

**DEPARTMENT OF AGRICULTURE
THOROUGHBRED RACING COMMISSION**

Statutory Authority: 29 Delaware Code, Section 4815(b)(4)c. (29 **Del.C.** §4815(b)(4)c.)
3 DE Admin. Code 1002

FINAL

ORDER

1002 Delaware Jockeys' Health and Welfare Benefit Board Regulations

The Delaware Jockey's Health and Welfare Benefit Board ("Board") issues this Order to take effect ten (10) days after the publication of this Order in the Delaware *Register of Regulations*:

1. Pursuant to its statutory authority, the Board proposed for adoption revisions to the Board's Regulations to amend existing Rule 2.1.1, Rule 2.1.2.1, Rule 2.1.2.2 and Rule 2.2 and to add new Rule 2.1.1.3 and Rule 2.4. Other regulations issued by the Board are not affected by this Order.

2. A copy of the proposed regulations was published in the March 1, 2017 edition of the Delaware *Register of Regulations* and have been available for inspection in the office of the Board at 777 Delaware Park Boulevard, Wilmington, Delaware 19804 during regular office hours.

3. The Board received written comments on the proposed regulations during the 30 day period following publication of the proposed regulations on March 1, 2017. The Board considered the written comments received during its public meeting on April 13, 2017. The written comments requested the Board to reconsider the proposal to increase the number of years a jockey must ride in order to qualify for retired jockey benefits from seven to ten years. The Board considered the request and decided to adhere to the proposed ten year requirement for retired jockey coverage based on several factors including concerns for the long term solvency of the fund and a jockey's ability to meet the revised requirement by choosing to ride in Delaware rather than in another state.

4. The Board also considered a comment received during its public meeting on April 13, 2017 that existing rules 2.1.1.1 and 2.1.1.2 were rendered meaningless by the change to 100 mounts in rule 2.1.1. The Board determined that this comment was correct and approved the deletion of existing rules 2.1.1.1 and 2.1.1.2 as nonsubstantive changes in existing regulations to alter style or form or to correct technical errors in accordance with 29 **Del.C.** §10113(b)(4).

5. THEREFORE, IT IS ORDERED, that the proposed regulations are adopted and shall become effective May 11, 2017, after publication of the final regulation in the Delaware *Register of Regulations*.

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)e~~ 4815(b)(4)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)~~ §4815(b)(4)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 ~~fifty (50)~~ one hundred (100) 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.]~~
 - [2.1.1.3 2.1.1.1] An Active Delaware Jockey who did not ride the qualifying number of mounts during a Delaware Park season due to circumstances beyond the control of the jockey may petition the Delaware Jockey's Health and Welfare Benefit Board for eligibility. The Delaware Jockey's Health and Welfare Benefit Board shall review the petition, and if in the discretion of the Board the circumstances warrant, may grant eligibility.
 - 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 Jockey's Health and Welfare Benefit Board~~ health insurance plan ~~with the Jockey's Guild on January 1, 2006~~ December 31, 2016; 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~~ ten years.
 - 2.1.2.3 The Jockey is not licensed as a jockey in any racing jurisdiction.
 - 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 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 ~~An active jockey, a retired jockey and/or the an eligible disabled 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 for one year beginning on the first day of the month after it can be determined calendar year following the year the eligibility requirements has have 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 dependents will be determined by the company providing the insurance coverage.
- 2.4 The Fund shall provide benefits secondary to Medicare or Medicaid for any member or an enrolled dependent of a member, who is eligible for Medicare or Medicaid health benefits.

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

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

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

15 DE Reg. 1585 (05/01/12)

19 DE Reg. 33 (07/01/15)

20 DE Reg. 890 (05/01/17) (Final)