insurance agent's or title insurance corporation's fee schedule. All fees charged by the title insurance agent shall be in accordance with Insurance Law section 2119. The title insurance agent also shall disclose to the applicant, or the applicant's representative, the premium for the title insurance policy at the time of closing. If no title insurance agent is used, then the title insurance corporation shall provide the notices.

(b) Every title insurance agent and title insurance corporation shall, on its website, make its range of charges for title services publicly available and accessible in a manner that permits a policyholder or potential applicant to independently determine the applicable charges. If a title insurance agent does not have a website, then the title insurance agent shall post its range of charges for title services in its place of business and provide the range of charges to policyholders or potential applicants in a written document.

Section 35.7 Other disclosures to applicants.

(a)(1) A title insurance agent shall furnish a title insurance report to the applicant and the applicant's representative at least three days prior to the scheduled date of closing, provided, however, that if an applicant is represented by an attorney, then a title insurance agent shall furnish a title insurance report to the applicant's attorney unless the applicant also requests the title insurance report, in which case the title insurance agent shall furnish the report to both the applicant and the applicant's attorney.

(2) If a title insurance agent is unable to deliver a title insurance report at least three days prior to closing, then the title insurance agent shall document or require documentation of the reasons for the delay.

(3) The report shall display conspicuously the following statement, or a statement containing substantially similar language, on the first page in bold type:

THIS REPORT IS NOT A TITLE INSURANCE POLICY! PLEASE READ IT CAREFULLY.

THE REPORT MAY SET FORTH EXCLUSIONS UNDER THE TITLE INSURANCE POLICY AND MAY NOT LIST ALL LIENS, DEFECTS, AND ENCUMBRANCES AFFECTING TITLE TO THE PROPERTY.

YOU SHOULD CONSIDER THIS INFORMATION CAREFULLY.

(b) Where an applicant is only seeking a lender's title insurance policy, a title insurance agent shall provide to the applicant a separate written notice, which shall be signed by the applicant, at the time the title commitment or title report is prepared, and which shall explain:

(1) that a lender's title insurance policy protects the mortgage lender, and does not provide title insurance protection to the applicant as owner of the property being purchased;

(2) what a lender's title insurance policy insures against and what an owner's title insurance policy insures against; and

(3) that the applicant may obtain an owner's title insurance policy to protect the applicant's interest as an owner, and provide the website address for the insurance corporation's rate calculator or a toll-free telephone number the applicant or the applicant's attorney may call for a premium quote.

(c) If no title insurance agent is used, then the title insurance corporation shall provide the notices and obtain the applicant's signature.

Section 35.8 Use of title closer by title insurance agent and title insurance corporation.

(a) When a title insurance corporation engages or uses a title insurance closer at a closing, the title insurance corporation shall exercise due diligence to ensure that the title closer is competent and trustworthy; provided that if the title insurance agent engages the title insurance closer, the title insurance agent shall exercise such due diligence.

(b) Any acts relating to the issuance of a title policy that are performed by a title closer while the closer is acting for or on behalf of the title insurance agent or title insurance corporation are the responsibility of the title insurance agent or the title insurance corporation that engaged such title closer.

Section 35.9 Statistical data call.

Every title insurance agent shall timely comply with and respond to a rate service organization's annual statistical data call.

Section 35.10 Record retention.

Every title insurance agent shall retain any notice or disclosure that is provided pursuant to this Part in accordance with the requirements in Part 20.4 of this Title (Insurance Regulation 29-A) and this Part.

The Department of State apologizes for any confusion this may have caused.

New York State Gaming Commission

NOTICE OF ADOPTION

Prohibited Substances and Out of Competition Drug Testing for Harness Racing

I.D. No. SGC-15-14-00005-A
Filing No. 658
Filing Date: 2014-07-22
Effective Date: 2014-08-06

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

Action taken: Amendment of section 4120.17 of Title 9 NYCRR.

Statutory authority: Racing Pari-Mutuel Wagering and Breeding Law, sections 103(2), 104(1), (19), 122 and 902(1)

Subject: Prohibited substances and out of competition drug testing for harness racing.

Purpose: To enhance the integrity and safety of standardbred horse racing.

Text or summary was published in the April 16, 2014 issue of the Register, I.D. No. SGC-15-14-00005-P.

Final rule as compared with last published rule: No changes.

Text of rule and any required statements and analyses may be obtained from: Kristen Buckley, New York State Gaming Commission, 1 Broadway Center, PO Box 7500, Schenectady, New York 12301, (518) 388-3407, email: gamingrules@gaming.ny.gov

Initial Review of Rule

As a rule that does not require a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year 2019, which is no later than the 5th year after the year in which this rule is being adopted.

Assessment of Public Comment

One public comment was received in response to the publication of the proposed rule-making in the April 16, 2014 State Register. The comment came from an organization representing six of the harness horseperson's groups in New York; they wrote in opposition to the proposed amendments. The comment argued, first, that the Commission has no authority to collect samples from racehorses while the rule's prohibited doping agents that are known to profoundly undermine the integrity of racing can still be detected, unless the racehorses are at the racetrack and/or entered to race. In litigation, the Appellate Division has rejected this legal argument, as well as others in the comment. Matter of Ford v. N.Y.S. Racing and Wagering Bd., 107 A.D.3d 1071 (3rd Dep't 2013). The comment says that the Commission should not have a conflict among its rules by prohibiting all protein-based substances while allowing, for example, antitoxins. Such prohibition is limited in paragraph (c)(1)(iii), as amended, to only those substances that produce analgesia or enhance a horse's performance beyond its natural abilities. The comment asserts that the samples have to be tested by the regulated parties in addition to testing that is done by the Commission, but provides no rationale for duplicative testing. The regulated parties are free to collect their own samples, in any event; and no law enforcement program in the State, including prosecutions for driving while intoxicated, requires collection of samples for the defense. Finally, the comment makes several vague and conclusory assertions that some of the proposed amendments do not improve the original rule, but the Commission disagrees.