

National Horsemen's Benevolent & Protective Association

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**Written Statement of the National Horsemen's Benevolent and Protective Association
Before the United States Senate Committee on Commerce, Science, & Technology
Hearing on "Medication and Performance-Enhancing Drugs in Horse Racing"
July 12, 2012**

Mr. Chairman and other distinguished members of the committee, I appreciate having this opportunity to testify today on behalf of the National Horsemen's Benevolent and Protective Association ("NHBPA"). The NHBPA has been representing the interests of thoroughbred horse owners and trainers racing in North America since 1940. There are over 30,000 owner and trainer members of the NHBPA throughout the United States and Canada focused on a twofold common goal: safe and fair horse racing on all levels and an unwavering commitment to the well being of race horses. From 2009 through 2011 owners spent over \$2 billion to purchase race horses. They spent on average an additional \$25,000 annually for the training and care of each horse.

The NHBPA has 30 affiliates across the United States and Canada, including: Alabama, Arizona, Arkansas, Canada, Charles Town, WV, Colorado, Finger Lakes, NY, Florida, Idaho, Illinois, Indiana, Iowa, Kentucky, Louisiana, Michigan, Minnesota, Montana, Mountaineer Park, WV, Nebraska, New England, New Mexico, Ohio, Oklahoma, Ontario, Oregon, Pennsylvania, Tampa Bay, FL, Texas, Virginia and Washington. Membership is open without restriction to all owners and trainers licensed by state racing authorities. The leadership of the NHBPA and its affiliates is democratically elected by the members.

Other organizations that purport to speak for thoroughbred owners and trainers are not as representative or as inclusive as the NHBPA. The Jockey Club, headquartered in New York, is an invitation only organization that has approximately 100 members. The Thoroughbred Owners & Breeders Association ("TOBA"), located in Kentucky, has about 2,500 members, most of whom are horse breeders.

The NHBPA believes it helpful to unequivocally state its position on the use of performance enhancing drugs in horse racing. Owners and trainers who cheat by administering drugs that have no legitimate use in horses in an attempt to win races should be kicked out of horse racing. Dermorphin, an opiate like substance derived from the skin of a South American frog that has been the subject of recent publicity, is one such drug. Using dermorphin is doping and all doping should be penalized severely.

However, the NHBPA does not oppose the controlled use of truly therapeutic medication that has long been used in horse racing to treat injuries and infirmities. Medication, like furosemide (commonly called "Lasix") that acts to prevent pulmonary hemorrhaging ("bleeding in the lungs") during racing, is necessary to keep a horse healthy. Lasix use is not doping, and no one can reasonably conclude otherwise. It has been routinely administered by veterinarians for the past 40 years in their treatment of horses and is noted beside a horse's name in racing programs as L for racing with "Lasix".

The NHBPA strongly takes issue with on-going misstatements in the public media regarding the alleged misuse of racing medication in the horse racing industry. A feature article in the March 25, 2012 *New York Times* ("NYT"), "*Mangled Horses, Maimed Jockeys; A Nationwide Toll,*" lumped everything

together and claimed there was rampant illegal use of drugs in horse racing that was causing injuries to both horses and jockeys. The *NYT* reported from 2009 through 2011 trainers were “*caught illegally drugging horses 3,800 times, a figure that vastly understates the problem because only a small percentage of horses are actually tested.*” The article cited this as evidence of regulatory failure by the states to stop “*cheating.*”

The *NYT*'s article prompted a call by some for federal regulation of the use of medication in horse racing and others for a ban on all medication including Lasix. However, an analysis of regulatory data in thoroughbred racing states shows the *NYT*'s assertions are badly flawed and seriously misleading. Likewise, the call for a medication ban is premised on misconceptions by industry participants who put their own agenda ahead of the welfare of horses and jockeys.

From 2009 through 2011, the average field size in 139,920 thoroughbred races run throughout the United States was 8.17 horses. Because at least two horses in every race, the winner and another horse selected by the stewards, are routinely tested for drugs nearly 25% of all horses (2 out of every 8) were tested. Statistically speaking, that is a representative sample of all horses racing in the three year period. At the outset it is thus fair to say the *NYT* was wrong in claiming post race testing “*vastly understates*” the extent of “*cheating.*”

What then were the results of drug testing in the *NYT*'s three year period? Do they show rampant “*illegal drugging*”? The answer is a resounding no. Based on data maintained by state racing commissions and compiled by the Association of Racing Commissioners International, 99.27% of 279,922 post race tests were negative for drug use. Those percentages are not by any stretch of the imagination evidence of rampant drug use. They should be the envy of every other sport that tests for drugs.

Horse racing in the United States spends about \$35 million a year on drug testing. The Association of Racing Commissioners International notes the World Anti-doping Agency, which conducts testing in other sports, in contrast earmarks \$1.6 million per year for testing fees. Laboratories conducting testing for the horse racing industry include those at the University of California/Davis, the University of Florida, the University of Illinois, Iowa State University, Louisiana State University, West Chester University, and Morrisville State College. Also involved are private ISO accredited laboratories like Dalare Associates (Philadelphia, PA), HFL Sport Science (Lexington, KY), and Truesdail Labs (Tustin, CA).

Granted in the three years surveyed by the news article there were positive post race test results, but only about half the 3,800 claimed by the *NYT*. Even so, nearly all were for drug concentrations above regulatory levels of permitted therapeutic medication, like common anti-inflammatory drugs (e.g. phenylbutazone or “*bute*”) similar to Aspirin, Advil, and Aleve taken by humans.

Only a handful of drug test positives (82 out of 279,922 tests, or less than 3/100ths of 1%) were for illegal substances like dermorphin generally having no purpose other than cheating, and only a handful of trainers were responsible for those positives. Specifically, during the three year period on average 5,800 thoroughbred horse trainers were licensed annually by state regulators. Only 12 trainers (2/10ths of 1 % of all trainers) “*doped*” horses, according to regulatory data.

The following chart summarizes the drug testing results for the period 2009-2011. Class 1 and 2 positives are “*cheater*” drugs or “*doping*” classified as such by the Association of Racing Commissioners International. Those drugs have the highest potential for affecting performance and have no generally accepted medical use in race horses. Class 3, 4, 5, and Lasix positives, on the other hand, generally indicate overdoses of therapeutic medication. Therapeutics are permitted in race horses and have little or no likelihood of affecting performance. Threshold limits for therapeutics are set by state regulation with

the intent that on race day no horse should be under the direct influence of therapeutic medication, except for the permitted race day use of Lasix.

Racing Medication Data

2009-2011

State	Races	Starts	Avg. Field	Drug tests	Class 1	Class 2	Class 3	Class 4	Class 5	Lasix	% Neg.	% Pos.
AZ	4888	38993	7.97	9776	0	3	6	42	0	0	99.48	0.52
AR	1526	14058	9.21	3052	0	0	0	13	0	5	99.42	0.58
CA	13369	100656	7.52	26738	0	0	38	130	0	0	99.38	0.62
DE	2901	21799	7.51	5802	0	0	4	28	1	0	99.44	0.56
FL	9872	86116	8.72	19744	0	14	38	95	15	0	99.18	0.82
IA	1838	14112	7.67	3676	2	0	1	1	0	0	99.90	0.10
IL	6797	54573	8.02	13594	0	0	22	26	1	10	99.57	0.43
IN	3343	28701	8.58	6686	1	0	6	20	0	8	99.48	0.52
KY	6439	56568	8.78	12986	1	7	32	82	32	7	98.80	1.20
LA	10337	94178	9.11	20674	0	0	26	237	1	11	98.70	1.30
MA	2518	19768	7.85	5036	0	3	7	2	0	0	99.77	0.23
MD	4178	31966	7.65	8356	0	2	8	19	3	3	99.59	0.41
MI	1315	9316	7.08	2630	0	0	0	12	0	0	99.55	0.45
MN	1392	10790	7.75	2784	0	3	13	163	0	1	93.60	6.40
ND	205	1550	7.56	410	0	0	0	18	0	1	95.70	4.30
NE	2491	20399	8.18	4982	2	0	26	59	0	0	98.30	1.70
NH					0	0	0	1	0	0		
NJ	3105	25083	8.07	6210	0	0	4	3	0	0	99.89	0.11
NM	5180	43302	8.35	10360	1	2	7	13	0	2	99.76	0.24
NV	131	664	5.06	236	0	0	0	2	0	0	99.30	0.70
NY	11256	87317	7.75	22512	0	2	15	14	0	4	99.85	0.15
OH	7876	60915	7.73	15752	0	5	25	113	34	4	98.90	1.10
OK	3466	32869	9.48	6932	2	0	0	17	2	1	99.69	0.31
OR	2196	16014	7.29	4392	0	0	1	33	0	0	99.30	0.70
PA	13568	109878	8.09	27136	8	9	22	194	5	1	99.20	0.80
SD					0	0	0	3	0	0		
TX	3538	31227	8.82	7076	1	12	12	46	8	12	98.80	1.20
VA	1210	10213	8.44	2420	0	1	5	10	0	0	99.30	0.70
WA	2538	17887	7.04	5076	0	0	0	3	0	1	99.93	0.07
WV	12433	105470	8.48	24866	0	1	9	84	0	0	99.63	0.37
WY	14	113	8.07	28	0	0	0	1	0	0	96.43	3.57
TOTAL	139,920	1,144,495	8.17	279,922	18	64	327	1,484	102	71	99.27	0.73

Clearly the above state racing commission data disproves the *NYT's* dramatic allegations of widespread drug misuse. It also demonstrates that race day administration of Lasix is well regulated, with only 71

instances (2/100ths of 1%) in the three year period where Lasix was administered in an incorrect dosage or too close to post time. Even so, to avoid the appearance of any impropriety the National HBPA believes only state regulatory veterinarians, and not private veterinarians, should be permitted to administer lasix on race day.

Unfortunately, Lasix is being swept up in the media hysteria over alleged doping of horses with illegal drugs, aided and abetted by organizations that should know better. This has obscured some basic scientific and medical facts supporting continued use of Lasix:

- The extreme physical stress of hard running causes nearly all horses to bleed in their lungs, some more severely than others. Bleeding robs horses of oxygen, causes progressive and irreversible scarring in the lungs, makes breathing more difficult, and can cause instant death on the race track.
- Nearly all bleeding remains internal and is only detectable by endoscopic examination. Detection by an externally visible nose bleed is the rare exception, but is usually the standard in other countries in Europe and Asia for determining whether a horse is a “bleeder.”
- Lasix prevents and lessens bleeding. It is safe and has been used effectively for nearly forty years. Its use does not prevent the post-race detection of other drugs.
- Lasix is not performance enhancing. It does not make a horse run faster than its natural talent. On the other hand, bleeding does make a horse run slower and can stop a horse outright.

The *NYT* piece also claimed drug use is the main cause of horse injuries in races. Based on a purported analysis of Equibase charts the *NYT* reported an “*incident rate*” of 5.2 per thousand starts for 2009-2011, which included both quarter horses and thoroughbreds. A subsequent *Thoroughbred Times* analysis of the same charts found a 4.03 per thousand incident rate for thoroughbreds.

Once again the facts are other than what the *NYT* asserted. In 2009-2011, the data shows an overall drug positive rate of 1.8 per thousand starts. Assuming for the sake of discussion the highly doubtful and unsupported premise that all drug use, whether illegal or therapeutic, causes injuries and fatalities the “*incident rate*” in the three year period should be closer to 1.8, and not 4.03 or 5.2 per thousand starts, depending on which analysis, if any, is correct. Simply put, the actual data suggests something beside drug use is primarily responsible for racing injuries. For that reason the horse racing industry is conducting scientific research and analysis on racing surfaces to better understand the role surfaces play in racing injuries in order to further improve the safety of horse racing for both horses and jockeys.

The *NYT* and many of those industry voices calling for a ban on race day medication appear to labor under the misconception that race day medication, in addition to Lasix, is routinely permitted in numerous racing jurisdictions. The *NYT* says “*horses are permitted to run on some dose of pain medication, usually bute.*” But that is not true. The “*some dose*” the *NYT* article hangs its hat on is not active medication, but rather a trace regulatory threshold limit set for post race test screening purposes. Thresholds are set to make sure lawful therapeutic medication used during training in the days that precede a race has no pharmacologic effect on race day.

For example, in Virginia the current threshold for phenylbutazone (“bute”) is 2 micrograms per milliliter of plasma in post race testing. On race day that small concentration has no medicinal effect on a horse and

a test showing that amount or less is regarded as negative. However, the increasing sensitivity of drug testing equipment makes threshold limits like this necessary to avoid having positive test results based upon residual concentrations of therapeutic medication lawfully administered in training that have no effect on race day. “Zero tolerance” testing without threshold screening limits results in false positives.

The *NYT* compounded its error by implying an increase in racing fatalities at Colonial Downs in 2005 was caused by the Virginia Racing Commission increasing the bute threshold from 2 to 5 micrograms. But a study conducted with the assistance of the Virginia Racing Commission demonstrated there was no statistically significant difference in fatality rates tied to bute threshold levels.

Proponents of a ban on medication point to Britain as an example the United States should emulate. The *NYT* claims “breakdown rates are half of what they are in the United States [and] horses may not race on any drugs.” None of that is true. According to the British Horseracing Authority (“BHA”), the central body that regulates racing in Britain, the fatality rate in 2011 was about 2 in every thousand starts. In the United States the Jockey Club calculated a 2011 fatality rate of 1.88 per thousand starts. Both rates include steeplechase racing.

Furthermore, horsemen in England are allowed to and do administer the same therapeutic medication used by American horsemen, including bute and Lasix. But on race day, like American horses (except for lasix), those in England may not compete under the influence of active medication. Like the U.S. the BHA uses threshold screening levels, in its case levels for 22 therapeutic drugs established by the International Federation of Horseracing Authorities, and post race testing to ensure that is so. The following chart, comparing three years of post race testing in England (based on the most recent data published by BHA) with the most recent U.S data compiled by the Association of Racing Commissioners International, shows no significant difference in drug positive results between the two countries. Both are essentially drug free.

	Starts	Tests	Negative tests	Positive tests
Britain (2006-08)	286,343	27,753	99.84%	0.16% (44)
United States (2009-11)	1,144,495	279,922	99.27%	0.73 % (2066)

The slight variance between countries may be accounted for by the fact that less than 10% of British starters are tested while the U.S. tests nearly 25% of all starters, and the U.S. has four times the number of starts. Also, the British select a horse for post race testing subjectively based on performance in a race or “intelligence” available to the race stewards. In the U.S. selection in each race of two horses for testing is more or less random at the outset. In Britain only urine is routinely tested while in the U.S. both urine and blood are examined, with blood being the more accurate indicator of the presence of medication.

The main difference in medication policy between the United States and Britain (as well as the rest of Europe) is the use of Lasix. In Britain Lasix is used in daily training to prevent or lessen pulmonary hemorrhaging, but not on race day. From a horse welfare standpoint that makes no sense. No one disputes that Lasix prevents rather than causes injuries or fatalities in race horses, and thereby protects jockeys as well.

We conclude by stating our position regarding regulation of racing medication:

- A) The National HBPA's focus has always been, and remains, the health and safety of the horse, the safety of the jockey, and the safety of all individuals coming into contact with the horse (e. g. grooms, hot walkers, trainers and veterinarians).
- B) The National HBPA believes a truly independent Racing Medication and Testing Consortium ("RMTC") of industry stakeholders (including NHBPA, the Jockey Club, and TOBA, among others) not dominated by any individual organization, with input from appropriate medical and veterinary professional bodies such as the American Association of Equine Practitioners, must be the final evaluator of medical and veterinary science.
- C) RMTC approved medication rules should be reviewed by the Association of Racing Commissioners International on behalf of state racing commissions, and following an evaluation based on science and medical research with all industry stakeholders being heard, the rules should be adopted or rejected by a majority vote.
- D) The resultant Uniform National Medication Rules should be implemented by means of a National Compact among the states, and not imposed by the federal government, which has no experience or expertise in horse racing.
- E) Uniform National Medication Rules must be based solely on published scientifically determined regulatory thresholds, with published scientifically determined withdrawal time guidelines, all based on and supported by data published in the scientific literature.
- F) RMTC and ISO-17025 accredited laboratories should perform all medication testing.
- G) Repeat offenders should be severely penalized, including permanent exclusion from the industry.

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