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NATIONAL HEADQUARTERS

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CONFIDENTIAL MEMORANDUM

Date: Friday, August 19, 2011
To: National HBPA Affiliates
From: Remi Bellocq, CEO, National HBPA
Members, National HBPA Medication Committee
Members, National HBPA Model Rules Working Group
RE: Spring – Summer Medication Report

Last March 28th the Association of Racing Commissioners International (RCI) issued a public call to eliminate the use of race-day medication – namely furosemide (i.e. Lasix) - within five years. Then, on April 18th, the National HBPA came out publicly in opposition to the RCI's position, calling for industry stakeholders to take a step back and look more closely at the science and data which have, over the years, made the case that Lasix is the best therapy available to combat Equine Induced Pulmonary Hemorrhage (EIPH)… a fact that no one disputes.

Following is a report on key industry meetings held during the past six months which have focused, in part or in whole, on race-day medication and related issues:

- June 13-14 - International Summit on Race-Day Medication
- July 20-24 - National HBPA Summer Convention
- July 26-27 - RCI Model Rules Committee and Board Meeting
- August 4 - RMTC Board Meeting
- August 14 – Jockey Club Round Table Conference

International Summit on Race-Day Medication; June 13-14
Held in New York June 13-14th this Summit was hosted by the Racing Medication and Testing Consortium (RMTC), the American Association of Equine Practitioners (AAEP) and the National Thoroughbred Racing Association (NTRA).

The National HBPA delegation included: Kent Stirling (Chair, NHBPA Medication Committee and NHBPA Representative on the RMTC Board); Dr. Tom Tobin (NHBPA Veterinary Advisor) and Frank Petramalo (Exec. Dir. VA HBPA and Attorney).

The RCI's March 28th release gave no concrete details about the strategy it proposed and was unclear as to whether the phase-out would apply only to race-day medication, or if it would also include therapeutic medication used for training. And as more and more industry groups began aligning themselves with the RCI, the anti-Lasix effort was beginning to look like a "done deal" to many. Due in part to National HBPA's public opposition and our call to slow down the process and look at the science, the RMTC, AAEP and NTRA wisely agreed to put this Summit together.

The stated purpose of the Summit was to bring to light different perspectives and data from national and international racing interests, and to chart a preliminary course for the "next step(s)". Consensus on a new policy or rule was not the stated goal of the Summit. A follow-up meeting of the RMTC Board was scheduled for August 4th to formalize short and long-term steps.

During the Summit, it was successfully argued that banning Lasix on race-day would simply force horsemen to utilize other therapies and techniques to mirror the diuretic effects of Lasix. Absent an effective diuretic like Lasix, many horsemen would, for example, resort to old methods of drawing-out horses such as the removal of a runner's water and feed eight or more hours before a race. While this would be allowable under the "no race-day medication" stance by many, it would hardly be in the best interests of the horse or rider.

It was further shown that far from being a "performance enhancing" medication, Lasix serves more as a "performance optimizer" (in the words of Dr. Scott Palmer of the AAEP). It was pointed out repeatedly that Lasix is simply a diuretic that by ridding the horse of excess internal water pressure, allows it to run up to its genetic potential and not over it.

What the Summit taught us is that because of modern and less expensive technology (i.e. endoscopic exams) and advanced training techniques, a growing number of horsemen increasingly use Lasix as a prophylactic (preventive) treatment. For example: Many horsemen will scope their horses more often to identify the possible onset of EIPH earlier - before it worsens and/or becomes chronic. Noted international trainers Graham Motion and Christophe Clement, for example, indicated that early detection and using small dosages of Lasix during training has helped them reverse and, in some cases, halt the occurrence or re-occurence of EIPH.

Based on the science and horsemen's anecdotal experiences presented at the Summit, participating groups drafted a preliminary plan:

1. Continue allowing race-day use of Lasix four (4) hours prior to race time;
2. Ban the use of any other adjunct bleeder medications;
3. Only allow the administration of Lasix by licensed state/regulatory veterinarians and not by private practitioners;
4. Banning race-day use of Lasix with two-year-olds by no later than 2013.

Parts 1 – 3 met with wide support among those gathered. Part 4 raised concerns but has since been unilaterally implemented by both TOBA and The Breeders' Cup.

National HBPA Summer Convention; July 20-24

On July 22nd at the NHBPA Summer Convention a speaker forum entitled "*The Scientific Case: Furosemide and the Prevention of Exercise Induced Pulmonary Hemorrhage"* was presented by the National HBPA Medication Committee. The forum focused on race-day medication and the scientific issues related to use of furosemide for preventing EIPH in racehorses.

The forum was moderated by Medication Committee Chair, Kent Stirling and included the following noted speakers:

- Dr. Paul S. Morley, DVM, PhD, Diplomate ACVIM, Professor of Epidemiology and Biosecurity, Clinical Science Department / Colorado State University
- Dr. Don Shields, DVM, Equine Practitioner in Southern California, Founder of Winner's Circle Ranch, an equine rehabilitation facility, Founder and CEO of Statison Medical
- Dr. Thomas Tobin, MVB, MRCVS, Professor, Dept of Veterinary Science, Gluck Equine Research Center and Graduate Center for Toxicology, University of Kentucky & National HBPA Veterinary Advisor

A strong case was made as to Lasix's value and the fact that, absent an effective non race-day alternative diuretic, both the health and safety of horse and rider could be threatened.

As a result, on July 24th the National HBPA Board of Directors voted unanimously on the following resolution:

NHBPA Lasix Policy Stemming from International Race-Day Medication Summit

WHEREAS, the National HBPA Board of Directors, having previously met on Friday, April 15, 2011 when it unanimously agreed that it could not support the Association of Racing Commissioners International ("RCI") March 28, 2011 five-year plan to eliminate the race-day use of medication – namely furosemide ("Lasix") - as it is currently written agrees that;

WHEREAS, based in part on National HBPA's objection, an International Summit on Race-Day Medication ("Summit") was sponsored by the RMTC, AAEP and NTRA in early May, 2011 to study the issue of race-day usage of Lasix;

WHEREAS, the National HBPA participated in the Summit which presented many viewpoints both for and against the use of race-day Lasix and is a member of two sub-committees formed to prepare a proposed policy on the race-day use of Lasix to be presented at the August 4, 2011 follow-up meeting of the RMTC;

NOW, THEREFORE, BE IT RESOLVED that the National HBPA Board of Directors supports a National race-day Lasix policy that has been discussed by one of the Summit sub-committees and that would allow the race-day use of Lasix in accordance with current practices as agreed to by horsemen, track operators and regulators, provided that:

1. *Lasix (furosemide) be the designated race-day medication approved for usage to prevent the occurrence of Exercise Induced Pulmonary Hemorrhage (EIPH);*
2. *Any use of adjunct bleeder medications be banned; and,*
3. *Race-day administration of Lasix be restricted to administration by regulatory veterinarians in the horse's stall.*

BE IT FURTHER RESOLVED, based on the 2011 National HBPA Summer Convention Medication Forum and, specifically, data related to the safety hazards to both horse and rider in cases of sudden extreme EIPH / Epixstasis in horses that have not received race-day administration of Lasix, the National HBPA Board of Directors also encourages the National HBPA staff, its Medication Committee Chair and its Veterinary Advisor to share these findings with the RCI so that the issue of horse and rider safety is properly considered in the context of race-day use of Lasix.

RCI Model Rules Committee and Board Meeting; July 26-27

The RCI held its Summer Board Meeting in Saratoga, NY and the National HBPA was represented by Deputy General Counsel Peter Ecabert and Ohio HBPA Executive Director Dave Basler (also a member of the NHBPA Model Rules Working Group).

On July 26th Dave Basler participated in the RCI Drug Testing Standards and Practices Committee (DTSP) to address, among other things, the Lasix issue. Dave highlighted the findings of the July 22nd forum and the National HBPA Board's resolution.

Also addressed at the DTSP committee meeting was an RCI call to toughen regulation of RCI Class 1 and 2 violations and violators. To that point, Dave was able to highlight the following resolution which was also endorsed by the National HBPA Board on July 24th:

ARCI Class 1 & 2 Penalty Initiative to be presented at RCI DTSP Committee Meeting on July 26, 2011

WHEREAS, since 2001 the National Horsemen's Benevolent & Protective Association (NHBPA) has published and endorsed a document entitled, Proposed National Policy on Drug Testing and Therapeutic Medication Regulation for Association of Racing Commissioners International (ARCI) class 1, 2, 3, 4, and 5 substances;

WHEREAS, this document expresses no tolerance for performance-altering substances that have no legitimate use in horses in training or racing and are not therapeutic medications or endogenous, dietary, or environmental substances;

WHEREAS, standardized testing across the nation is the only viable approach to testing for performance-altering substances as described in the NHBPA's Proposed National Policy on Drug Testing and Therapeutic Medication Regulation for Association of Racing Commissioners International (ARCI) class 1, 2, 3, 4, and 5 substances;

NOW, THEREFORE, BE IT RESOLVED That the National HBPA Board of Directors supports any industry and/or regulatory effort(s) whose goal is to put in place and/or enforce the strictest penalties for violations involving pharmacologically significant concentrations of ARCI Class 1 or 2 substances which have no approved or indicated use in the horse and are not detected due to environmental contamination, nor are therapeutic, endogenous or dietary substances, and are more particularly defined as follows:

> *Class 1 - Opiates, opium derivatives, synthetic opioids, psychoactive drugs, amphetamines and U.S. Drug Enforcement Agency (DEA) scheduled I and II drugs. Also found in this class are drugs which are potent stimulants of the nervous system. Drugs in this class have no generally accepted medical use in the racehorse and their pharmacological potential for altering the performance of a race is very high.*
>
> *Class 2 - Drugs in this category have a high potential for affecting the outcome of a race. Most are not generally accepted as therapeutic agents in the racehorse. Many are products intended to alter consciousness or the psychic state of humans, and have no approved or indicated use in the horse. Some, such as injectable local anesthetics, have legitimate use in equine medicine, but should not be found in a racehorse.*

Provided that:

1. *The strictest of penalty guidelines are reserved for violations involving ARCI Class 1 or 2 offenses;*

2. *The imposition of the most severe penalties for violation involving ARCI Class 1 or 2 offenses is proper and justified, absent extraordinary mitigating circumstances, provided no violation is due to environmental contamination, therapeutic, endogenous or dietary substance;*

3. *Penalties may be reduced when there are extraordinary mitigating circumstances. This may include but is not limited to when a person acted in good faith and played a minimal role in the matter, truthfully admitted the relevant facts, materially assisted in the successful prosecution of other offenders, voluntarily withdrew from the misconduct and tried to prevent it from occurring, and/or the amount of the substance involved was forensically insignificant.*

4. *Suspected violators are afforded their full due process rights in accordance with applicable legal requirements;*

5. *Testing facilities used in confirming an ARCI Class 1 or 2 violation are in compliance with ISO IEC 17025 accreditation and utilize uniform standards and procedures due to the severity of penalties capable of being imposed;*

6. *Penalties for a first-time offender of a proven ARCI Class 1 violation, with no evidence of environmental contamination, endogenous or dietary substance may be at maximum levels, and of a proven ARCI Class 2 violation, with no evidence of environmental contamination, therapeutic, endogenous or dietary substance, may likewise be at maximum levels;*

7. *Severe penalty guidelines should be extended to any licensed veterinary professional or owner whose actions are found to have aided or abetted any proven ARCI Class 1 or 2 violation;*

8. *No substance or agent should be added to the list of ARCI Class 1 or 2 of prohibited substances without scientific evidence that justifies such addition and with prior consultation with the veterinary / scientific community and industry stakeholders; and,*

9. *Substances with a specific therapeutic use should, however, be capable of administration to a horse in a time, place and manner specifically permitted in advance and in writing by a racing commission. The commission should grant this permission only for a recognized therapeutic use and place appropriate limitations on the return of the horse to racing.*

BE IT FURTHER RESOLVED, the National HBPA Board of Directors stands ready to work with the ARCI and state racing regulators to further develop and enforce where needed the strictest possible uniform penalty guidelines for violations involving ARCI Class 1 or 2 prohibited substances in accordance with the above-stated provisions.

On July 27th both Dave and Peter were present for the RCI Model Rules Committee meeting to discuss several agenda items, most notably a proposed new model rule on out-of-competition testing.

As a result of both the DTSP and Model Rules Committee meetings, the RCI Board took the following key actions:

1. Adoption of a proposal to modify penalties for minor overages of Phenyltuazone (Bute) with modification to change language of penalty from verbal warning to written warning. Also added the following substances as Class #1 substances with Class A penalties:
    a. Dermorphin – A South American Frog Toxin detected recently in Oklahoma;
    b. Methylenedioxypyrovalerone (MDPV) a/k/a “Bath Salts”;
    c. Synthetic Cannabis (also known as K-2) and;
    d. Any unidentified drug unless classified otherwise.

2. Recommendation to study the effects of the hyperbolic chamber on a horse's performance and to recommend a wait time between treatment and the ability of the horse to race without any performance enhancement issues.
3. Out-of-Competition Testing - This was tabled and after Model Rules Committee meeting. The National HBPA will continue to be an active member of the OCT rule drafting sub-committee and, it is expected, that this proposed rule will be brought back up at the RCI's Fall Meeting.
4. The Drug Testing Standards and Practices Committee Report - The RCI Board moved to go into Executive Session to discuss race-day administration of Lasix. They took no action during their Executive Session except to explain to their Full Board the information that had been conveyed during an earlier committee meeting.

Racing Medication and Testing Consortium Board Meeting; August 4th

The RMTC met in Cincinnati, Ohio on August 4th. Representing the National HBPA were Kent Stirling, Chair of the NHBPA Medication Committee and Dr. Tom Tobin, NHBPA Veterinary Advisor.

The RMTC Board addressed the issue of race-day medication and, specifically, the findings of the June Summit meeting.

As a result of the Summit work and due in part to the National HBPA's public position of support (see Lasix resolution, above), the RMTC Board voted to support the recommended requirement that Lasix only be administered on race-day by regulatory veterinarians. The board also voted its support for the elimination of adjunct bleeder medications as well as enhanced security measures and a more severe penalty structure for medication violations.

NTRA President Alex Waldrop presented the recommendations of an RMTC committee studying the administration of furosemide and adjunct bleeder medications. In response to his report, the RMTC board voted to approve the committee's recommendations and to develop a Model Rule. This Model Rule will be presented to the Association of Racing Commissioners International (RCI) for implementation.

Waldrop went on to say:
"This Model Rule is designed to cause the regulatory community to assume the responsibility for the race-day administration of furosemide," Waldrop said. "Administration of any other medications on race-day, including adjunct bleeder medications, shall be strictly prohibited. These steps will eliminate the need for private veterinary involvement on race-day."

RMTC Board members also voted to:

- Establish a June 1, 2012 deadline for racing commissions to revise the phenylbutazone threshold from 5 micrograms per milliliter to 2 micrograms per milliliter;
- Establish uniform penalty guidelines across racing jurisdictions;

- Change the current 365-day period for Category B prohibited drugs to "within two years in any jurisdiction" for a second violation and "within a five-year period in any jurisdiction" for a third violation;
- Develop a list of laboratory detection levels at which all positive tests in US racing will be called;
- Develop a list of approved therapeutic medications with appropriate corresponding withdrawal time guidelines;

The Jockey Club Round Table Conference (JCRTC); August 14th

The JCRTC was held in Saratoga, NY and was attended by National HBPA President and Chairman, Joe Santanna; 1st NHBPA Vice President & Virginia HBPA President Robin Richards and Virginia HBPA Executive Director Frank Petramalo, Esq.

During the JCRTC, it was announced that The Jockey Club Board of Stewards would commit funding to support many of the wide-ranging recommendations contained in a major industry study entitled, "Driving Sustainable Growth for Thoroughbred Racing and Breeding."

The study, commissioned by The Jockey Club and conducted in association with the management consulting firm McKinsey & Company, analyzed the current state and prospective future of Thoroughbred racing and breeding in North America.

The nine recommendations outlined in the study focus on:

- Increased television coverage;
- A free-to-play website;
- Fewer, better races and better scheduling to increase field size and showcase the best product;
- Creation of a social game;
- Innovative wagering platforms;
- Track-integrated ADW;
- Racing integrity reforms;
- Encouragement of ownership through greater transparency;
- Dissemination of best practices from tracks around the country.

While the second half of the two-hour conference focused on the industry study, the first half featured segments devoted to the Thoroughbred Safety Committee and the Equine Injury Database.

Stuart S. Janney III, chairman of the Thoroughbred Safety Committee, announced that The Jockey Club — with input from several other industry organizations — presented a comprehensive set of reformed racing medication rules designed to establish a new paradigm in U.S. pari-mutuel racing to protect the health and safety of equine athletes and enhance the integrity of the sport.

The 2011 Reformed Racing Medication Rules proposal would integrate rules drawn from numerous sources, including individual racing jurisdictions, the Association of Racing Commissioners International (RCI), the Racing Medication and Testing Consortium (RMTC) and the International Federation of Horseracing Authorities (IFHA).

The Reformed Racing Medication Rules were produced in collaboration with RMTC board members Dr. Rick Arthur, Alan Foreman, Ed Martin and Andrew Schweigardt as well as Dr. Rick Sams, Dr. Scott Stanley, Dr. Tom David and Dr. Mary Scollay.

The reformed medication rules include:

- A simplified two category drug classification system consisting of controlled therapeutic medications and prohibited substances,
- Regulatory limits and/or administration guidelines for all controlled therapeutic medications,
- A requirement that all drug-testing laboratories are accredited by the RMTC,
- Enhanced race-day security measures for in-today horses,
- Greater coordination and mutual enforcement of penalties among racing jurisdictions, and
- Stricter penalties for prohibited substances and repeat offenders.

Janney also announced two new recommendations from the Thoroughbred Safety Committee pertaining to medication rules and veterinarian compensation.

In regard to medication rules, the committee calls for:

- The immediate adoption by the RCI and United States racing authorities of the proposed Reformed Racing Medication Rules and new penalty structure.

- In regard to veterinarian compensation, the committee calls for:

    - Veterinary fee structures that properly recognize the value of examinations, diagnostics and professional services independent of the dispensing and administration of medications while maintaining fee neutrality. It further encourages close collaboration and consultation among the trainer, veterinarian and owner in the diagnosis and treatment of the Thoroughbred racehorse.

During a segment on the Equine Injury Database, Dr. Tim Parkin, an epidemiologist at the University of Glasgow and a consultant to the Equine Injury Database, identified risk factors associated with catastrophic lower limb fracture, based on analyses of more than 1.5 million starts in the database.

Thoroughbreds at the highest risk of catastrophic lower limb fracture were those that:

- Made their first start within the previous nine months, and raced more than 10 times within the last six months before a race, and had not started in a race within the last 15-to-30 days;
- Were colts or ridglings over the age of six that made their first career start at age six or older.

Parkin added that an extra year of race data will be available for analysis in November, which will enable identification of more subtle injury relationships.

NEXT STEPS

It is anticipated that during the October RCI Model Rules Committee, proposed model rules governing out-of-competition testing and the race-day use of Lasix will be acted upon. Any national model rule on the race-day use of Lasix will, we hope, be in-line with the RMTC and National HBPA recommendations described above. The RCI Board has traditionally endorsed RMTC recommendations and, thus, we fully expect that those recommendations will be adopted.

At issue in the near future will be the actions of both the TOBA Graded Stakes Committee and the Breeders' Cup to unilaterally ban the use of Lasix in two-year-old graded stakes beginning in 2012. National HBPA will continue to raise our concerns and bring to light any related science which is much needed in this sometimes emotional debate.

During the NHBPA Fall Meeting, October 17-19 in Lexington, the National HBPA Executive Committee will discuss any possible actions by the RCI during their Fall Meeting. Further analysis and/or actions will be addressed by the National HBPA Board during the National HBPA Winter Convention in January 2012.

As always, we're happy to address any questions or concerns you may have.