse—of prescription and therapeutic medications perpetrated by many trainers and racehorse veterinarians every day at every racetrack in the United States.

Trainers today do not have the expertise or horsemanship to train without a medicine cabinet and likely have never ever seen it done by anyone else. This disgraceful situation has been part of the racing culture for so long that most stakeholders have lost all sense of what is considered right or wrong anymore.

California veterinarian Dr. Rick Arthur stated on a televised roundtable discussion that the United States racing community is using more drugs now than when he started practicing decades ago. He went on to say, "Lasix and Bute were once considered exotic drugs, now they are considered run of the mill drugs. It is rather astounding the amount of drugs that are given today." [1]

Lasix is the marketing name for furosemide which is an intense diuretic designed to relieve pressure on the horse's cardio-pulmonary system by reducing the swelling and fluid retention caused by various medical problems, including heart or liver disease. It is also used to treat high blood pressure. It causes the kidneys to get rid of unneeded water and salt from the body into the urine.[2]

Bute is the slang term for Butazolidin, the marketed name of Phenylbutazone, which was originally a treatment for rheumatoid arthritis and gout in humans; it is no longer allowed for any human use in the United States. It is an analgesic used to relieve pain in horses by controlling inflammation and fevers. Janet Del Castillo, a regarded trainer in Florida warns against training with Bute in lieu of rest and how its over-use leads to ulcers.[3]

Owners are not held to account for the egregious practices of their trainers. Trainers have told me about their dilemma when their owners expect them to use all available medications to get an edge over other horses. Veterinarians at Belmont Park have told me about scoping [4] horses, where they find a mere 5 percent to 10 percent on average showing any signs of bleeding—yet almost 99 percent of all racehorses are administered a drug, allegedly to lessen the chance of bleeding, on every race-day and often during training. It is extremely rare to see a horse on a race card that does not receive permitted race-day medications.

With the exceptions of Argentina and Canada, not another horse racing jurisdiction in the rest of the world allows this practice of race-day medication. And, Argentina has plans to phaseout the use of Lasix on race days.

The public bets money on these horses without having any real information about the horses' true soundness. The veterinary records are not openly available to the public, so the public has no idea to what extent the horse is receiving veterinary treatment.

Joe Drape of the NY Times once asked all of the owners of the Kentucky Derby horses if they would publicly disclose their veterinary records. Out of twenty owners, only three were willing to do so.[5]

At the 2008 Congressional hearing "Breeding, Drugs, and Breakdowns: The State of Thoroughbred Horseracing and the Welfare of the Thoroughbred Racehorse," one of the witnesses was Arthur Hancock, a fourth-generation breeder and owner who also garnered support for the currently proposed Interstate Horseracing Improvement Act. Mr. Hancock did not complain about cheating with illegal substances. He complained about the abuse of legally prescribed medications, and the accompanying excessive veterinary bills.

As stated in that hearing's transcript of the 2008 testimony: "Arthur Hancock said that after routinely receiving medication bills for more than $1,000 per horse," he told his vet to give his horses drugs only when they were sick.

"'You want to win races, don't you, Arthur?' Hancock said the vet replied."

Mr. Hancock also went on to call for a single central authority to manage horse racing on a national scale because he feels that horse racing is a ship drifting without a rudder and it is in danger of crashing into the rocks.

Amazingly, owners complained to me that their monthly veterinary bills exceed that of the monthly training bills, yet they don't seem to question the trainers. If on average a trainer charges $100 a day per horse, the veterinary bill can be upwards of $3,000 a month or $36,000 a year. That is for each horse. For top trainers, the veterinary bill per horse can exceed $50,000 annually. No athlete should require that level of medical expenses just to compete. The richer the owner, the more can be spent on drugs. For the smaller barns or owners with fewer horses, the playing field is not level.

---

[1] "Racing Roundtable—Medication in Horse Racing", by host Todd Schrupp, TVG (Horse Racing Television), February 4, 2012 *http://www.youtube.com/watch?v=EmzEtu2Yktc*.

[2] National Center for Biotechnology Information—U.S. National Library of Medicine, Bethesda MD, *http://www.ncbi.nlm.nih.gov/pubmedhealth/PMH0000791/*.

[3] "Backyard Racehorse", Prediction Publications & Productions, by Janet Del Castillo and Lois Schwartz.

[4] This is the racing industry term for tracheobronchoscopy, a procedure in which the veterinarian places an optical tube into the horse's nostril down to the trachea to determine if blood has seeped from the lungs to the trachea.

[5] "When It Comes to Drugs, Owners of Derby Horses Fall Silent", *New York Times,* by Joe Drape, April 30, 2009.

Veterinary prescriptions are not recorded by any system at any racetrack, or any state racing jurisdiction, or by any centralized national authority. But of course horse racing does not have a centralized national authority to effectively deal with these problems.

Along with the lack of prescription tracking or central oversight, veterinarians have an incentive to over-prescribe medications because they are paid by the pill, so to speak. Or, as the backstretch saying goes, "needle in money out".

Cot Campbell, managing partner of Dogwood Stables, who pioneered the modern racehorse partnership concept, once said that the difference between his younger trainers today and his older trainers is the size of the veterinary bills.

Most trainers today are too young to have ever worked in a culture of traditional horsemanship free of chemical crutches. There are only a few trainers still alive who won Triple Crowns, Triple Crown races and the greatest stakes races in the world without any legalized race-day medications before the days of Lasix and Bute. The famous and revered Hall of Fame trainer Elliot Burch said that what he was most proud of about his career was that he raced his horses with just hay, oats and water.[6]

This year, Mr. Drape brought national attention to the horrific spate of catastrophic breakdowns at Aqueduct racetrack during the 2011–2012-winter meet.[7] Not one prohibited substance was found in any of the dead horses.

Just last year, Allie Conrad (who is executive director of CANTER Mid Atlantic[8]) rescued a racehorse named "Hey Byrn" who had raced against "Big Brown," the winner of the 2008 Kentucky Derby and Preakness Stakes. Ms. Conrad had also testified at the 2008 hearing about the drug abuses in horse racing—like Mr. Hancock, she did not complain about illegal substance abuse. Hey Byrn was rescued after racing until his ankle literally began to fall apart from the excessive medication of his joints over time. Ms. Conrad intervened when a veterinarian attempted to inject Hey Bern yet again in an attempt to get one more race out of him.

Ms. Conrad said, "I find it almost poetic that Hey Byrn was participating in the same Triple Crown races that sparked the 2008 Congressional hearings to 'encourage' the Thoroughbred industry to protect its animals and protect the betting public by setting up a ***central governing body*** and cleaning up rampant drug use. You may remember Big Brown and trainer Rick Dutrow in the center of the anabolic steroid issue, and the public outcry that followed. Individual racing jurisdictions went on to ban anabolic steroids, ***but as I testified at that same hearing, did nothing to curb the use of the drugs that were actually causing all of the lasting issues.*** Here we are 3 years later, and I am still putting down horses with ravaged joints because nothing has been done."[9]

And these drugs are legally prescribed medications—not illegal controlled substances.

Recently, there has been much public debate about the prolific use of Lasix on race days. The debates have been intense, and characterized by animosity between those who support its use and those who oppose it.

To get a clear indication of just how distorted the horse racing drug culture is, look no further than the definition of performance enhancing medications referred in to the ARCI's "Uniform Classification Guidelines for Foreign Substances."[10] More than 900 drugs are specified by one of five classifications: from Class 1 (the highest performance enhancers, narcotics etc.) to Class 5 (therapeutics deemed not performance enhancing). The ARCI is the group of people who suggest racing rules to the separate state racing jurisdictions.

All of the drugs on the list have a specified classification except one: furosemide, which is marketed under the name Lasix.

So, incredibly, a collective of veterinarians, racing stewards, and state commissioners in horse racing cannot even bring themselves to decide what the classification of a particular medicine is relative to horse racing.

Alex Waldrop is President and CEO of the National Thoroughbred Racing Association, and he is a member of the Board of Trustees of the American Horse Council. Mr. Waldrop made an extraordinary comment at the June 2011 "International Race-

---

[6] "Run, Baby, Run: What Every Owner, Breeder & Handicapper Should Know about Lasix in Racehorses", The Russell Meerdink Company, Ltd. by Bill Heller, 2002.

[7] "Big Purses, Sore Horses, and Death", *New York Times,* by Joe Drape, Walt Bogdanich, Rebecca R. Ruiz and Griffin Palmer, April 30, 2012.

[8] CANTER Mid Atlantic is a free service offered to the Mid Atlantic racing trainers and owners to help them find non-race homes for their retiring racehorses.

[9] "The Life-Or-Death Difference Between 35 And 36 Starts", by Allie Conrad, June 11, 2011 *http://www.chronofhorse.com/article/life-or-death-difference-between-35-and-36-starts*.

[10] ARCI refers to Association of Racing Commissioners International, *http://arci.com/druglisting.pdf*.

day Medication Summit" at Belmont Racetrack. His statement exemplifies this bizarre Lasix situation. In his welcome speech at the seminar, Mr. Waldrop stated that because the use of Lasix was so difficult to police, the separate state racing commissioners decided that it was easier to just legalize its use in order to level the playing field.

Prior to the legalization of race-day Lasix, bettors had realized that something was suddenly going on. The bettors had to scramble to figure out who was "juicing" their horses with whatever it was. Mediocre barns and trainers would suddenly get hot over night and start winning races. Horses rarely in the money were winning by many lengths. Word got out that trainers were using Lasix. The cheaters were neutralized over night when all state racing commissions allowed everyone to use it. Ironically, the condition and soundness of racehorses in the United States has declined ever since.

The production and aggressive promotion of medications for human uses beyond that originally intended has led to numerous lawsuits and fines. The Associated Press recently reported that GlaxoSmithKline was fined three billion dollars for aggressive promotion to doctors for unapproved uses and inducing the doctors to praise those extra uses to their medical colleagues and patients.[11]

Pfizer Inc., the world's biggest drug maker, paid $2.3 billion in criminal and civil fines for improperly marketing 13 different drugs. Pfizer was also accused of encouraging doctors to prescribe its drugs with gifts such as free golf, massages, and junkets to posh resorts.

The concept is known as off-label marketing. This is a widespread practice in the pharmaceutical industry. The drug companies consider the fines as simply a cost of doing business. It is difficult to believe that these egregious practices are not occurring in horse racing. Pharmaceutical companies are omni-present in trade publications, at horse sports and events.

For a practical and ironic demonstration of the chemical culture of horse racing, consider who drives the current organization that purports to lobby Congress on behalf of horse racing: the American Horse Council that I mentioned above. The sponsor page on the American Horse Council's website prominently displays their top three 'Gold' sponsors with an advertisement for each:[12]

(1) **Luitpold Animal Health**™—They make Adequan for "multimillion-dollar thoroughbreds". "You've known and trusted the quality and reliability of Adequan®. (polysulfated glycosaminoglycan) for years. **Now we invite you to look at the joint disease educational program.**"

(2) **Pfizer Inc.**—"Pfizer Animal Health has **partnered with the American Horse Council. . . .** The ***American Horse Council's initiatives*** to lead and protect all horses through communication, education and legislation ***align*** **well with Pfizer** Animal Health's mission to protect the health and wellness of these animals."

(3) **Merck**—"Merck Animal Health offers veterinarians, farmers, pet owners and governments the widest range of veterinary pharmaceuticals, vaccines and health management solutions and services. Merck Animal Health is dedicated to preserving and improving the health, well-being and ***performance*** of animals."

It is often said that pharmaceuticals are prescribed and administered in safe doses to the horse but that is inconsistent with common practices. Today, trainers use numerous legally prescribed medications that are now combined into potent cocktails, a procedure called "stacking". Several medications are combined to circumvent medication restrictions and threshold levels on individual specific drugs. These combinations create a more powerful effect on the animal than would the use of any one of the medications alone. Horses are trained, as well as raced, under this form of medication regimen.

This form of abuse over the last several decades has led to a mass plague of gastrointestinal ulcers and alleged increased observations of bleeding from the lungs. The response to these maladies has been to simply manufacture new drugs that deal with conditions that may have been brought on by the original overuse of medications. So horses are injected with so many legal drugs that many are used to mitigate the side effects of each other.

---

[11] "Record settlement: GlaxoSmithKline to plead guilty, pay $3B for illicit promotion of drugs", by the Associated Press, July 2, 2012

[12] American Horse Council, Sponsor Page, *http://www.horsecouncil.org/american-horse-council-sponsors*.

Ironically, the number of starts per horse has decreased every year since the introduction and legalization of Lasix in horse racing: the field size of each race has gotten smaller over time; and yet the number of breakdowns has increased. Horses racing in the Untied States today have less stamina and have difficulty staying sound, and this condition exists within the context of a culture that uses more legally prescribed medications than at any previous time in horse racing history.

It is all too easy to give in to temptation and get carried away by the sensationalism of snake venom and frog secretions recreated synthetically. The good news is that the current system seems to be working in detecting and policing these rare illegal activities. But while criminal news distracts us, thousands of horses suffer physical deterioration and excruciating pain every day from the relatively boring day-to-day routine abuse of legally prescribed medications.

In summary, the horse racing industry and the state and Federal authorities attempting to regulate it are in denial about the reality, fact, and magnitude of the malpractice of veterinary care and the blind eyes that are turned away from it. Horse racing has no central authority or legislation empowering it to protect the lives of horses, the lives of the jockeys, or offer consumer protection to unsuspecting and inexperienced owners and the blind wagering public at large.

This sorry situation must change. Congress must act by legislating radical change. Legally requiring, mandating and empowering a national horse racing commission will go a long way toward saving this industry from itself.

Thank you,

SEAN KERR,
Interim Executive Director.

Bladerunners: National Horse Racing Commission Movement.

PREPARED STATEMENT OF NANCY PERRY, SENIOR VICE PRESIDENT, GOVERNMENT RELATIONS, ASPCA

On behalf of the American Society for the Prevention of Cruelty to Animals (ASPCA) and our 2.5 million supporters nationwide, thank you for the opportunity to submit this written statement. Founded in 1866, the ASPCA was the first humane organization in the United States. Our mission, as stated by founder Henry Bergh, is "to provide effective means for the prevention of cruelty to animals throughout the United States." The ASPCA works to rescue animals from abuse, pass humane laws, and share resources with other animal protection groups nationwide.

The ASPCA submits this statement in support of S. 886, the Interstate Horseracing Improvement Act. This legislation, introduced by Senator Tom Udall (D–NM), would improve the safety and integrity of the sport by requiring race tracks that provide simulcast or Internet wagering to ban performance-enhancing drugs. The bill would also implement a "three strikes" rule for violators and require racing associations to have policies in place that address doping.

The Doping Problem

Drugging of racehorses is an extremely significant problem. *The New York Times* published a shocking exposé into the widespread doping of racehorses, "*Death and Disarray at America's Racetracks*" (3/25/12), stating that "trainers experiment with anything that might give them an edge, including chemicals that bulk up pigs and cattle before slaughter, cobra venom, Viagra, blood doping agents, stimulants and cancer drugs." A more recent *New York Times* article, "*Horse Racing Discovers New Drug Problem, One Linked to Frogs*" (6/20/12), revealed that some trainers are even experimenting with liquids extracted from South American frogs to give their horses an unfair advantage while racing. Demorphin, the substance collected from these frogs, acts as a painkilling drug 40 times more powerful than morphine. A pain-masking drug of that strength would enable horses to run despite serious injuries.

Doping leads to catastrophic human and animal injuries and deaths. Though the horse racing industry has long promised to restrict the use of performance-enhancing drugs, such voluntary measures have been largely ignored. Lax or nonexistent oversight allows, and encourages, the use of any means possible—even cruel, life-threatening means—to win races. The worst offenders can easily circumvent the

---

* Bladerunners is an independent non-profit organization unaffiliated with any official horse racing entity in any national or international jurisdiction; nor are its members, officers or board members serving in any capacity within any official horse racing entity; Bladerunners is not funded by any other official horse racing entity. 501(c) status is pending.

current patchwork of state horse racing commission rules by relocating their operations.

Enforcement Patchwork

This year's Triple Crown brought light to the pervasiveness of doping in top-tier horse racing. Douglas O'Neill, trainer of this year's Derby and Preakness-winning horse, I'll Have Another, was put on suspension by the California Horse Racing Board due to accumulated horse doping violations. Last fall, Richard Dutrow Jr., the trainer of 2008 Kentucky Derby winner, Big Brown, was banned from racing in New York for 10 years. Dutrow has been sanctioned 70 times in nine different states for various rule violations, including numerous violations of drug rules.

Nevertheless, Dutrow had a horse running in the 2012 Preakness, one of the most prestigious horse races in the country. These trainers are not just bad apples. A review of Racing Commission International's database of drugging violations demonstrates that the whole barrel is rotten—only two of the top twenty trainers in the country are without drugging violations. Self-regulation by state horse racing commissions has failed to protect horses and jockeys from these abusive and deceptive drug-abuse schemes. The pervasive pattern of abuse underscores an absolute necessity for establishing national standards in horse racing and regulation of drug use. Until a Federal ban on the use of performance-enhancing drugs in racehorses is the law of the land, the lives of thousands more horses and jockeys will be at risk and horrific crashes and deaths will continue, day in and day out, at tracks nationwide.

Inevitable Abuse

When winning is the ultimate goal, any system that enables the use of shortcuts for enhanced competitiveness without repercussions can anticipate that the participants will indulge in those shortcuts. We are grateful for the trainers, veterinarians and owners who do not use doping to win, but know that they are struggling upstream and foregoing opportunity for financial gain and for glory. This fundamental unfairness drives out the honest brokers and hampers the sport of horse racing, making a farce of its winners. For the sake of the sport itself, creating a level playing field will enhance the competition and produce a much healthier atmosphere for all involved. The industry cannot be expected to make this needed change. History has demonstrated that commissions and state-by-state rules cannot overcome the pressure for purses.

It is time to bring an end to this rampant abuse. The ASPCA supports passage of the *Interstate Horseracing Improvement Act, S. 886,* to prohibit the use of performance-enhancing drugs in racehorses. This Federal ban is necessary to set welfare standards applicable nationwide, end the confusion of varying state rules, and create a "three strikes and you're out" penalty for strong enforcement. The ASPCA appreciates the Commerce, Science, and Transportation Committee holding a hearing on this important issue. We look forward to working with the Committee and the racing industry to bring this long overdue reform.

○