

DEPARTMENT OF AGRICULTURE
DELAWARE JOCKEYS' HEALTH AND WELFARE BENEFIT BOARD
Statutory Authority: 3 Delaware Code, Section 10171 (3 **Del.C.** §10171)
3 **DE Admin. Code** 1002

FINAL

ORDER

1002 Delaware Jockeys' Health and Welfare Benefit Board Regulations

I. NATURE OF THE PROCEEDINGS

Pursuant to its authority under 3 **Del. C.** §10171, the Delaware Jockeys' Health and Welfare Benefit Board sought to amend its regulations regarding eligibility for health coverage. The change to 2.1.1 reduces the minimum number of mounts for active jockeys to seventy-five. The change to 2.1.2.2 aligns the eligibility criteria for retired jockeys with the eligibility criteria for active jockeys during the relevant lookback period. Other regulations issued by the Delaware Jockeys' Health and Welfare Benefit Board are not affected.

Notice of a public comment period of at least thirty (30) days on the Delaware Jockeys' Health and Welfare Benefit Board's proposed amended regulations was published in the Delaware *Register of Regulations* for August 1, 2024 in accordance with 29 **Del. C.** §10118(a). This is the Delaware Jockeys' Health and Welfare Benefit Board's Decision and Order adopting the proposed amended regulations.

II. FINDINGS AND CONCLUSIONS

1. The public was given the required notice of the Delaware Jockeys' Health and Welfare Benefit Board's intention to adopt the proposed amended regulation and was given ample opportunity to provide the Delaware Jockeys' Health and Welfare Benefit Board with comments opposing the Delaware Jockeys' Health and Welfare Benefit Board's plan.

2. There were no public comments provided to the Delaware Jockeys' Health and Welfare Benefit Board during the written public comment period.

3. Pursuant to 3 **Del.C.** §10171 and 3 **DE Admin. Code** 1002, the Delaware Jockeys' Health and Welfare Benefit Board has authority to promulgate rules and regulations clarifying specific statutory sections of its statute.

4. Thus, the Delaware Jockeys' Health and Welfare Benefit Board concludes that its consideration of the proposed amended regulation was entirely within its statutory authority and, having received no comments opposed to adoption, is now free to adopt the proposed amended regulation.

5. The Delaware Jockeys' Health and Welfare Benefit Board has reviewed the regulation and has determined that, if promulgated, the regulation would have a *de minimis* impact on the State's resiliency to climate change because neither implementation nor compliance with the regulation would reasonably involve the increase in greenhouse gas emissions.

III. DECISION AND ORDER CONCERNING THE REGULATIONS

AND NOW on this 15th day of October 2024, it is hereby ordered that:

1. The proposed amendments to the Delaware Jockeys' Health and Welfare Benefit Board's regulations are adopted;
2. The text of the final regulations shall be in the form attached hereto as Exhibit A, which remain unchanged as initially published in the August 1, 2024 *Delaware Register of Regulations*;
3. The effective date of this Order is ten days from the date of its publication in the *Delaware Register of Regulations* in accordance with 29 **Del. C.** §10118(e); and
4. The Delaware Jockeys' Health and Welfare Benefit Board reserved to itself the authority to issue such other and further orders concerning its regulations as it deems appropriate.

Delaware Jockeys' Health and Welfare Benefit Board

Edward J. Stegemeier, Chairman

Robert E. Colton

Retired Jockey

(non-voting member)

Vince Halliday

W. Duncan Patterson, Ex-Oficio Member
Chair - DTRC

Jockey Representative

Kevin DeLucia
Chief Financial Officer - Delaware Park

Keith O'Brien
Jockeys' Guild

Bessie Gruwell
Executive Director - DTHA

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1.0 Introduction

- 1.1 These regulations are authorized pursuant to 3 **Del.C.** §10171 and 29 **Del.C.** §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)(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.

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

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 ~~one hundred (100)~~ 75 mounts in a Delaware Park season at Delaware ~~Park; and Park.~~
 - 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 Jockey's Health and Welfare Benefit Board health insurance plan on December 31, 2016; or
 - 2.1.2.2 The Jockey ~~rode a minimum of 100 mounts~~ met the minimum mount requirements at Delaware Park during the regular Delaware Park season for at least 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 or an eligible disabled jockey's family will be entitled to health coverage for one year beginning on the first day of the calendar year following the year the eligibility requirements have been met.
- 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)

28 DE Reg. 381 (11/01/24) (Final)