

**DEPARTMENT OF AGRICULTURE
THOROUGHBRED RACING COMMISSION**

Statutory Authority: Statutory Authority: 3 Delaware Code, Section 4815(b)(3)(c)(3)
(3 Del.C. §4815(b)(3)(c)(3))
3 DE Admin. Code 1002

FINAL

PUBLIC NOTICE

Pursuant to 3 Del.C. §4815(b)(3)c. and 3 Del.C. §10103(c), the Delaware Jockey's Health & Welfare Benefit Board issues this Order adopting proposed amendments to the Board's Rules. These rule changes were proposed to amend retired member eligibility and defined for permanently disabled members. The rule changes amend Rules 2.1.2.2 and 2.1.3.1 by removing the existing language and replacing it with new language. Following notice and a public hearing on June 21, 2011, the Board makes the following findings and conclusions:

Summary of the Evidence

1. The Board posted public notice of the proposed amendments in the June 1, 2011 *Register of Regulations* and for two consecutive weeks in *The News Journal* and *Delaware State News*.
2. These rule changes are proposed to amend retired member eligibility and eligibility defined for permanently disabled members. The rule changes amend Rules 2.1.2.2 and 2.1.3.1 by removing the existing language and replacing it with new language.
3. The public was given notice and an opportunity to provide the Board with comments in writing and by testimony on June 21, 2011, at the public hearing on the proposed amendments to the Board's Rules.

Findings of Fact and Conclusions

1. The public was given notice and an opportunity to provide the Board with comments in writing and by testimony on June 21, 2011, at the public hearing. No comments were received by writing. No comments were received by testimony.
2. The Board concludes that the proposal should be adopted to Rules 2.1.2.2 and 2.1.3.1 by removing the existing language and replacing it with new language.
3. The effective date of this Order will be ten (10) days from the publication of this Final Order in the *Register of Regulations* on July 1, 2011.

IT IS SO ORDERED this 21st day of June 2011.

Edward J. Stegemeier, Chairman
Bernard J. Daney, Ex-Officio
Bessie Gruwell, DTHA Board Member
William Hollick, Jockey Board Member
John E. Mooney, DRA Board Member
Heriberto Rivera, Jr., Jockey's Guild Board Member
Esteban Unsihuay, Jockey Board Member

1002 Delaware Jockeys' Health and Welfare Benefit Board Regulations

1.0 Introduction

- 1.1 These regulations are authorized pursuant to 3 Del.C. §10171 and 29 Del.C. §4815(b)(3)c which established a Delaware Jockeys' Health and Welfare Benefit Board (hereinafter "the Board") and Delaware Jockeys' Health and Welfare Benefit Fund (hereinafter "the Fund").
- 1.2 The Delaware Jockeys' Health and Welfare Benefit Board shall consist of 1 member of the Delaware Thoroughbred Racing Commission, 1 member from the licensed agent under Chapter 1010 of **Title 3** or Chapter 4 of **Title 28**, 1 member of the Delaware Horsemen's Association, 1 representative from the organization that represents the majority of the jockeys who are licensed and ride regularly in Delaware, and 2 jockeys who are licensed and ride regularly in Delaware. The Chairman of the Thoroughbred Racing Commission shall serve as an *ex officio* member, and vote on matters in the event of a tie vote on any issue. All members shall be appointed by the Thoroughbred Racing Commission, and shall serve a two year term.

- 1.3 The Board shall elect a Chairperson from among the appointed members of the Board. The Chairperson shall serve a two year term and may serve consecutive terms. The Chairperson shall be the presiding officer at all meetings of the Board.
- 1.4 The Board shall administer the Fund pursuant to these regulations and other reasonable criteria for benefit eligibility.
- 1.5 A special fund of the State has been established and will be known as the "Delaware Jockeys' Health and Welfare Benefit Fund." The Fund shall consist of the proceeds transferred from the licensed video lottery agent and the purse account pursuant to 29 **Del.C.** §4815(b)(3)c. The proceeds transferred to the Fund will be maintained in an account established in the Department of Agriculture.
- 1.6 The Fund will be invested by the State Treasurer consistent with the investment policies established by the Cash Management Policy Board. All income earned by the Fund will be reinvested in the Delaware Jockeys' Health and Welfare Benefit Fund.
- 1.7 The Board shall use the Fund to provide for jockeys who regularly ride in Delaware, health benefits for active, disabled and retired jockeys. The Board may also expend usual and customary expenses for administrative purposes from the Fund.
- 1.8 The Thoroughbred Racing Commission's Administrator of Racing will provide administrative support to the Board and keep minutes of all the meetings of the Board and preserve all records of the Board. The Board's Office will be considered as part of the Office of the Thoroughbred Racing Commission.
- 1.9 The Board can propose to amend these regulations by an affirmative vote of the majority of the Board.

2.0 Eligibility Criteria for Health Coverage

- 2.1 The Board will pay from the Fund for health coverage for active jockeys who regularly ride in Delaware, eligible retired jockeys, and disabled Delaware jockeys.
 - 2.1.1 An Active Delaware Jockey, who regularly rides in Delaware, is eligible for health insurance coverage under the fund, if the jockey had twenty-five (25) mounts in a Delaware Park season at Delaware Park; and
 - 2.1.1.1 If the jockey's Delaware Park mounts are less than 100 in a Delaware Park season, then 50% or more of that jockey's total mounts during the regular Delaware Park season must be at Delaware Park.
 - 2.1.1.2 If the jockey's Delaware Park mounts are 100 or more in a Delaware Park season, the jockey is eligible for health insurance coverage, regardless of the amount of total mounts at other tracks.
 - 2.1.2 A Retired Delaware Jockey is eligible for health insurance coverage under the Fund if:
 - 2.1.2.1 The Jockey was receiving health insurance coverage as a retired jockey provided by the Delaware Thoroughbred Racing Commission's health insurance plan with the Jockey's Guild on January 1, 2006; or
 - 2.1.2.2 The Jockey rode a minimum of 100 mounts at Delaware Park during the regular Delaware Park season for at least seven years ~~and had at least 5,000 career mounts at any track.~~
 - 2.1.3 A disabled Delaware Jockey's spouse and dependents qualify for health benefits if the disabled jockey meets all of the following requirements:
 - 2.1.3.1 ~~Qualification as an active Delaware jockey as defined by 2.1.1 for at least three years preceding determination of permanent disability. The jockey was an active participant in the Delaware Jockeys' Health and Welfare Fund benefit program at the time of the on-track accident that resulted in total and permanent disability; and~~
 - 2.1.3.2 Be deemed permanently disabled by Social Security and qualify for Medicare as a result of an injury sustained during the regular Delaware Park season on the premises of Delaware Park, and arising in the course of his/her participation as a licensed jockey.
- 2.2 A jockey and/or the jockey's family who meets the eligibility requirements of either an active Delaware jockey, a retired Delaware jockey, or a disabled Delaware jockey's family will be entitled to health coverage beginning on the first of the month after it can be determined the eligibility requirement has been met, and continuing until December 31st of the next calendar year.
- 2.3 The Board will pay from the Fund for health coverage for the dependents of active jockeys who regularly ride in Delaware, eligible retired jockeys, and disabled Delaware jockeys.
 - 2.3.1 Eligibility for coverage for dependants will be determined by the company providing the insurance coverage.

9 DE Reg. 1749 (05/01/06)

13 DE Reg. 1536 (06/01/10)

15 DE Reg. 60 (07/01/11) (Final)