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Minutes
Oregon Racing Commission
February 15, 2024

Meeting Detail

The Oregon Racing Commission (ORC) met at 1:30 p.m. Thursday, February 15th, 2024, via Zoom videoconference.

Call to Order and Roll Call

Chair Margaret Doherty called the meeting to order at 1:30 p.m. and Karen Parkman conducted roll call.

In Attendance

Commissioners: Margaret Doherty, Diego Conde, Quinn Berry (arrived late at 1:38 p.m.), Lindsay Fowler, and Scott Beckstead.

Staff: Executive Director Connie Winn; Karen Parkman, Program and Administrative Coordinator; Kelly Routt, Assistant Attorney General (AAG)

Excused

None

Approvals:

Meeting Agenda

Did not occur.

Meeting Minutes

Action: Approval of the January minutes.

Moved by: Commissioner Beckstead

Seconded: Commissioner Conde

Vote: Commissioners Doherty, Conde, Fowler, and Beckstead voted AYE, and the motion was carried unanimously (4:0).

OLD BUSINESS:

Executive Director's report

Executive Director Winn reported that the legislative short session has ended. There were 3 bills that may have impacted the ORC, but none passed committee. The ORC should plan and be prepared for a bill to pass in 2025 that will phase out greyhound wagering over 5 years. This proposal has been agreed upon by all sides. The bill which would define casino is to go into a work group for an overhaul and should also be anticipated to reappear in 2025. The current rule review is nearly complete, and focus will soon shift to the summer race meet. She thanked all interested parties, commissioners, and staff for working on and taking part in these discussions. Lastly, she congratulated the Oregon Quarter Horse Racing Association for putting on a successful stud auction in Hood River.

Medication and Safety Committee Report

Director Winn thanked all who took part in the discussion and reported that 3 veterinarians were also in attendance, with varying opinions. There were two topics where there was not a uniform consensus. The first was concerning Furosemide (Lasix). The recommendation is to allow horses to receive Lasix closer to racing, rather than 4-5 hours before. This medication is given to prevent bleeding from the horse's lungs after strenuous activity. The new recommendation would be in line with Washington regulations, as well as allowing the drug to be more effective during the race time and decrease the prevalence of dehydration, which can occur when the horses receive the medication several hours before racing. That recommendation had little push back, however, the issue of dosage was contested. The ORC's recommendation was reducing the dose to 250 mg, which Dr. Everman feels is in line with other surrounding tracks, though he would consider going up to 300 mg. This was heavily debated. Director Winn suggested considering and researching how the weight of the horses impact dosage, as Thoroughbreds tend to be leaner and weigh less than some Quarter Horses. She recommends that the commission allow the committee to continue research on the issue and not make final decisions before the 2024 race meet. It is still her intent that the ORC follows the recommendation of Dr. Everman, once sufficient research is done to ensure weight is not another factor to consider. Commissioner Fowler and Commissioner Berry, who apologized for joining late, both agreed with Director Winn's report.

The other concern was the dosage of Phenylbutazone (Bute), an NSAID. All agreed that changing the allowed time for Bute to be administered from 24 hours before racing, to 48 hours before racing would decrease the opportunity for injuries to be potentially masked during pre-race examinations. However, the exact dosage caused debate. Dr. Everman recommended 0.3 mg/ml, down from the current allowed dosage of 2.0 mg/ml. There were concerns voiced that because Bute is metabolized differently by each horse, some horses receiving the correct dose may flag at the lab as being over the limit. Dr. Everman recommended 0.5 mg/ml as a compromise, but still received push back.

Even among veterinarians there was disagreement. Director Winn recommended making the change to 48 hours for this race year, but leaving the allowed dosage as is for the 2024 race season and conducting further research on the best allowable dose. Commissioner Berry added that there was an understanding that there would also be a grace period to allot for reasonable implementation of any changes, which was agreed on by all in attendance.

Chair Doherty commented that it sounded like more conversation and further meetings were needed. Director Winn recommended there be a motion and vote regarding the agreed upon topics so they could be moved forward with. Commissioner Fowler offered to make the motion. Chair Berry recommended that a written rules advisory document be drafted with the proposed changes and presented to the full commission prior to voting. Chair Doherty agreed with his recommendation. Commissioner Berry commented that he felt the committee had received robust input from the public, and that the staff now need to come up with an official written recommendation based on the opinions already voiced. Commissioner Fowler commented that it was her understanding that the vote today was to approve for that written recommendation to be started on. Director Winn responded that her recommendation was to go ahead and approve making the agreed upon changes official now and keep working on the other issues. However, she was okay waiting and working on an official document with those agreed upon changes listed for the March meeting. Chair Doherty recommended going forward with that and presenting all agreed on changes for voting at the March meeting.

NEW BUSINESS:

Review and Discuss Best Practices Form.

Commissioner Beckstead stated he believes that where we are in the process of this internal performance review of the commission and director is to move forward with the process of filling out the document to submit to the Governor's office. Director Winn responded that this is a check-in and that the form is not due until the end of the fiscal year. The goal today is for the commission to review the review items and give any feedback on areas the staff can work on between now and the final evaluation.

Chair Doherty commented that she appreciated this opportunity to look ahead as, apart from Commissioner Conde, all the commissioners are new and may not have dealt with all the areas of review yet. She liked the idea of the commissioners filling out the form as a preliminary review for Director Winn to receive and compile for further review and discussion at a later meeting. Commissioner Beckstead agreed, stating that when he looked over the form, he felt the current commission had not been a functioning body long enough to answer all the questions. He stated he and Director Winn have an upcoming private meeting, and he would recommend discussing the process further with her during that meeting so that the commission is prepared to complete the review accurately and transparently.

Chair Doherty agreed and recommended that he begin filling out a preliminary form for the questions he could. Commissioner Beckstead stated that he would start the process with Director Winn's involvement, and then could present his answers to the full body for further discussion. Both agreed the hope is to ensure the form is done correctly and that further discussion may occur during the March, and perhaps April, meetings. Chair Doherty urged the other commissioners to review the document and familiarize themselves with the questions in the meantime.

Review Fair Meet Applications

Chair Doherty first thanked the administrative team for sending out the meeting documents in a single PDF this month, which made review of all documents, especially all the race meet applications, during the meeting much easier.

Director Winn reported that all applications had been received and thanks Karen Parkman and Mike Twiggs for their part in procuring and reviewing the applications. The applications for Crooked River Round Up (CRRU) and Eastern Oregon Livestock Show (EOLS), and Tillamook were filled out correctly, had the required supporting documents, and funding requests matched those of last year. The supplication for Grants Pass Downs (GPD) included a request for two additional race days but did not request additional hub funds to support those extra races. There was not a representative from GPD's to confirm, but Director Winn assumes those extra days are a place holder to enable the track to make up for canceled races, if necessary, so special permission would not be required at the time. Director Winn asked Randy Boden if he knew anything about the extra days, to which he stated he did not. He only knew of the change last year to make the one all-Quarter Horse day a commercial day to meet the commission's requirement of one commercial day within the fiscal year. However, that day won't exist this year, so that may factor into the extra days being requested.

Director Winn recommended a vote to pass all four applications.

Action: Approve the race applications for CRRU, EOLS, GPD, and Tillamook fair meets.

Moved by: Commissioner Conde

Seconded: Commissioner Berry

Vote: Commissioners Doherty, Conde, Berry, Fowler, and Beckstead voted AYE, and the motion was carried unanimously (5:0).

Request permission to start the rule making process for the following rule filings:

A. **462-130-0010 (2) (k) Corrects conflicting information – amendment.**

Director Winn reported that this rule is a clerical fix that removes a line which conflicts with another line later in the same rule regarding intoxication.

Action: Approval to start the rule making process to amend 462-130-0010 (2) (k).

Moved by: Commissioner Conde

Seconded: Commissioner Fowler

Vote: Commissioners Doherty, Conde, Berry, Fowler, and Beckstead voted AYE, and the motion was carried unanimously (5:0).

B. **462-140-0150 (6) (e) Updates address - amendment**

Director Winn confirmed with Chair Doherty that this is just an address update.

Action: Approval to start the rule making process to amend 462-140-0150(6) (e).

Moved by: Commissioner Fowler

Seconded: Commissioner Conde

Vote: Commissioners Doherty, Conde, Berry, Fowler, and Beckstead voted AYE, and the motion was carried unanimously (5:0).

C. **462-160-0150 Necropsy**

Director Winn reported that this rule received some minor changes that may not be included in the packet. After further discussion it was decided to rename the rule as “Postmortem Exam/Necropsy”, to cover a broader scope. This rule will ensure that any racehorse that dies on the track or on the grounds has the opportunity to receive a necropsy if possible, and if not, all reasonable efforts will be made for the state veterinarian to conduct a postmortem exam at the track. This also covers a reimbursement of reasonable costs of transportation of the horse to the necropsy location and coverage of the necropsy costs, which appears to be unique to Oregon. However, the tracks are small, and Oregon wants to ensure the horsemen are fairly compensated for compliance. A limit of \$1,200 will be set to cover these costs, which the ORC feels is fair. It also outlines that the veterinarian who gives routine care for the horse will not be involved in any postmortem exams. This is a new topic which was not covered in the rules prior to this.

Commissioner Beckstead clarified that this rule would not create any digressions that would lead to a loophole that would allow horsemen to refuse a necropsy if their horse dies. Director Winn responded that it is not up to the horsemen or the track if the horse is not able to be necropsied. The ORC would have to decide that it is not possible. Commissioner Beckstead reclarified that he wants to make sure that if the steward and vet say a horse needs to be examined after breaking down in a race, the owner or trainer would not be able to point to this language and get out of it. Director Winn responded that they would not be able to, and the owner has no jurisdiction over that decision. She asked Commissioner Beckstead if he had any recommendations to make the language clearer that there are no exceptions to necropsy unless explicitly decided by the ORC staff. He just doesn't want any situation to arise where people get out of having a horse examined and

feels in the interest of transparency the ORC needs to be letting the public know the horse was 1) transported and received a necropsy, and 2) what the findings were. He does not want the ORC saying there was not a necropsy because the owner opted out.

Chair Doherty recommended clarifying in the language that “when reasonably feasible” is determined by the commission staff. Commissioner Fowler stated it was the intent of the rule that only the racing commission could determine when it was not reasonably feasible, but that if it is not clear in the current language it could be added in. Chair Doherty stated that addition would solidify the intent. Commissioner Conde suggested updating the language to “when reasonably feasible, unless good cause is shown to the ORC” so that it is clear the ORC must receive good cause as to why it isn’t possible. Commissioner Fowler responded that adopting that language would make it seem like the horseman could then make an argument against their horse not being necropsied, which is not the purpose of this rule. She stated that the purpose of this rule is to ensure every horse gets a necropsy except in situations where it is not reasonably feasible to transport the horse, in which case a postmortem exam is to be performed on-site. There is no cause for an owner to argue against having it done. Commissioner Conde suggested then to break the rule into two subsections, the first stating all horses that die on the track or grounds receive and necropsy/postmortem examination period, and then a second subsection that states the necropsy is to take place at x facility whenever feasible. That then would remove the examination being reasonably feasible altogether. Director Winn said that she would play with the wording but what she is hearing is a subsection along the lines of: “When reasonably feasible, as determined by the Oregon Racing Commission, these necropsies will be conducted at x facility.” She asked if all were in agreement that when reasonably feasible the horse is going to Oregon State University and if not, it is happening on-site. The commissioners all agreed.

Chair Doherty recommended that Director Winn make the edits to the language to be review again at a later meeting for voting.

D. 462-220-0030 (11) Record retention – amendment

Director Winn reported that this rule was brought to the ORC by the advanced deposit wagering (ADW) companies, and Micah Lloyd put it together. It states that “Effective July 1, 2024, an applicant must maintain all customer account related documents after the account is closed including, but not limited to, wagering activity deposits and withdrawals, for a minimum of three years.” The previous rule did not clarify how long records needed to be kept once an account was closed. Micah Lloyd added that this closes a loophole that had been brought to the attention of the ADW through Google Apps which requires the ADW to delete customer records when they close their account. This amendment allows

the ORC to retain the records. This is important for responsible gaming and maintaining integrity so a person cannot close an account and create a new one as a new person.

Action: Approval to start the rule making process to amend 462-220-0030 (11).

Moved by: Commissioner Fowler

Seconded: Commissioner Beckstead

Vote: Commissioners Doherty, Conde, Berry, Fowler, and Beckstead voted AYE, and the motion was carried unanimously (5:0).

Discussion and possible adoption of proposed rule filings:

A. 462-220-0040 Prevents double taxation on Affiliate fees.

Director Winn reported that these rules have already been approved for rule making. There have been no changes to either rule since that time. This rule closes a loophole that allowed double taxation on affiliate fees, so an affiliate and licensee are not taxed on the same wager.

Action: Approve the adoption of the proposed rule filing OAR 462-220-0040.

Moved by: Commissioner Fowler

Seconded: Commissioner Conde

Vote: Commissioners Doherty, Conde, Berry, Fowler, and Beckstead voted AYE, and the motion was carried unanimously (5:0).

B. 462-220-0020 Clarifies out of state licensing requirements.

Director Winn explained that this rule does two things. First, in the past employees of an out-of-state licensee were not required to possess an Oregon racing license if they obtained one in another state. However, not all other jurisdictions run full background checks as part of their licensing process. This clarifies that if the other jurisdiction can prove a full background check was done on the individual for licensing then an Oregon license is not also required, however if they cannot then they need to be individually licensed in Oregon.

Action: Approve the adoption of the proposed rule filing OAR 462-220-0020.

Moved by: Commissioner Conde

Seconded: Commissioner Fowler

Vote: Commissioners Doherty, Conde, Berry, Fowler, and Beckstead voted AYE, and the motion was carried unanimously (5:0).

PUBLIC COMMENT:

Randy Boden, the director of the OHBPA, commented that all stakeholders are in favor of the necropsy rule. Where an issue may occur, which was brought up by Dr. Everman, was that if timely

transport was not available or it was too hot or too late at night the horse may not be viable for necropsy by the time it gets to OSU. He suggested stating all horses would get a necropsy unless the state veterinarian deemed that it was not feasible. Otherwise, all are in favor. He also thanked Director Winn for the work she has been doing testifying in Salem. Chair Doherty agreed.

CONTESTED CASES:

None.

CONFIRMATION OF NEXT COMMISSION MEETING:

The next commission meeting is scheduled for March 21st, 2024, at 1:30 P.M. via ZOOM.

ADJOURNMENT:

There being no further business, the meeting was adjourned at 2:21 p.m.