

**KENTUCKY HORSE RACING COMMISSION**  
**MINUTES OF THE MEETING**

Date: December 9, 2019 at 1:30 PM

Place: Rolex Hospitality Room, 4089 Iron Works Parkway, Kentucky Horse Park, Lexington, KY

Members Present: Chairman Franklin S. Kling, Jr.; Vice-Chairman Mark Simendinger; Commissioner Larry Bisig; Commissioner Stuart E. Brown, II, DVM; Commissioner Kiki Courtelis; Commissioner Patrick A. Day; Commissioner James David Gates, Jr.; Commissioner Douglas A. Hendrickson; Commissioner Lesley Howard; Commissioner Kenneth A. Jackson; and Commissioner Brereton C. Jones, Jr.

Ex-officio Members Present: Secretary Don Parkinson, Tourism, Arts & Heritage Cabinet; Secretary K. Gail Russell, Public Protection Cabinet; and Acting Secretary Vivek Sarin, Cabinet for Economic Development

KHRC Staff Participating/Present: Marc A. Guilfoil, Executive Director; Jamie Eads, Deputy Executive Director and Director of Division of Incentives and Development; John L. Forgy, General Counsel; Shawn D. Chapman, Deputy General Counsel; Steve May, Director of Pari-Mutuel Wagering and Compliance; Bruce Howard, DVM, Interim Equine Medical Director and Chief Racing Veterinarian; and Barbara Borden, Chief State Steward

Others Participating: Richard Riedel, Executive Director, Kentucky Racing Health & Welfare Fund

<i>AGENDA ITEM</i>	<i>TRANSCRIPT PAGE NUMBER(S)</i>	<i>DISCUSSION / CONCLUSIONS / RECOMMENDATIONS</i>	<i>ACTION TAKEN</i>
<b>I. Call to Order and Roll Call</b>	4	Meeting of the Kentucky Horse Racing Commission (KHRC) called to order and roll call performed by Chairman Kling. A quorum was recognized.	No action taken.
<b>II. New Business Tab 1 Minutes from October 8, 2019</b>	5 – 87 5 – 6	Chairman Kling requested a motion from the Commission to address the request submitted by KHRC staff to approve the proposed minutes of the October 8, 2019 Commission meeting. Motion by Commissioner Brown. Second by Commissioner Day.  Ms. Eads presented the proposed minutes of the October 8, 2019 Commission meeting as outlined in the agenda materials.	Chairman Kling called for a vote to approve the proposed minutes as presented. Commissioner Gates abstained. Motion carried with no objections.

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<p><b>Tab 2 2020 Meeting Schedule and Calendar</b></p>	<p>6 – 7</p>	<p>Approval was recommended by KHRC staff.</p> <p>Chairman Kling requested a motion from the Commission to address the request submitted by KHRC staff to approve the proposed 2020 meeting dates of the KHRC. Motion by Commissioner Courtelis. Second by Commissioner Jones.</p> <p>Chairman Kling presented the proposed schedule of 2020 meeting dates for the KHRC as outlined in the agenda materials.</p> <p>Approval was recommended by KHRC staff.</p>	<p>Chairman Kling called for a vote to approve the request as presented. Motion carried with no objections or abstentions.</p>
<p><b>Tab 3 2020 Kentucky Sire Stakes Purse Distributions</b></p>	<p>7 – 9</p>	<p>Chairman Kling requested a motion from the Commission to address the recommendations submitted by the Kentucky Standardbred Development Fund/Kentucky Standardbred Breeders’ Incentive Fund Advisory Panel (KSDF/KSBIF Advisory Panel) to approve the proposed 2020 purse distribution and marketing expenditures. Motion by Commissioner Jackson. Second by Commissioner Brown.</p> <p>Mr. Eads presented the KSDF/KSBIF Advisory Panel’s recommendation as outlined in the agenda materials. Ms. Eads stated that at its September 10, 2019, the KSDF/KSBIF Advisory Panel approved recommendation of the request.</p> <p>Approval of the KSDF/KSBIF Advisory Panel’s recommendation was recommended by the KHRC staff.</p>	<p>Chairman Kling called for a vote to approve the request as presented. Motion carried with no objections or abstentions.</p>
<p><b>Tab 4 Kentucky County Fairs: Release of Uncashed Ticket Money for Purse Distributions</b></p>	<p>9 – 11</p>	<p>Chairman Kling requested a motion from the Commission to address the request submitted by the KHRC staff to approve the proposed use of the 2019 Standardbred unclaimed pari-mutuel ticket fund for harness racing purses at the county fairs as required by KRS 230.398. Motion by Commissioner Day. Second by Commissioner Courtelis.</p>	<p>Chairman Kling called for a vote to approve the request as presented. Motion carried with no objections or abstentions.</p>

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		<p>Ms. Eads presented the KHRC staff’s request as outlined in the agenda materials.</p> <p>Approval was recommended by KHRC staff.</p>	
<p><b>Tab 5 Transfer of Funds to the Kentucky Racing Health &amp; Welfare Fund</b></p>	<p>11 – 19</p>        <p>12 – 18</p>	<p>Chairman Kling requested a motion from the Commission to address the request submitted by the Kentucky Racing Health and Welfare Fund (KRHWF) to transfer funds from the 2019 thoroughbred unclaimed pari-mutuel ticket account to the KRHWF. Motion by Commissioner Day. Second by Commissioner Hendrickson.</p> <p>Ms. Eads presented the request from the KRHWF dated November 5, 2019 as outlined in the agenda materials.</p> <p>Mr. Riedel presented on behalf of the KRHWF.</p> <p>Approval was recommended by KHRC staff.</p>	<p>Chairman Kling called for a vote to approve the request as presented. Motion carried with no objections or abstentions.</p>
<p><b>Tab 6 Regulatory Proposals Concerning Medications</b></p>	<p>19 – 60</p>  <p>20</p> <p>20 - 60</p>  <p>20 – 46</p>	<p>Chairman Kling requested a motion from the Commission to address the recommendations submitted by the Equine Drug Research Council (EDRC) and the Safety and Welfare Committee (SWC) to approve eight (8) regulatory proposals. Motion by Commissioner Day. Second by Commissioner Jones.</p> <p>Chairman Kling noted that the Commission would address each regulatory proposal following each presentation.</p> <p>Dr. Howard and Mr. Forgy presented each of the following eight (8) regulatory proposals as outlined in the agenda materials:</p> <p>(1) Consideration of phasing out of race day furosemide in two-year-olds in 2020, and phasing out of race day furosemide in all Stakes races in 2021. At the EDRC’s November 25, 2019 meeting,</p>	<p>(1) Chairman Kling called for a vote to approve filing of the amendment to phase out furosemide as presented and outlined in the agenda materials as either an emergency regulation and/or an ordinary regulation. Motion carried with no objections or abstentions.</p>

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	46 – 48	<p>the EDRC voted 6-2 in favor of the proposal. Approval was recommended by KHRC staff.</p> <p>Motion to approve filing of an amended regulation as presented as an ordinary regulation or an emergency regulation accompanied by the ordinary regulation by Commissioner Hendrickson. Second by Commissioner Day.</p> <p>(2) Consideration of extending the withdrawal time for NSAIDs from 24 to 48 hours. Additionally, the presence of more than one NSAID in a post-race sample would be a violation. At the EDRC's October 28, 2019 meeting, the EDRC voted 8 to 0 in favor of the proposal. Approval was recommended by KHRC staff.</p>	<p>(2) Chairman Kling called for a vote to approve filing of the amendment to extend the withdrawal time for NSAIDs from 24 to 48 hours as presented and outlined in the agenda materials as either an emergency regulation and/or an ordinary regulation. Motion carried with no objections or abstentions.</p>
	48 – 49	<p>(3) Consideration of corticosteroid stand down time of 14 days. The proposal would change the stand down period following an intra-articular (IA) corticosteroid injection to 14 days and prohibit stacking multiple corticosteroids. At the EDRC's October 28, 2019 meeting, the EDRC voted 6 to 2 in favor of the proposal. Approval was recommended by KHRC staff.</p>	<p>(3) Chairman Kling called for a vote to approve filing of the amendment for a 14-day stand down period following an IA corticosteroid injection as presented and outlined in the agenda materials as either an emergency regulation and/or an ordinary regulation. Motion carried with no objections or abstentions.</p>
	49 – 51	<p>(4) Consideration of limiting the use of bisphosphonates. The proposal would make the detection of bisphosphonates in horses younger than for (4) years old a violation and place the horse on the Veterinarian's List for six (6) months. Additionally, the use of bisphosphonates in horses four (4) years and older would be limited to FDA approved usage and require reporting of the treatment to the KHRC's veterinarian within twenty-four (24) hours of administration and place the horse on the Veterinarian's List for six (6) months. At the EDRC's October 28, 2019 meeting, the EDRC</p>	<p>(3) Chairman Kling called for a vote to approve filing of the amendment for a 14-day stand down period following an IA corticosteroid injection as presented and outlined in the agenda materials as either an emergency regulation and/or an ordinary regulation. Motion carried with no objections or abstentions.</p>

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	<p>51 – 53</p> <p>53 – 54</p> <p>54 – 57</p>	<p>voted 7-0 in favor of the proposal. Approval was recommended by KHRC staff.</p> <p>(5) Consideration of eliminating electronic therapeutic treatments on race day. The proposal would eliminate the use of electronic therapeutic treatments on race day, with the exception of nebulization. At the EDRC’s October 28, 2019 meeting, the EDRC voted 8-0 in favor of the proposal. Approval was recommended by KHRC staff.</p> <p>(6) Consideration of medical record requirements. The proposal would require that 14 days of equine medical records be presented at the time of entry, trainers would be required to maintain a clear and accurate record of any treatment administered, and all medical records would be required to be transferred to each subsequent owner and trainer of a horse. At the EDRC’s October 28, 2019 meeting, the EDRC voted 8-0 in favor of the proposal.</p> <p>(7) Consideration of requirement of examination by attending veterinarians prior to entry. The proposal by KHRC staff would require an attending veterinarian to evaluate a horse within three (3) days prior to entry and provide documentation that, in the veterinarian’s opinion, the horse is fit and sound to run. Examinations would include at a minimum watching the horse jog. If the attending veterinarian deems diagnostic tests are necessary to evaluate the horse, those results must be submitted to the regulatory veterinarian no later than the day before the horse is to start. At the SWC’s October 29, 2019 meeting, the SWC voted 5 to 0 in favor of the proposal. Approval was recommended by KHRC staff.</p>	<p>(4) Chairman Kling called for a vote to approve filing of the amendment to limit the use of bisphosphonates as presented and outlined in the agenda materials as either an emergency and/or ordinary regulation. Motion carried with no objections or abstentions.</p> <p>(5) Chairman Kling called for a vote to approve the elimination of electronic therapeutic treatments as presented and outlined in the agenda materials as either an emergency and/or ordinary regulation. Motion carried with no objections or abstentions.</p> <p>(6) Chairman Kling called for a vote to approve the proposed equine medical</p>

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	<p>57 – 58</p> <p>58 – 60</p>	<p>(8) Penalty Classification for Scopolamine. The proposal would change the current Class B penalty for scopolamine to a Class C penalty. At the EDRC’s October 28, 2019 meeting, the EDRC voted 8-0 in favor of the proposal. Approval was recommended by KHRC staff.</p> <p>Chairman Kling requested a motion from the Commission to grant the KHRC staff leave to make technical changes to the approved drafts to conform with the filing requirements of KRS Chapter 13A or as requested by the Legislative Research Commission (LRC) or as reasonably necessary upon further review. Motion by Commissioner Courtelis. Second by Commissioner Brown.</p>	<p>record requirements as presented and outlined in the agenda materials as either an emergency and/or ordinary regulation. Motion carried with no objections or abstentions.</p> <p>(7) Chairman Kling called for a vote to approve a requirement for examination by attending veterinarians prior to entry as presented and as outline in the agenda materials as either an emergency and/or ordinary regulation. Motion carried with no objections or abstentions.</p> <p>(8) Chairman Kling called for a vote to approve the revised penalty classification for Scopolamine from a Class B penalty to a Class</p>

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			<p>C penalty as presented and outlined in the agenda materials. Motion carried with no objections or abstentions.</p> <p>Chairman Kling called for a vote to approve granting KHRC staff the leave to make technical changes to the approved drafts of the regulatory proposals as presented. Motion carried with no objections or abstentions.</p>
N/A	60	<b>10 MINUTE BREAK OFF THE RECORD</b>	N/A
<b>Tab 7 Proposed Conditions of Racing Association Licensing for 2020</b>	60 – 62	<p>Upon returning from the break, Chairman Kling requested a motion from the Commission to address the request submitted by KHRC staff to approve the proposed conditions of racing association licenses for 2020. Motion by Commissioner Brown. Second by Commissioner Day.</p> <p>Mr. May presented the request as outlined in the agenda materials. He noted that the Commission approved the 2020 conditions of racing at its October 29, 2019 meeting. However, an omission in that previously approved version was discovered and has been amended.</p> <p>Approval of the amended version was recommended by KHRC staff.</p>	Chairman Kling called for a vote to approve the request as presented. Motion carried with no objections or abstentions.

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<p><b>Tab 8 Requested Approval of Advance Deposit Account Wagering Licenses for 2020</b></p>	<p>62 – 65</p>	<p>Absent an objection, Chairman Kling requested a single motion from the Commission to address the request for approval of the submitted renewal applications for the eight (8) Advance Deposit Account Wagering (ADW) license applications for 2020. Motion by Commissioner Bisig. Second by Vice-Chairman Simendinger.</p> <p>Mr. May presented the 2020 ADW renewal applications to provide account deposit wagering services in the Commonwealth of Kentucky submitted by AmWest Entertainment; eBet Technologies, Inc.; Lien Games Racing, LLC; NYRABets, LLC; ODS Technologies, L.P. d/b/a TVG Network; Churchill Downs Technology Initiatives Company d/b/a Twin Spires; Watch and Wager, LLC; and Xpressbet, LLC as outlined in the agenda materials.</p> <p>Approval was recommended by KHRC staff.</p>	<p>Chairman Kling called for a vote to approve the ADW renewal license applications submitted by AmWest Entertainment, eBet Technologies, Inc., Lien Games Racing, NYRABets, TVG Network, Twin Spires, Watch and Wager, and Xpressbet as presented, subject to the conditions of advance deposit account wagering licensing for 2020. Motion carried with no objections or abstentions.</p>
<p><b>Tab 9 Requested Approval of Totalizator Licenses for 2020</b></p>	<p>65 – 67</p>	<p>Absent an objection, Chairman Kling requested a single motion from the Commission to address the request for approval of the three (3) submitted renewal license applications received to provide tote services for 2020. Motion by Commissioner Bisig. Second by Commissioner Gates.</p> <p>Mr. May presented the 2020 totalizator renewal applications to provide tote services in the Commonwealth of Kentucky submitted by AmTote International, Sportech Racing, and United Tote as outlined in the agenda materials.</p> <p>Approval was recommended by KHRC staff.</p>	<p>Chairman Kling called for a vote to approve the totalizator renewal license applications for 2020 submitted by AmTote International, Sportech Racing, and United Tote. Motion carried with no objections or abstentions.</p>



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<p><b>Tab 10 Keeneland Red Miles's Request to Approve PariMAX Version 3.17</b></p>	<p>67 – 69</p>	<p>Chairman Kling requested a motion from the Commission to address the request submitted by KRM Wagering LLC (KRM) to approve offering PariMAX Version 3.17 of the PariMAX wagering system. Motion by Commissioner Jackson. Second by Commissioner Hendrickson.</p> <p>Mr. May presented KRM's request dated October 10, 2019 as outlined in the agenda materials.</p> <p>Conditional approval was recommended by KHRC staff contingent upon the completion of the three (3) conditions as set out in the agenda materials.</p>	<p>Chairman Kling called for a vote to approve the request as presented and contingent upon the three (3) conditions set out in the agenda materials. Motion carried with no objections or abstentions.</p>
<p><b>Tab 11 Kentucky Downs' Request to Amend Historical Horse Racing Approval</b></p>	<p>69 – 72</p>	<p>Chairman Kling requested a motion from the Commission to address the request submitted by Kentucky Downs to increase the total number of authorized historical horse racing pari-mutuel wagering terminals to 2,000. Motion by Vice-Chairman Simendinger. Second by Commissioner Hendrickson.</p> <p>Mr. May presented Kentucky Downs' request dated November 18, 2019 as outlined in the agenda materials. He noted the request would amend the Commission's June 19, 2019 approval from "up to 1,200 historical horse racing pari-mutuel wagering terminals" to 2,000. Vice-Chairman Simendinger noted a discrepancy in the agenda materials of an increase of 2,000 or 2,500. Mr. May confirmed that the accurate number requested was a maximum of 2,500.</p> <p>Chairman Kling then called for a motion to correct the previous motion to approve 2,500 (instead of 2,000) historical horse racing pari-mutuel wagering terminals. Motion by Vice-Chairman Simendinger. Second by Commissioner Hendrickson.</p>	<p>Chairman Kling called for a vote to approve the request as presented and contingent upon the ten (10) conditions set out in the agenda materials. Motion carried with no objections or abstentions.</p>

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		Conditional approval was recommended by KHRC staff contingent upon the completion of the ten (10) conditions as outlined in the agenda materials.	
<b>Tab 12 Ellis Park's Request to Amend Historical Horse Racing Approval</b>	73 – 75	<p>Chairman Kling requested a motion from the Commission to address the request submitted by Ellis Park to increase the total number of authorized historical horse racing pari-mutuel wagering terminals to 2,000. Motion by Commissioner Brown. Second by Commissioner Courtelis.</p> <p>Mr. May presented Ellis Park's request dated November 21, 2019 as outlined in the agenda materials.</p> <p>Conditional approval was recommended by KHRC staff upon the completion of the ten (10) conditions as outlined in the agenda materials.</p>	Chairman Kling called for a vote to approve the request as presented and contingent upon the ten (10) conditions set out in the agenda materials. Motion carried with no objections or abstentions.
<b>Tab 13 Ratification of Executive Director Conditional Approval of Oak Grove's Proposed 2019 Race Meet Officials</b>	75 – 77	<p>Chairman Kling requested a motion from the Commission to address the request submitted by KHRC staff for ratification of the KHRC Executive Director's approval of the request submitted by Oak Grove Racing and Gaming of its proposed roster of racing officials for the 2019 harness meet. Motion by Commissioner Jackson. Second by Commissioner Brown.</p> <p>Ms. Borden presented Oak Grove's request dated October 18, 2019 and the Executive Director's approval of the request dated November 8, 2019 conditioned on ratification by the Commission and as outlined in the agenda materials.</p> <p>Approval was recommended by KHRC staff.</p>	Chairman Kling called for a vote to ratify the Executive Director's approval of the request as presented. Motion carried with no objections or abstentions.



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<p>d. Pari-Mutuel Wagering Division</p> <p>e. <b>Confidential – Litigation</b></p>	<p>82 – 84</p> <p>84 – 87</p> <p>87</p>	<p>c. Dr. Howard presented the veterinary division report as outlined in the agenda materials.</p> <p>d. Mr. May presented the pari-mutuel wagering division report as outlined in the agenda materials.</p> <p>e. Litigation and Regulation report is for informational purposes only.</p>	
<p>III. Executive Session</p> <p><b>Eferstein et al vs. KHRC</b></p>	<p>87 – 89</p> <p>87 – 88</p> <p>88</p> <p>88</p> <p>88</p>	<p>Chairman Kling requested a motion from the Commission to go into closed session for the following reasons: 1) to deliberate in its role as a judicial or quasi-judicial body regarding individual adjudication pursuant to KRS 61.810(1)(j); 2) to discuss proposed or pending litigation against or on behalf of the agency as permitted under KRS 61.810(1)(c); and 3) to conduct discussions which might lead to the appointment of an individual, employee, as permitted under KRS 61.810(1)(f). Motion by Commissioner Brown. Second by Commissioner Bisig.</p> <p style="text-align: center;"><b><u>CLOSED SESSION</u></b></p> <p>Chairman Kling requested a motion from the Commission to adjourn from closed session to open session. Motion by Commissioner Day. Second by Commissioner Courtelis.</p> <p style="text-align: center;"><b><u>RETURN TO OPEN SESSION</u></b></p> <p>Upon returning to closed session, Chairman Kling noted for the record that Commissioner Bisig had left the meeting.</p>	<p>Chairman Kling called for a vote for the Commission to go into closed session. Motion carried with no objections or abstentions.</p> <p>Chairman Kling called for a vote for the Commission to adjourn from closed session to open session. Motion carried with no objections or abstentions.</p>

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	89	Chairman Kling requested a motion in the matter of <i>Eferstein, et al. v. KHRC</i> to adopt the Hearing Officer's recommended order subject to the KHRC's Exceptions as outlined in the agenda materials. Motion by Commissioner Hendrickson. Second by Commissioner Day.	Chairman Kling called for a vote to adopt the Hearing Officer's recommended order as presented and subject to the KHRC's Exceptions. Motion carried with no objections or abstentions.
<b>IV. Adjournment</b>	89 – 90	Chairman Kling requested a motion to adjourn. Motion by Commissioner Courtelis. Second by Commissioner Day. Meeting adjourned.	Chairman Kling called for a vote to adjourn. Motion carried with no objections or abstentions.

**NOTE:** The Agenda materials and any amendments and/or supplements thereto, subject to any applicable exemptions, and the official Transcript are incorporated by reference as if set forth fully herein.