

Rob: New York State Racing Pari-Mutuel Wagering and Breeding Law Section 102 and provides that the New York State Gaming Commission shall consist of seven members appointed by the governor, by and with the advice and consent of the Senate. Four members confirmed by the New York State Senate are necessary to afford the Commission an ability to establish quorum and undertake action. This present meeting of the Commission is now called to order. Ms. Secretary, will you please call the roll?

Ms. Secretary: John Crotty?

John Crotty: Here.

Ms. Secretary: Peter Moschetti?

Peter Moschetti: Here.

Ms. Secretary: John Poklemba?

John Poklemba: Here.

Ms. Secretary: Barry Sample?

Barry Sample: Here.

Ms. Secretary: Jerry Skurnik?

Jerry Skurnik: Here.

Ms. Secretary: Todd Snyder?

Todd Snyder: Here.

Rob: Ms. Secretary, please have the record reflect that a quorum of qualified members is present, thus enabling the transaction of business. Chairman Sample expects to leave the meeting prior to its conclusion today and, thus, requested the Commissioner Poklemba preside over today's meeting. Unless there is an objection, Commissioner Poklemba?

John Poklemba: Thank you, Rob. Consideration of minutes for the meeting of April 29. Minutes of the commission meeting conducted on April 29, 2019 have been provided to the members in advance. At this time, I'd like to ask the members if there are any edits, corrections, or amendments. Hearing none, Ms. Secretary, please let the record reflect that the minutes were accepted. Moving on to rulemaking.

New York State Racing Pari-Mutuel Wagering and Breeding Law Section 104.19 authorizes the Commission to promulgate rules and regulations that it

deems necessary to carry out its responsibilities. To that regard, the Commission will, from time to time, promulgate rules and rule amendments pursuant to the State Administrative Procedure Act. Today, we have two items for consideration. Rob, will you please outline the first item?

Rob:

Certainly. For Commission consideration is the adoption of a proposed rulemaking to allow sports wagering at gaming facilities pursuant to Article 13 of the Racing Pari-Mutuel Wagering and Breeding Law. The intention of these rules is to provide a solid regulatory structure that would enable the four facilities to become operational as soon as practical with the idea that novel or unique concepts or ideas can be visited at a future date. The proposed regulations seek to protect the integrity of the wagering and underlying contest and insure that the sports wagering remains within the scope of activity the legislature authorized.

The regulation set forth a similar regulatory framework as those in states that regulate sports wagering. The proposal is also consistent with existing Commission authority related to licensed commercial casinos. This proposal contains definitions applicable to sports wager and addresses such items as licensing, lounge and system requirements, wager types, pool integrity provisions, compliance, and responsible gaming elements. The Commission received 19 comments, which contained approximately 80 specific suggestions or recommendations. All recommendations and suggestions have been addressed individually within the staff memorandum that has been provided.

For expediency, I will address only those comments wherein staff agreed with the commentator and recommended an amendment or revision to the proposed regulations. The law firm of Allen and Danaher submitted 26 suggestions or recommendations that encompass such topics as definitions, wagering locations, and voucher expiration. They also provided several observations or suggested language changes. Commission staff believed three suggestions necessitated a recommendation to amend or revise the proposed regulations in the manner suggested.

In Section 5329.9(a), they noted a typographical error. In Section 5329.10(g)5, they commentator suggested that the reference the permit holder was unclear and should be changed to the voucher holder. Staff agreed that a wording change was appropriate but that permit holder should be changed to gaming facility. And in Section 5329.11(j)4, the commentator suggested eliminating a reference to race tracks. The staff agreed.

American Wager, Inc., doing business as William Hill, U.S., submitted 15 suggestions or recommendations that encompassed such topics as wager rescission, information sharing, and definitions. They also provided several observations or language changes. Commission staff believed that two suggestions necessitated a recommendation to amend or revise the proposed

regulations in the manner suggested. In Section 5329.9(b)2 roman et III, the commentator suggested threshold for a segregated booth for cashiers cashing be lowered to \$10,000 to better protect patron privacy and increase security. Staff agreed. In Section 5329.16(b), the commentator suggested eliminating the requirement that the operator surveillance system maintain visibility of the display of available wagering information. Staff, too, agreed.

Rivers Resorts and Casino in Schenectady submitted 13 comments that encompass such topics as variances, reporting requirements, and definitions. They, too, also provided several suggestions or observations regarding language change. Commission believed that four comments necessitated a recommendation to revise or amend the proposed regulations in the manner suggested. In Section 5329.9(a), 5329.7(a), and 5329.36(a), the commentator identified typographical errors. The staff agreed.

In Section 5329.11(j)4, the commentator suggested eliminating a reference to race tracks, which the staff agreed. In Sections 5329.20(c) and 5329.20(d), the commentator suggested that the redeemed wagering tickets be permitted to be branded as redeemed in an electronic manner and requested that an electronic record of a redeem ticket suffice for record keeping. Staff agreed that procedures other than a physical marking of the wagering ticket, if approved by the Commission, would satisfy the objective insuring that the wager is not cashed more than once and recommended clarifying language to that effect.

Additionally, staff also agreed that an electronic record of cashed wagering tickets would be sufficient and recommended clarifying language to that effect. In Section 2329--5329.24, the commentator suggested that the cash reserve amount be set by the sports pool operator and approved by the Commission, instead of the amount being determined by the Commission. The staff also agreed. The Seneca Gaming Corporation submitted 16 comments that encompass such topics as counting money and paperwork.

They also provided several observations or suggested language changes. Commission staff believed that one comment necessitated a recommendation to amend or revise the proposed regulations in the manner suggested. In Section 5329.20(c), the commentator suggested that the requirement to mark every cash ticket--wagering ticket was unnecessary. As we did with Rivers, we agreed here. Finally, in addition to the changes recommended in response to the public comments, staff also identified several clarifying and stylistic corrections.

These recommendations and those previously discussed have been included in your proposed amended language, which is presently before you. None of the recommended changes are substantial and can be made upon the filing of a notice of adoption without triggering a regulation reproposal. Staff recommends adoption of this rule proposal.

John Poklemba: Commissioners, do you have any questions on the adoption of the proposed Sports Wagering at Gambling Facilities Rule? Hearing none, may I have a motion to adopt the rule?

Barry Sample: So moved.

John Poklemba: Motion by Chairman Sample. Seconded by Commissioner Crotty. Any discussion on the motion? All in favor?

All: Aye.

John Poklemba: The motion is approved. Next item, Rob?

Rob: For Commission consideration is adoption of a proposed rulemaking to allow for necessary regulatory changes to be effective to prevent operational cessation of Cash for Life. Cash for Life is an existing lottery game--draw game offered by nine states wherein players pick five ball numbers between one and 60 from a main field, plus one number from a secondary field of one through four. The operational aspects of Cash for Life are controlled by an agreement among the participating states.

New York has offered Cash for Life since June of 2014. The participating states have advanced rule proposals changing the frequency of drawings from two per week to daily and adjusting description of the maximum length of subscriptions accordingly. These changes will take effect for the July 1, 2019 drawing. New York must conform its rules to the group's rules to continue to offer the game. In addition to the frequency and subscription changes, several technical changes have been proposed for clarity and consistency.

No public comments were received. Staff recommends that the Commission adopt this proposed rulemaking.

John Poklemba: Thank you, Rob. Commissioners, any questions on the adoption of the proposed Cash for Life amendment rule? Hearing none, I'll take a motion to adopt the rule.

Todd Snyder: So moved.

John Poklemba: A motion by Commissioner Snyder. Second?

Jerry Skurnik: Second.

John Poklemba: Seconded by Commissioner Skurnik. Any discussion on the motion? No discussion. All in favor?

All: Aye.

John Poklemba: The motion carries. Next, we'll move to adjudications.

Rob: Yes, today, we have two items for adjudication. First, the manner of Fredis Mendoza. On January 17, 2018, the Bureau of Licensing denied the application of Fredis Mendoza for non-gaming registration to work as a cook at Resorts World, Catskills. The denial cited New York Pari-Mutuel Wagering and Breeding Law Section 1318.1(c), which provides for disqualification on the grounds of the conviction of the applicant of any offense in any jurisdiction with is or would be a felony or other crime involving public integrity, embezzlement, theft, fraud, or perjury.

Mr. Mendoza requested a hearing, which was conducted on February 6, 2019. The hearing officer submitted a report to the Commission secretary, dated May 13, recommended that the registration denial be upheld. This matter is now ready for final agency determination. The Commission considered this matter at a meeting conducted pursuant to the judicial or quasi-judicial proceedings exemption of New York Public Officers Law Section 108.1.

John Poklemba: Thank you. The Commission duly deliberated and considered this matter and determined, upon a vote of six to zero, to sustain the hearing officer's report and recommendations. Next item?

Rob: On January 30, 2019, the Bureau of Licensing denied the application of Matthew Toliver for a non-gaming registration to work as a steward at the Rivers Casino in Schenectady. The denial cited New York Racing Pari-Mutuel Wagering and Breeding Law Section 1318.1(a),(b),(c), and (d), which provide that the applicant must prove qualification by clear and convincing evidence and for disqualification on the grounds of failure of the applicant to provide information, documentation, and assurances required by this article or requested by the Commission or failure of the applicant to reveal any fact material to qualification or the supplying of information which is untrue or misleading as to a material fact pertaining to the qualification criteria, the conviction of the applicant of any offense in a jurisdiction which is or would be a felony or other crime involving public integrity, embezzlement, theft, fraud, or perjury, committed prior acts which have not been prosecuted in which the applicant was not convicted but form a pattern of misconduct that make the applicant unsuitable for license under this article.

Mr. Toliver requested a hearing, which was conducted on March 20, 2019. The hearing officer submitted a report to the Commission secretary, dated May 20, recommended that the registration denial be upheld. This matter is also ready for final agency determination. The Commission considered this matter at a meeting conducted pursuant to the judicial or quasi-judicial proceedings exemption of New York Public Officers Law Section 108.1.

John Poklemba: Thank you. The Commission, again, duly deliberated and considered this matter and determined, upon a vote of six to zero, to sustain the hearing officer's report and recommendations. That concludes our adjudications. I will next move on to old business. It is my understanding, Rob, that we have several matters to discuss.

Rob: Yes, we do. The first, if you remember on January 28, 2019, the Commission unanimously adopted a proposed rule that would add flexibility to the Thoroughbred Claiming Price Rule on a case by case basis for all or a portion of a race meeting, while requiring the track to meet increased requirements to ensure competitiveness, soundness, and safety of the horses that enter such races. Last month, I provided a very brief overview of the results of the rule change through the Aqueduct Winter Meet. Today, we have with us the Commission's Equine Medical Director, Scott Palmer, to provide a more refined analytical presentation. Dr. Palmer, if you would?

Scott Palmer: Thank you. Thank you for having me here today. It's my pleasure to be here, and I just wanted to walk you through this review. The reason we're here today, as Rob said, is this rulemaking that was passed in January. And Commissioner Sample said to me, "I'd like you to come back and talk to us in a few months and give us a report on what happened and see how it worked out." So that's what we're going to do today. So in this meeting, the Commission did approve, as Rob said, this regulation which allows flexibility for a racing association to hold claimed races with a purse ratio that could be greater than two to one.

The underlying portion of this slide shows you the most important pieces, though, is that the Commission shall not approve this measure unless the association has implemented increased measures to ensure close examination of the competitiveness, soundness, and safety of each of the horses entered in such races. So that's what we're here today to review that. And here is how we start out. I think it's important to give you a little bit of background about all this because it's important to understand that the way we've been managing these injuries over the years.

So back in Aqueduct in 2011 and '12, there were 21 equine fatalities at the Aqueduct Spring Meet. This cluster of fatalities was unusual and more than twice the national average. It raised a great deal of concern among all the stakeholders in the industry, including Governor Cuomo, who indicated to NYRA that they needed to hire an independent investigator or team of investigators to review the circumstances involving these breakdowns, analyze the causes, and recommend necessary action to prevent equine fatalities in the future at NYRA facilities. So the task force had looked at this. It was about a five-month period of time of this investigation.

I was fortunate to be chairman of this task force, and we felt that part of the issue was that there was a disproportionate increase in the purses for the

lower level of claiming races, which, in effect, commoditized the horses. And by putting them at increased risk, there was less risk aversion going on, and we felt as though it was important that these purses be adjusted. In this process, while the task force was investigating this, the Commission actually put an emergency measure in place to that effect. And this was what the Racing and Wagering board did.

They said that the purses -- horses entered into these races should not have a purse of more than 50% of the value of the horse. So what this meant was that it was going to -- during the original part of the race meet, the purse to claim ratio is as much as four times the value of the animal. So people were taking inappropriate risks. The task force actually made a recommendation that the purse to claim ratio -- price to claim ratio be 1.6 instead of 2. This was discussed at some length. The reason for the 1.6 recommendation was that the winner of the race would essentially win the value of the horse.

It would not exceed the value of the horse, the number one first place winning purse. There was some discussion about this, and there was a lot of controversy that ensued from that. And the suggestion was made that we should be a little bit more relaxed about this and that we should go with the recommendation by the Racing and Wagering Board of a two to one ratio, instead of 1.6 to one. In discussion of this, the task force members approved that because, frankly, we had no scientific evidence to indicate there was any significant difference between 1.6 to one and two to one. And so we put that measure in place.

So at that time, then -- since that time, all of the open claiming races at NYRA have been conducted with this two to one purse to price ratio rule. So what happened? In December of 2018, the Commission received a formal request from NYRA to amend this purse to price rule to be competitive with other racetracks in the mid-Atlantic region. The reasons that they argued for this amendment was, first of all, that we had seven years of operation with good results from the task force recommendations. It seemed to work pretty well.

There was original indifference to the issue, meaning the other racetracks in the mid-Atlantic area did not follow this rule and had higher purse to claim ratios. And that seemed to work out okay for them. There were competitive issues for horsemen, and the competitive issues for horsemen were that they were not able to race in New York for the same kind of purse as they could race within one day of shipping from a lot of other jurisdictions. Finally, there were substantial equine safety measures we had put in place since 2011, 12 that would accommodate this change in the rule safely.

Barry Sample:

Can I just make sure I understand the second bullet, the regional indifference point? You're saying that with different purse to claim ratios they were having the same equine mortality experience?

Scott Palmer: They were not experiencing an increased rate of fatality in this group of races in the region around us. In other words, a horseman could race for a purse of \$10,000 in New York, and he could race the same caliber of race in another state, like Pennsylvania, for \$12,500 or \$15,000. So there was an inappropriate --

Barry Sample: Without a change in the fatality rate?

Scott Palmer: That's right. It had not been observed. So when you look at this map, it just kind of illustrates there's a lot of racetracks in this area that people could go in to, all the way from Laurel, Maryland; Delaware; Pennsylvania. There's a lot of options here, and horsemen can compete in any of these regions. And we felt that -- it resonated with us that New York was at a disadvantage in this regard, both for the horsemen and for the Racing Association. So the Commission did recognize the strategic benefits for horsemen in New York racing.

However, as you all know, you were all very reluctant to remove a protective measure that seemed to be working and to take a risk that horses would be put at risk again. So that's why the new protective factors were required, and we checked back that all the tests _____ [00:21:08] test numbers. And everybody supported the change. That was the first step. So if you look at this, we see here that the increased measures is what we're really talking about to ensure the competitive soundness and safety of these horses.

What do they look like? How specific -- what do we really need to do to accomplish this? And why do we need to do this? So first of all, the why. The why is that there's some very good research that's shown that there's an increased amount of risk of catastrophic injury for horses in claiming races where the purse to price ratio is greater than 1.8 to one. This is a very sound piece of scientific information, and it supports the assumptions that we discussed earlier. As the purse levels exceed the claiming price of the horse, risk is incentivized, and the horse becomes a commodity.

That's the challenge, and that's why we had to find this fine line, this balance, if you will, between increasing the economic opportunity but not having the horse pay the price for that. That's what we're trying to do here. So the increased measures. The increased measures essentially involved two levels of scrutiny. The first level of scrutiny is that which is already in place for every horse at races in every New York claiming race. And that involves a thorough examination before the race takes place. It involves -- well, we'll get on to that.

There's some extra things that if their horse is on best list or whatever. But we have a separate list of analysis that goes on to the applied only to these horses that have certain risk factors present. So these are the risk factors that

we were looking at that trigger the increased measures. First of all, if they were entered in these enhanced purse races, if they did not start until they were four years of age, that's a big risk factor. Why didn't they do that? Ordinarily, they would have started when they were two or three at the latest. Why four years old?

If the horse has not raced in the last six months, what was the reason for that? Did the drop more than one class or two drops coming down to this race? Why was that? Why the big change in class? Was there evidence of high-speed exercise intensity between the first recorded workout and the first start? Did the horse have multiple interarticular medications administered within two weeks of the race? So these were all trigger points we felt were important that we should be looking at in this class of horses.

Barry Sample: How do you define a drop in class?

Scott Palmer: So if the horse is racing, let's say, in --

Barry Sample: Like what are the thresholds?

Scott Palmer: Well, let's say you had 30,000. You're running for around 30, and then, typically, you could drop down into the 20 range. And then you could go down into the ten range. You just have to go down from --

Barry Sample: So going from 30 to 10 would be a drop?

Scott Palmer: 30 to 10 would, yeah.

Barry Sample: 40 to 20.

Scott Palmer: That could be --

Barry Sample: That's two drops?

Scott Palmer: Sure. And I think, also importantly, we were also looking at combinations of these factors. If you have a horse that's a four-year-old maiden--that kind of thing. So that's really important. So the level of scrutiny--this is basically that I mentioned earlier. All these horses get examined before the race, and they're not just looked at in the stall in the morning. They're looked at on their way to the paddock. They're looked at in the paddock. They're looked in the walking ring. They're watched out in the post parade, and they are looked at again before they enter the gates.

There's at least six levels of scrutiny that are applied to these horses for every horse in New York. Now, the other ones -- the other two levels that we're talking about here would apply to, in particular, horses that are on the steward's list or the vet's list. And these horses are horses that have an issue

of some type. They could be lame. They could just not run well. There could be a number of reasons for that. But in order for them to race, at the basic level of scrutiny, is they have to complete a minimum number of workouts before they can be raced.

They have to pass a pre-race inspection by a NYRA veterinarian and also have a post-workout drug test to ensure that they didn't have any drugs on board when they did that workout. So that applies to every horse in these races. Now, if they're entering in these races with enhanced purses, they had to meet the second level of criteria. And that means that all the horses with the risk specific factors were evaluated. And the NYRA veterinarians knew about these things with the computer printouts before they went to look at the horses in the morning.

So when they went there in the morning, they had a list of concerns that they needed to be able to get answers to. These are questions that, in the normal daily events, would not necessarily be asked or even answered or not know the answer. But in these horses, there had to be someone there at the stall in the morning who had knowledge of the horse so that the veterinarian, if on the report it had these risk factors noted, he could say, "Well, why did this horse not race until he was four? Why did he not race in the last 120 days? Why is he dropping a couple of class? What was the diagnosis for which the multiple injections were given? Why did these things happen?"

So that conversation goes forward. And if the answers are appropriate, then we go on. If the answers are not so appropriate, then there's another step in this process. So the additional review is for horses where the examining veterinarian has a concern. That examining veterinarian then can ask the supervising veterinarian or the chief examining veterinarian to undertake an additional examination based upon the answers of those questions. So another pair of eyes, another set of hands to look at the horse. And in addition, those veterinarians can require that the horse have--if he has abnormal clinical findings of sufficient concern, he will have to be evaluated with diagnostic imaging, x-rays or ultrasounds for example, if there's some big concern there that that they want to work it out.

So there's a number of levels to this extra scrutiny that were applied to every one of these horses. Okay. So this program was created and put into place. And let's see what happened. So at Aqueduct, these were the races that were approved for enhanced purses. And you can see that the ratio of the purse to price ranged from 2.25 to 3. And those are the races that were conducted at Aqueduct. And then, we also had races conducted at Belmont in the same situation. A lot of these are overlaps, but you notice that now we have a \$20,000 claiming race in here.

The purse was increased from 40 to \$43,000. That's a 2.25 to one purse ratio change. So these were the races that were approved, and this is what

happened. So first of all, there were 11 races conducted with enhanced purses during the Aqueduct meet. And so far, in the current Belmont meet, there have been another 11 races conducted for a total of 22 races with enhanced purses. There were 142 horses entered in these races. The average field size was 6.5 horses per race. 16 horses were scratched prior to racing. One horse did not finish and was vanned off the track with a non-fatal injury. There were no catastrophic injuries in any of these horses in any of these races thus far.

John Crotty: Doctor? 16.5 compared to a regular claiming race?

Scott Palmer: Well, the average--it's about right. It's about the same. It's 6.4, 6.5 up to 6.7. There's a little bit of a range there, but that's pretty much normal.

John Crotty: The 16 scratches were the result of veterinary interaction?

Scott Palmer: 14 of them were veterinary scratches. One was a steward scratch, and one was a trainer scratch. So most of them were veterinarian. Some of them-- Rob's got some details here. Some of them were private veterinarian scratches. Some of them were regulatory veterinarian scratches. But I think one of the things that's important about this--that represents a bit of a higher number than ordinary. In most races, it's about an 11% scratch rate here.

And that's a little high. So what that tells me is that NYRA was doing a really good job. They really had a hard eye on these horses, and they just took horses out if they had concerns. There was no chance they were going to take on letting the horse run if they had concerns at all.

John Crotty: I'm sorry to interrupt. But doesn't it also say that, if given the opportunity, the owners and trainers will run their horses and that you need to have this regulatory intervention? That we're basically creating the incentive that we didn't want to create, and then, we're creating a regulatory scheme to intervene to protect against it.

Scott Palmer: I think you could argue that. I don't know that I could compare that to regular races and make a distinct comparison to say this is different. But I think the point is well-made. Roughly 10% of these horses it was determined they really shouldn't run. And some of those determinations were made by the trainer--rarely.

John Crotty: But in the regulatory scratches--

Scott Palmer: But the regulatory scratches were interventions. They're exactly why we have this program in place. And had these interventions not been in place, some of those horses could have been injured. That's speculation, of course. But the fact of the matter is that this process was working, to me. It was not that it was unnecessary. It was that this extra regulatory supervision was something

that was working for us. Any other questions about that? So this is just a little bit more background about the meets in general. If you look at Aqueduct 2018 and '19 and compare that to what we've got so far through the meets, the fatality rate in 2018 at Aqueduct was 1.5 per 1,000 starts. And the fatality rate in 2019 was 0.86 per 1,000 starts.

This is just to give you an indication that, overall, there's a lot of progress being made in terms of the interventions, processes, and strategies. This is the risk management program in action, that I might have mentioned to you earlier. This is what we do. We monitor injuries. We design interventions. We test those interventions. We readjust our interventions. And we continue to monitor again. And we repeat that process, and we continue to do that every single day.

So this is just another example of how, in the whole meet in general, not just the enhanced purse races. In fact, in 2018, there were no enhanced purse races. So this is really important to understand that this is a bigger picture here where things are really working out well. Just to give you a little more detail about that. If you look at the first four months of the Aqueduct meet, this is the early part of the year. The weather's pretty terrible. If you compare the 2018 year to 2019, again, you can see an enormous difference in safety.

John Crotty: What does it related to in numbers? 2018, how many fatalities?

Scott Palmer: The fatality rate was about 1.5 to--

John Crotty: How many fatalities?

Scott Palmer: I'd have to count them and go back and see.

Unidentified Male: We had ten in 2018. And in 2011, it was about 19.

Scott Palmer: As of today.

[Cross-talk]

Unidentified Male: As of today, 2019, I have to turn the page.

Scott Palmer: While he's looking that up, I will add, though, the raw numbers, while interesting, are not nearly as important as the frequency. And the reason for that is the raw numbers are going to be affected by the number of starts that we have. So if you're making accurate comparisons from year to year, it's important that you control for that. So that's why these numbers are more important than the raw numbers. We'll get them for you.

Unidentified Male: Three.

Unidentified Male: Three versus 18.

John Crotty: You said there was ten in the first four months. He said there was ten in '18. He's saying there's three in '19. You're talking about the entire year. You said 18.

Unidentified Male: Ten for the year.

Scott Palmer: So that's the first four months, the early part of the year. So historically, again, when you go back and look at the April--a task force report was issued. And the effect of changing the purse emergency measure was put in place by the commission. At that time, at the adoption in April of 2012, there have been 32 racing fatalities. Following the adoption in April for the remainder of the year--the eight months of the year, there were only 16. So right off the bat, there was an improvement in that fatality rate. The safety went up quite a bit.

Now, it's important, though, to understand that that purse to price rule change was not the only thing that happened. There were a lot of interventions put in place, but that was certainly one of them. So when you look back on this historical perspective, I just want to give you kind of an overview. We're not going to go over all these things. But there were 39 recommendations in nine categories. Only one of the categories affected claiming races. So there's a lot of other things in play here. And it's important to understand that racing injuries are multifactorial. There's not one silver bullet.

There's not one thing that causes them. It's a combination of things. And if you don't have interventions in all these areas, you still have exposure to catastrophic injuries. If you look at the late winter numbers, this is January through March of 2012 compared to January through March of 2019. Again, we're looking at, again, the fatalities per 1,000 starts. A very dramatic reduction here. That's, of course, a tough time of the year for horse racing. There's a lot going on.

John Crotty: '12 was the year the purses got increased, though, right?

Scott Palmer: That's correct, '11, '12. That's right.

John Crotty: So that's when you first had the major incidents.

Scott Palmer: And again, I'd emphasize that's not the whole story, but that was a big part of it. People ask me all the time, of all these 39 recommendations, which ones were most important? And I think that's one of them. Getting that purse to claim ratio right was a big one. Other ones were medication control. That was another thing that we did. There's a lot of good things that happened in that regard. So those are just two of the ones that I think were probably the most

important ones. This is looking at 2011/2012 to '18. This is Aqueduct racetrack again.

So it's a little bit different timeframe, but, again, it shows you pretty much the same thing. It's just different ways of making these comparisons. This is an interesting slide because this is all of NYRA racetracks 2012 versus 2018. So you have Aqueduct, Saratoga, and Belmont listed here. And we have a 50% reduction in racing fatalities, very dramatic. And again, this is widespread effect of this racing quality control program that we have in place. This is all New York thoroughbred racetracks. This includes Finger Lakes.

And again, when you look at the whole bit picture, this quality control program that we've been working with for seven years now is not a statistical fluke. We've reduced these injuries in the neighborhood of 42 to 50%. And it's been in that range for the last seven years. That's not an accident. The thing I really want to leave you with here is that what does this really mean? Does it mean that there's anything supernatural going on here? It means that this is hard work. It means that this is something that we do every day, and it means that it works.

It's no public relations campaign. These are the numbers. It works. It's a quality control program. We just keep grinding away at it every day. And over the last seven years, this has been the result. And I can't tell you how pleased I am to be able to tell that to you. But it's a credit for a whole teamwork of people. There are thousands of people involved in making this happen all across the industry and the state. And it's a very important thing, especially in the context of some of the things that are going on in California and the frustration and the anger and the disappointment and the fear that's resulted from that across the industry in the United States.

We can look at what we've done here in New York for the past seven years and say this works. This is the way to manage your business. And if you take care of your business, this is the kind of results you can expect. So the improved safety record for the winter meets and spring meets at Aqueduct was the result of contentious application of this evolving real time risk management program. The use of enhanced security protocols successfully mitigated the increase risk associated with these claiming races with enhanced purse to price ratios.

So where do we go from here? I expect that NYRA will continue to make requests for their condition book to modify these races. And Finger Lake, so far, has not done that. The Commission staff will continue to closely monitor all these races and make adjustments to protocols as necessary to minimize risk of injury. I think that that's the way we're going to take this for now. I think you should feel comfortable about the decision you made in January.

And I think you should also be very comfortable about the fact that you insisted that there be some extra measures put in place here.

And clearly, it worked. It's been a very effective tool. It's also gotten more money for the horsemen, put NYRA racing in a more competitive position in the mid-Atlantic region. So it's really a win, win, win for us, and I'm very pleased about that. I also want to take a moment to congratulate NYRA and everybody that worked so hard to put together this Belmont Racing Festival we just completed. 33 races, perfect safety record, professionalism, integrity, safety, it was all right there. Beautiful job by a huge group of people.

And the world was watching the Belmont stakes. Don't think they weren't. And we put a stake in the ground for safety, integrity, and professionalism. I think those people deserve a lot of credit for that. So thank you very much. Any other questions?

All: Thank you, doctor.

John Poklemba: Very thorough presentation. And if you could convey the appreciation of the Commission to you and your entire team for the hard work you've been doing in this area. We really appreciate it.

Scott Palmer: I'll do that. Thank you very much.

John Poklemba: Are there any other questions for the doctor? Okay, then. Moving on to the next item, Rob.

Rob: Sure. Last item here. Last month, several commissioners requested staff survey relevant industry participants, such as breeders organizations, horsemen's organizations, owners groups, racetrack management, and practicing veterinarians representing both breeds to gauge support for a rule change that would be consistent with the proposals being advanced by the Stronack Group and others. Accordingly, staff sent approximately 150 letters to each racetrack's management, racing office, and chief veterinarians, all recognized horsemen's organizations, standardbred and thoroughbred breeding organizations, and the state's leading standardbred and thoroughbred breeders and trainers.

To ensure full participation, we were looking for a response state within three weeks of the letter, which is just recently closed. And overall, we received 17 comments. The first glance finds that the comments are on both sides of the issue. But what we'll do is endeavor to review and categorize what we've received and provide a report on it at our next meeting. Sir?

John Crotty: You had some serious horsemen weigh in on it. I saw some of the letters. I sent them earlier today. I haven't had a chance to go through them all. But we

discussed one or two. You had some very serious horsemen. I think one or two of them are trained veterinarians, as well, right?

Rob: Mm-hmm.

John Crotty: Coming out very strongly in favor of the Lasik's proposals, right?

Rob: I think you'll find that there's receipt of comments on both sides of the issue.

John Crotty: All right. Has California enacted their proposals?

Rob: I believe it's still pending at this point.

John Crotty: But the track is keeping them?

Rob: The track is. They have six more days of racing left.

John Crotty: There was talk of a joint unity sort of thing between a number of racetracks and racing organizations. Are you aware of what's going on with that?

Rob: Yeah. That's what initiated our discussion of--

John Crotty: I'm just asking. That was then. This is now. Where are we?

Rob: Nobody's fractured from that. So the tracks that were originally interested in that type of an approach have remained consistent.

John Crotty: But they haven't done anything?

Rob: I don't believe anyone's enacted it yet. Because if you remember, they were all for going towards the horses that would be two-year olds next year.

John Crotty: Right. But do they have a timeline for acting?

Rob: The beginning of next year.

John Crotty: Okay. And in order to put that into place, when would they--you can't start it January 1.

Rob: It depends. If they were utilizing it as house rules, they could do it on their own. If it required legislative or regulatory change in order to implement that, then that might be a little more of a lead time.

John Crotty: Okay. Are they going to come out with a document, do you know, or some--?

Rob: I don't know.

John Crotty: We don't know what they're doing. Okay. They don't know what they're doing yet?

Rob: No, I don't know.

John Crotty: No, but they don't. They're not saying what it is they intend to do except--

Rob: Just the pronouncements that we've seen in the press releases.

John Crotty: Is it possible they could just sort of say that stuff and then have it go away? Ultimately, they need a rule somewhere else.

Rob: It's always possible. San Anita's what focused everyone's attention on it. San Anita closes in six more racing days. And the attention of racing will move to the East Coast.

John Crotty: So if NYRA self-regulates, that would take it out of our purview to some degree. If they want to do it by way of changing regulations and rules, then we would be the monitor on that. Did I understand that correctly?

John Crotty: It would never be out of your purview. They can act the way they want to act.

Rob: That's correct. There are certain limitations that they can do by themselves. We have an ability to basically overrule any of their house rules through our own rulemaking.

John Crotty: I get it. But if their rules are not using Lasik's, sort of limitation of the uses of Lasik's, those would not be any rules that we have in place at this point.

Rob: No, what we would have to do in order for that to be effective is conform some of our Lasik's practice rules so that someone who's experimenting with a horse and moving on or off the Lasik's list wouldn't be penalized for that experimentation. So we would have to conform in order for that to be effective.

John Crotty: They had a number of more fatalities since they put this into place, right?

Rob: At San Anita, yes.

John Crotty: In the last couple weeks, days, whatever it is?

Rob: It's been a rough week.

John Crotty: That's too bad. Well, hopefully we get some clarity at the next meeting because I think that would be--that is a very difficult situation out there. The right answer is not totally evident. But some curative action seems warranted,

right, doctor? They had a lot of fatalities at the track, not all of them during racing.

Scott Palmer: That's true. I think that a challenge in the California situation is that they got off to a pretty bad start with the investigation. And now, they've got multiple parties involved. They've got the Los Angeles district attorneys' offices involved. The Gaming Commission is involved. So I know they're -- I talk with Dr. Arthur out there, and they're moving ahead. But it's a slow process. It took us five months to do the Aqueduct investigation.

And I don't say it's going to take them five months to figure this out, but when you have a large investigation where you have to interview a lot of people and now there are multiple investigating parties involved, it's going to take some time to get to the bottom of it. But I'm confident that they will.

John Crotty: Do you think they're going to find the causation here?

Scott Palmer: Yes. I think that there's strong evidence that it's very similar to what happened at Aqueduct, multiple factors involved in that sense. It's not one thing.

John Crotty: Stewart Janney was part of the HBO piece, and I saw him the other day. He was making a big push for a federal regulatory body versus just a series of state ones. It's an interesting concept. I'm not sure it has legs anywhere.

Scott Palmer: Stewart Janney is most closely associated outside of NYRA with the jockey club, but it's something that they've been pressing for probably a half dozen years at this point.

John Crotty: Does it have any traction in Congress?

Scott Palmer: There's always legislation that's introduced. Whether it moves depends upon the Congress.

John Poklemba: Anything else? I think that concludes our old business. Does anyone have any new business? Since there is no new business to discuss, I believe our secretary will be sending out dates for the next meeting probably sometime at the end of the month. Correct, Rob?

Rob: Yes.

John Poklemba: We'll take a motion to adjourn?

John Crotty: So moved.

John Poklemba: Commissioner Crotty, seconded by Commissioner Snyder. We are adjourned. Thank you all very much.

