

# **New York Task Force On Racehorse Health and Safety**

## **Executive Summary**

Between November 30, 2011 and March 18, 2012, 21 horses died or were euthanized as a result of conditions sustained while racing at Aqueduct Race Track (hereinafter “Aqueduct”) in Ozone Park, New York. The incidence of racing fatalities was approximately double that recorded in the previous two years, and well exceeded the North American average for racing fatalities. This unusual cluster of injuries generated widespread public and industry concern. In a letter dated March 14, 2012 from the Office of New York Governor Andrew Cuomo to the New York Racing Association (“NYRA”), NYRA was advised to “hire a qualified independent investigator or team of investigators to review the circumstances involving these breakdowns, analyze the cause or causes and recommend any necessary action to (prevent) equine breakdowns at NYRA facilities.” The letter further advised, “The scope of the review should include existing policies on disclosure, necropsies, track conditions and pre-race examination of horses. The rules on claiming, veterinary procedures and drug use must be examined to determine what we can do to promote equine safety.”

On March 22, 2012 the New York State Racing and Wagering Board, (the “NYSRWB”) upon the recommendation of NYRA, announced the appointment of a team of respected industry experts to conduct the investigation: Alan M. Foreman, Esquire, a well-known equine and racing law attorney; Jerry Bailey, one of the greatest jockeys in the history of the sport and a member of the Hall of Fame; Mary Scollay-Ward, DVM, the Equine Medical Director for the Kentucky Racing Commission; and, Scott Palmer, VMD, an internationally know equine surgeon and Chair of the AAEP Racing Committee. The Task Force was directed to:

- Investigate the cause or causes of the 21 equine fatalities at Aqueduct’s inner track meet between December 2011 and March 18, 2012<sup>1</sup>.
- Examine the physical condition of Aqueduct’s inner track.
- Review and advise on policies relating to public disclosures, necropsies, track conditions and pre-race examinations, and;
- Examine rules and practices relating to claiming procedures, veterinary procedures and equine drug use.

In approaching this investigation, the Task Force was aware of the considerable speculation and theories that have been advanced to explain the

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<sup>1</sup> The original mandate was to investigate 20 fatalities that occurred at Aqueduct from November 30, 2011 to March 18, 2012. The list of the fatally injured horses provided to the Task Force did not include Smartie Bobbi, who was fatally injured on March 18, 2012. The Task Force included Smartie Bobbi in its investigation and hereinafter will refer to 21 fatalities.

occurrence of the fatal injuries during the Aqueduct meet. The Task Force examined all possible factors and conducted a thorough, objective, and comprehensive investigation. There were no sacred cows.

The absence of a complete necropsy for any of the fatally injured horses significantly compromised the ability of the Task Force to determine the cause of death in one case, or to document pre-existing musculoskeletal conditions other than the condition warranting euthanasia in the other 20 fatalities. Further, limitations in the sampling and analytical testing of the fatally injured horses compromised the ability of the Task Force to draw definitive conclusions regarding the role of medication.

Notwithstanding these limitations, the Task Force had the clarity of a retrospective view. This perspective was not available to the individuals directly responsible for the care, treatment, racing and regulatory oversight of these horses in real time. In this context, and with full appreciation of the advantages inherent in this type of investigation, the Task Force believes it is likely that there were missed opportunities for intervention that could possibly have prevented 11 of the 21 fatal injuries. With that said, the Task Force does not intend for this Report to be used to find fault, assign blame, or otherwise result in disciplinary action for events that have occurred. This Report is intended to be a constructive analysis, identifying actions with the potential to prevent or mitigate injury to horses and riders.

## **Review of the 2011-2012 Aqueduct Fatalities**

The Task Force did a comprehensive review of each of the fatalities. Information was obtained from medical records, interviews with owners, trainers, jockeys, practicing veterinarians, race charts, race videos and a review of data provided by epidemiologists. In addition, a cumulative risk assessment on each horse was performed. Two of the fatalities were anomalies to the rest in that they did not experience musculoskeletal failures.

*The individual reviews of each of the fatalities are discussed on pages 16-34 of the Report.*

### **Overview**

- All 21 equine racing fatalities occurred on Aqueduct's inner track between November 30, 2011 and March 18, 2012.<sup>2</sup> Two occurred in December; five in January; six in February; and eight in the first 18 days of March. On both January 15 and March 4, 2012, two fatalities occurred in the same race.

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<sup>2</sup> On March 22, 2012 racing returned to the main track, two weeks earlier than scheduled.

- 18 fatalities were horses euthanized as a result of fractures sustained during racing. 11 were associated with fracture of the right front leg; seven with fracture of the left front leg. One horse was euthanized a week after her race from a severe soft tissue injury of the right hind leg.
- Two fatalities were unrelated to musculoskeletal failure. Raw Moon collapsed and died after finishing her race. Unruly Storm was euthanized approximately one week following the race due to the development of an infection from a laceration that occurred during a race. These two fatalities were considered to be anomalies and were excluded from the relevant population of fatally injured horses when the Task Force considered potential interventions.
- 18 of the horses were stabled at Belmont and trained on the Belmont training track; three were stabled and trained at Aqueduct.
- There were eight females, three intact males and 10 geldings.
- 17 of the fatalities occurred in claiming races and four occurred in maiden special eight races.
- 11 fatalities occurred in races at distances of six furlongs or less; 10 occurred in races at distances of more than one mile.
- 17 fatalities occurred when the track was rated “Fast”; two when the track was rated “Good”; and two when the track was rated “Muddy”.
- Between November 30, 2011 and March 18, 2012, there were no fatalities on the inner track during training hours.

### **Factors Common to the Fatally Injured Horses**

Following its review of each fatality, the Task Force determined that there were certain facts and circumstances common to the fatally injured horses. They were:

- All of the horses raced at Aqueduct.
- All of the horses raced on the inner track.
- All of the horses were three years of age or older.
- All of the horses raced during a period of extraordinary claiming activity with elevated purses disproportionate to the value of the horses.
- All of the horses were examined by a NYRA veterinarian and cleared to race.
- 18 the injured horses trained at Belmont Park.
- 19 of the 21 fatalities were the result of musculoskeletal failure injuries.
- 18 of the 19 musculoskeletal fatalities occurred in claiming races, many of which had inflated purses (purse to claim price ratios up to 5.3).
- 16 of the 21 of fatalities occurred on a “Fast” track.
- 16 of the 21 of fatalities occurred during a period of relative drought.
- Seven of the 21 injured horses (33%) had a “change in clinical presentation” noted during the pre-race examination.

- Pre-race medication administered to the fatally injured horses was similar to that administered to the uninjured horses that raced.
- None of the fatally injured horses were subjected to a complete necropsy examination.
- No urine samples were obtained for drug testing from any of the fatally injured horses.
- No blood samples were obtained for drug testing from 11 of the fatally injured horses.
- None of the fatally-injured horses raced within seven days of the previous start
- Based upon the information provided, there may have been opportunities to prevent 11 of the 21 fatalities.

### **Other Potential Contributing Factors**

Before drawing any final conclusions regarding the cause or causes of the fatalities, the Task Force considered a number of other potential contributing factors.

#### **The Weather**

The unprecedented winter weather of 2011-2012, which featured unseasonably dry conditions and periods of warm temperatures, may have made it difficult to maintain consistent water content of the track, but the lack of scientific knowledge of the ideal surface moisture content makes it impossible to determine the significance of this finding. However, the unseasonably mild weather did eliminate periods of enforced rest ordinarily associated with routine winter conditions and weather related cancellations of training and racing.

*The Weather During the Aqueduct Meet is discussed on pages 41-44 of the Report.*

#### **The Aqueduct Racing Surfaces**

There is no evidence to indicate that there was a failure to properly maintain the racing surface nor was there any indication that a particular location on the inner track was a source of injury. The maintenance of the NYRA racing surfaces is state-of-the-art. While the NYRA track maintenance procedures set the standard for the industry, improvements in the collection and tracking of data could, when compiled and compared with EID injury rates, improve the decision-making process and possibly improve track safety.

The design and composition of the Aqueduct tracks are appropriate for the climatic conditions ordinarily encountered in the borough of Queens and Nassau County, New York. Moisture is the single most critical factor to influence the consistency of a dirt track, while temperature is the single most critical factor to influence the consistency of a synthetic surface. In the absence of well-documented measurement of the moisture content of the track and well-documented standards for optimal moisture content, track maintenance decisions may not have properly addressed the unique climatic conditions present during the Aqueduct 2011-2012 meet.

Given the conclusions regarding the track surface, coupled with the questions regarding surface moisture content, the Task Force believes that NYRA should once again consider whether the installation of a synthetic surface on the inner track is in the best interests of racing at Aqueduct. This view is reinforced by the successful experience with a synthetic surface at Turfway Park in Florence Kentucky, which experiences weather conditions similar to that at Aqueduct.

*The Aqueduct Racing Surfaces are discussed on pages 37-41 of the Report.*

### **The Condition Book**

The use of “Extra” races during the 2011-2012 Aqueduct meet was not a factor in the occurrence of racing fatalities.

*The Condition Book is discussed on page 45 of the Report.*

### **NYRA Veterinary Procedures**

The regulatory veterinary responsibilities such as pre-race examinations, scratches, assignment of horse’s to the Vet’s and Restricted Lists and racing-related injuries is performed by NYRA and not the NYSRWB. NYRA’s organizational hierarchy has the Veterinary Department accountable to the Racing Department. This dynamic creates a critical conflict-of-interest that can impact the veterinarians’ decisions and the best interests of the horse and rider. In other racing jurisdictions, this conflict is avoided by having all regulatory veterinarians employed by the racing commission or the state regulatory body.

The execution of scratches by Racing Office personnel, rather than the Stewards, establishes an untenable and inappropriate dynamic in which laypersons resist or overtly challenge the recommendations of regulatory veterinarians. Field size, or the economic impact of a scratch, must never be a consideration when an examining veterinarian assesses a

horse's suitability to race.

The inconsistencies in pre-race exam procedures and scratch criteria compromised the ability of the examining veterinarians to identify horses at risk and intervene accordingly.

Written protocols containing standards and practices were not provided to the NYRA veterinarians. The NYRA veterinarians would have benefitted from a manual that clarified regulatory responsibilities and authority, protocols for performing assigned duties and expectations of NYRA, the NYSRWB, the horsemen, and the jockeys. (Exhibit H: KHRC Procedures and Practices)

It is advisable to convene NYRA veterinarians as a panel to collectively assess, and achieve consensus on, any horse whose condition suggests or warrants a scratch because of unsoundness. This is a valuable training opportunity for the less experienced veterinarian, and strengthens decisions made by the NYRA veterinarians with respect to a horse's racing soundness.

Inconsistencies in information management diminish the efficacy and overall value of the pre-race examination.

The lack of a structured training and mentoring program for NYRA veterinarians has resulted in individuals functioning independently and without adequate support.

The failure to strategically examine horses represents a missed opportunity to prevent injury.

The use of the 'Restricted List' for horses determined to be unsound eliminates case follow up, which is warranted in all cases of lameness, and represents a missed opportunity to prevent injury. The 'Restricted List' should be abandoned.

Jockeys were reluctant to scratch horses during the post-parade or at the gate for fear of economic reprisal. The failure of jockeys to communicate reservations about horses' soundness to the regulatory veterinarians establishes an unacceptably elevated level of risk for all on the racetrack.

The apparent lack of response from the Veterinary Department to the occurrence of racing fatalities during the 2011-2012 meet in terms of a Department-wide discussion and review of procedures and processes within the Veterinary Department is of great concern to the Task Force.

*The NYRA Veterinary Department is discussed on pages 46-54 of the Report.*

### **Claiming Races and Rules**

While larger purses have attracted better horses to New York racing, the rapid and disproportionate increase of purses in the lower to mid-level claiming races stimulated increased claiming activity and inadvertently incentivized poor decision-making by a range of stakeholders that increased the risk for mismanagement and subsequent injury. The vast majority (18 of 19) of the horses that experienced musculoskeletal fatalities raced in these claiming races, some with a purse to claim price ratio as high as 5.3. The NYSRWB emergency amendment of Rule 4038.2 established a more appropriate ratio of claiming purse to claiming price and eliminated this incentive. However, rather than using an arbitrary number, the Task Force believes that the purse to claim price ratio should be no greater than 1.6, in which the value of the horse is approximately equal to the winner's share of the purse, and that the Rule should be amended accordingly.

In the opinion of the Task Force, NYSRWB rules in effect during the Aqueduct meet unintentionally facilitated the transfer of unsound or physically compromised horses through the claim box. The Task Force believes the NYSRWB emergency amendment to Rule 4038 represents an improvement by establishing a deterrent to the willful entry of a compromised horse, but that it should be further amended to provide that a claim is voidable by the claimant within one hour of the conclusion of the race if the horse is vanned off the track. The voiding of a claim should not require the death of the horse.

*Claiming Races and Rules is discussed on pages 54-58 of the Report.*

### **Shoeing Practices**

The shoeing practices used during the 2011-2012 Aqueduct meet were conventional and consistent with those used in 2011 and were not a factor in the occurrence of racing fatalities.

*Shoeing Practices is discussed on page 58 of the Report.*

## **Medication and Testing**

There were 7,106 blood samples tested by the Laboratory during the 2011-2012 Aqueduct meet, inclusive of post-race tests, pre-race blood samples for TCO<sub>2</sub> analysis, out-of-competition testing, and post-work blood samples. The Laboratory advised the Task Force that no illegal or performance enhancing substances and no drugs associated with doping were detected in blood and urine samples collected from horses during the Aqueduct meet. There were five positive tests reported from samples collected between November 30, 2011 and March 20, 2012. All were for routinely used and approved therapeutic medications.

The Laboratory did not detect the presence of illegal or illicit drugs in any of the fatally injured horses from which samples were available. However, the inability of NYRA veterinarians to collect urine samples from any of the fatally-injured horses, the lack of blood collected from nearly half of the fatally-injured horses and variations in the testing protocol required by the reduced volume of plasma collected from a portion of the fatally-injured horses made it impossible to say with certainty that this was the case in all of the fatally-injured horses.

The population of horses racing at Aqueduct during the 2011-2012 meet was considered by the jockey colony and many trainers to be of inferior quality and of decreased soundness than horses of previous meets. This may reasonably be interpreted to mean that this group of horses, taken as a whole, was more vulnerable to injury than previous racing populations. One of the most significant factors for fatal musculoskeletal injury in the racehorse is the presence of pre-existing injury. Based upon the limited information available, many of the horses in this investigation were believed to have had pre-existing musculoskeletal conditions prior to the race in which they were fatally injured. Although the exact nature of these injuries remains a source of speculation, the Task Force believes that the administration of systemic or intra-articular corticosteroids may have impaired veterinarians and trainers in accurately assessing horses' soundness leading up to a race. The Task Force also believes that the use of these medications close to the race date may have limited the ability of the NYRA veterinarians to identify the presence or evaluate the significance of pre-existing conditions that have been found to progress to catastrophic injury and may have prevented a true evaluation of the response of these horses to treatment prior to racing.

The failure of trainers to report intra-articular injections as required by NYSRWB Rule 4043.2, and the failure of the NYSRWB to monitor compliance with and enforce this rule, prevented the NYSRWB and the NYRA veterinarians from identifying a pattern of redundant

intra-articular corticosteroid treatments that had the potential to misrepresent the true clinical condition of a horse and confound the examining veterinarian's pre-race assessment.

The Task Force is also greatly concerned that in claiming races, there is no way for a successful claimant to determine if the horse he/she has claimed has been recently injected with an intra-corticosteroid, putting that horse at risk for redundant medical treatment as well as preventing an accurate assessment of the horse's soundness. The Task Force believes that in this limited instance, it is appropriate that the NYSRWB, by regulation, institute a reporting requirement that provides disclosure to the successful claimant of any intra-articular corticosteroid injection performed within 30 days of the race. The Task Force believes that this appropriately establishes accountability for subsequent medical decisions and is in the best interests of the racing safety of the horse and rider.

In some cases trainers may have failed to identify horses at risk, or failed to act appropriately to protect horses they recognized as being at risk, likely in response to economic incentives. In other cases, practicing veterinarians may have failed to intervene when horses of suspect soundness, having conditions for which medical treatment was performed, were raced at an interval that prevented evaluation of the horse's response to treatment prior to racing.

Statistical analysis of the administration of pre-race medications found no association between fatal injury and the administration of phenylbutazone within 24-48 hours of racing and furosemide treatment within four hours of racing. There is no evidence that ESWT was performed on any of the fatally injured horses.

The Task Force learned that a large number of the horses at NYRA tracks were being administered daily doses of clenbuterol, a commonly used bronchodilator for the treatment of lower airway inflammation and upper respiratory infections in the horse, albeit in compliance with the NYSRWB rule that requires that the drug be discontinued at least 96 hours prior to competition. Some trainers indicated that clenbuterol is very useful to prevent respiratory infections in horses experiencing EIPH (respiratory bleeding), while others stated their horses looked better and had increased appetites when treated with clenbuterol. Many trainers indicated that they were using clenbuterol only because others were doing so, and would support a more restrictive rule if it could be enforced. Although the NYSRWB's time limit regarding clenbuterol is being followed, the Task Force concluded that this medication is in common use as a substitute for anabolic steroids and is not being not for

the legitimate therapeutic purpose for which it is intended. Nonetheless, the Task Force found no evidence to conclude that the use of clenbuterol was associated with, nor contributed to, any of the fatalities.

*Medication and Testing is discussed on pages 59-67 of the Report.*

### **Extracorporeal Shockwave Therapy**

The use of extracorporeal shockwave therapy (ESWT) is regulated by NYRA pursuant to a House Rule and not by the NYSRWB. NYRA has followed the Association of Racing Commissioner's Model Rule regarding the use of ESWT. This therapy should be regulated by the NYSRWB and not NYRA. The NYSRWB has recently requested industry comment for a proposed ESWT Rule.

There is no evidence that ESWT was performed on any of the fatally injured horses.

The Task Force encourages the adoption of a Rule but believes that the scope of the regulation should be limited to racing (and breezing) and not general training.

*ESWT is discussed on pages 68-70 of the Report.*

## Overall Conclusions Regarding the Fatally Injured Group

- There was no single event or circumstance that was responsible for the 21 racing fatalities.
- There were two significant anomalies that clearly distinguished this meet from previous ones-- a major infusion of cash into the purse structure from VLT revenues and the unusual weather.
- While larger purses have attracted better horses to New York Racing, the disproportionate increase of purses in the lower-level claiming races incentivized poor decision-making by a range of stakeholders.
- The unprecedented winter weather of 2010-2011, which featured unseasonably dry conditions and periods of warm temperatures, may have made it difficult to maintain consistent water content of the track, but the lack of scientific knowledge of the ideal surface moisture content makes it impossible to determine the significance of this finding. However, the unseasonably mild weather did eliminate periods of enforced rest ordinarily associated with routine winter conditions and weather related cancellations of training and racing.
- The most significant factor for fatal musculoskeletal injury in the racehorse is the presence of pre-existing injury. Many of the horses in this investigation were understood to have had pre-existing musculoskeletal conditions prior to the race in which they were fatally injured. The Task Force believes that the use of systemic or intra-articular corticosteroids may have impaired veterinarians and trainers in accurately assessing horses' soundness leading up to a race. The Task Force also believes that the use of these medications too close to the race may have limited the ability of the NYRA veterinarians to identify the presence of pre-existing conditions disposed to progressing to catastrophic injury.
- The failure of trainers to report intra-articular injections as required by NYSRWB Rule 4043.2, and the failure of the NYSRWB to monitor compliance with and enforce this rule, prevented the NYSRWB and the NYRA veterinarians from identifying a pattern of redundant intra-articular corticosteroid treatments that had the potential to misrepresent the true clinical condition of a horse and confound the examining veterinarian's pre-race assessment.
- In come cases, practicing veterinarians failed to intervene when horses of suspect soundness, having conditions for which medical treatment

was performed, were raced at an interval that may have prevented evaluation of the horse's response to treatment prior to racing.

- There was no evidence provided by the Testing Laboratory that illegal or illicit drugs, or medications used for non-therapeutic purposes, were administered to any of the fatally injured horses. However, the failure to collect urine samples and the reduced volume of plasma collected from only a portion of the horses post-exercise made it impossible to say with certainty that this was the case in all of the fatally injured horses. This inconsistency of the analytical testing of the fatally injured horses compromised the ability of the Task Force to draw conclusions regarding the role of medication.
- There is no evidence that ESWT was performed on any of the fatally injured horses.
- There was no association between fatal injury and the pre-race administration of phenylbutazone within 24-48 hours of racing and furosemide treatment within four hours of racing. Although the number of injured horses in this investigation was small by statistical standards, an appropriate statistical analysis failed to show any association between pre-race treatment with these medications and fatal injury.
- The shoeing practices were not a factor in any of the fatal injuries.
- NYRA's organizational hierarchy, establishing Veterinary Department accountability to the Racing Office, created conflicts of interest and pressures that influenced the actions of NYRA veterinarians, resulting in inadequate protection of horses.
- Inconsistencies in NYRA Veterinary Department procedures and protocols compromised the ability of the examining veterinarians to identify horses at risk and intervene accordingly.
- NYRA veterinarians have the ability to require ultrasound, radiographic, or other imaging modalities in special circumstances to identify pre-existing conditions that can lead to fatal musculoskeletal injury, yet there was no indication that this was done in regard to any of the injured horses. This likely represented missed opportunities for a medical intervention to prevent injury in some cases.
- Enhanced scrutiny protocols typical of high-profile events were not in place for horses competing in lower to mid-level races.

- Numerous risk factors were found in the population of fatally injured horses, and while further validation of this tool is indicated, risk factor assessment may assist in identifying horses of interest for the purposes of risk management, increased scrutiny, strategically timed examinations, and possible intervention.
- The reluctance of jockeys and exercise riders to draw attention to horses they believed to be unsafe endangered horses and riders. The decision to prioritize prospective financial gain above personal safety is indicative of flawed thinking in which a hypothetical situation (future riding opportunities) supersedes a present reality of an unsound horse and risk of injury. If a rider is injured as a result of riding an unsound horse, the question of potential future earnings becomes moot.
- Based upon the information reviewed, the Task Force believes that opportunities may have been missed to prevent the fatal injuries in 11 of the 21 horses included in this investigation.
- The absence of a complete necropsy for any of the fatally injured horses significantly compromised the ability of the Task Force to determine their cause of death or pre-existing musculoskeletal condition, other than the condition warranting euthanasia in 20 of the 21 fatalities.

### **Additional Matters Addressed by the Task Force**

In addition to the analysis of the individual fatalities and other possible factors that might have contributed to the occurrence of the fatalities during the Aqueduct meet, the Task Force addressed additional matters pursuant to its mandate or that warranted comment or recommendations as the result of its review. These are: 1) medical records; 2) necropsy protocols and procedures 3) the Equine Injury Database & Risk Factors; 4) Equine Medical Director and 5) NYRA governance.

#### **Medical Records**

The Task Force determined that in many cases the medical records provided to the Task Force were not compliant with NYSRWB rules by failing to provide medical justification for the procedure performed, nor were veterinarians required to record the dose or route of administration of medication. Therefore, even compliant records lacked sufficient information to properly document medical treatments.

The Task Force also identified discrepancies between trainers' descriptions of veterinary care and information contained in veterinarians' records. In some cases the records provided to the Task Force appeared to be

transcriptions rather than photocopies of original records. The Task Force believes that veterinarians should be required to use practice management software for recording of all veterinary services provided. This software should include user name and time and date stamps for all entries and any subsequent changes.

The lack of transfer of medical information at the sale of a horse in a claiming race is of particular concern to the Task Force. Since horses are regularly sold in claiming races and medical records are not transferred at the time of sale, horses are put at increased risk of repeated, and potentially unnecessary invasive joint therapies. As previously noted, the NYSRWB rule requiring trainers to notify the Stewards of an intra-articular corticosteroid injection, in writing, before the horse is entered to race is neither being observed, nor enforced. The Task Force believes that this rule should be enforced and further amended so that the record of all intra-articular corticosteroid injections within 30 days of a race will be transferred to the new owner within 48 hours of the time that the claim is finalized.

The Task Force also believes that the current medical record requirement for practicing veterinarians should require the recording of dose and route of administration for a given medication. The Task Force noted in the review of medical records provided by the NYSRWB that there was inconsistent justification for medical treatments. These discrepancies should be addressed immediately.

*Medical Records is discussed on pages 75-76 of the Report.*

### **Necropsy Protocols and Procedures**

The Task Force believes that the absence of complete necropsy findings for the 21 case horses significantly compromised the investigation of their deaths. Field dissection of the affected site is inadequate for anything beyond documenting the extent of the condition that warranted euthanasia. The Task Force believes that a complete necropsy examination performed by a board certified veterinary pathologist at a designated veterinary diagnostic laboratory should be required in all cases of racing fatality, and that NYRA and the NYSRWB must develop a protocol to implement this requirement. This protocol should require that NYRA have the necessary equipment (e.g.: refrigerated truck) to ensure a timely transfer of the horse from NYRA grounds to the designated veterinary diagnostic laboratory.

*Necropsy Protocols and Procedures is discussed on pages 76-79 of the Report.*

## **Equine Injury Database and Risk Factors**

There is no single intervention that will be effective in preventing injuries in racehorses. However, the inclusion of risk factors in the screening process adds a potentially valuable tool in identifying horses for which additional scrutiny is warranted. Efforts to identify risk factors and develop injury mitigation strategies are ongoing. Any risk management protocol must be tested to assess its effect and refine its subsequent implementation.

The process of screening horses both in and out of competition can be used to detect pre-existing conditions that have been found to predispose a horse to fatal injury. Readily available diagnostic techniques, such as radiography and ultrasonography, should be used by practicing veterinarians to identify pre-existing conditions that have been associated with fatal injury (e.g.: specific pathology of the proximal sesamoid bones, the distal cannon bone, the suspensory ligament and the superficial digital flexor tendon). The Task Force believes that if this form of increased scrutiny had been performed, the outcome for several of the fatally injured horses might have been different. Regulatory veterinarians are able to require ultrasonographic and/or radiographic examinations of horses with clinical signs of tendon or suspensory ligament pathology, but rarely exercise this authority, which represents another missed opportunity to prevent an injury.

The Task Force did a cumulative risk assessment for each horse based upon eight different events or circumstances that are associated with increased risk of fatal musculoskeletal injury in the Thoroughbred racehorse. Although the Task Force performed a risk profile for each individual horse as a part of its investigation, performing a risk profile using the above-described factors is not, and should not be, a “stand-alone” procedure in the determination of whether or not a horse should race.

*The Equine Injury Database and Risk Factors is discussed on pages 79-83 of the Report.*

## **Equine Medical Director**

Other racing jurisdictions employ Equine Medical Directors who 1) provide oversight of regulatory veterinary activities, and drug and medication testing and surveillance programs; 2) are the regulatory authority’s liaisons to the official laboratory; and, 3) serve as consultants to the regulatory authority on matters related to veterinary medicine and equine health, safety, and welfare. The Equine Medical Director should have strong background in horseracing (either as a practicing veterinarian or racing regulatory veterinarian) and be familiar with current and emerging industry issues and trends. The Task Force was informed that under a previous Administration, the NYSRWB requested funding to establish such a position in New York, but

the request was denied. This Report has identified numerous veterinary, medication, testing, health and welfare issues that could have been addressed by an Equine Medical Director.

The Task Force strongly recommends that the State establish the position of Equine Medical Director to oversee and advise the State on all matters related to veterinary practices and protocols, medication and drug testing, and equine health, welfare and safety issues. The Task Force further recommends that all racing regulatory veterinarians be employed by NYSRWB. This employment scenario would neutralize the ability of association employees to exert influence over the pre-race exam process or scratch recommendations. These positions must be properly funded to attract and retain qualified individuals.

*The Equine Medical Director is discussed on page 83 of the Report.*

## **NYRA Governance**

The Task Force strongly recommends that NYRA create an executive level position such as an Executive Vice President of Racing Operations who will coordinate all racing related departments and functions, serve as the liaison between management, the Racing Office, the horsemen and the NYSRWB, is able to communicate and effectively represent NYRA with owners and trainers, the betting public, the media, can oversee a NYRA Health and Safety Committee, participate in a mortality review process and who effectively understands all aspects of racing to strengthen New York racing as the best in the world.

The Task Force believes that the safety of the horse and rider are core priorities for NYRA and should be prominently included in the NYRA Mission Statement. While NYRA already devotes a great deal of effort and resources to the health and safety of riders and horses, the Task Force believes that the culture of NYRA must include an appropriate focus on the safety and welfare of horses and riders.

An important step in ensuring a strong institutional commitment to the health and safety of horses and riders is to form a standing health and safety committee tasked to establish a culture of health and safety throughout NYRA. This committee should be chaired by the NYRA executive responsible for all racing operations and be composed of horsemen, jockeys, regulatory veterinarians, racing officials, practicing veterinarians and other relevant NYRA racing officials to anticipate and address existing and potential health and safety needs of horses and riders.

*NYRA Governance is discussed on pages 83-85 of the Report.*

## **Recommendations of the Task Force**

The Task Force developed the following 38 recommendations designed to reduce injuries to horses and riders. The Task Force believes that implementation of these recommendations will reduce injuries to horses and riders and provide an opportunity for NYRA to assume a leadership role in promoting health and safety of riders and horses throughout the racing industry.

### **1. Regulatory Veterinary Practices and Procedures**

- **Veterinary oversight of racing at NYRA's tracks should be the function of the State regulatory body and not NYRA. The veterinarians responsible for pre-race and other examinations and all other racing related responsibilities should be employed by the State and under the supervision of an Equine Medical Director.**
- **The protocol requiring the NYRA Veterinary Department to report directly to the NYRA Racing Office is an unacceptable conflict of interest that must be changed immediately. Whether or not the State assumes responsibility for veterinary oversight, the NYRA Veterinary Department must report directly to the Stewards.**
- **Veterinary Department practices and procedures must be developed and documented in a Standard Operating Procedures Manual. (See Exhibit H)**
- **A standardized protocol for the initiation of scratches at the time of the pre-race examination must be developed, documented and implemented.**
- **A standardized protocol for the initiation of gate or post-parade scratch recommendations must be developed, documented and implemented.**
- **A standardized protocol for the assignment of a horse to the Veterinarian's List must be developed, documented and implemented.**
- **The use of a Restricted List should be abandoned.**
- **Protocols for the management and review of horses sustaining non-fatal conditions during a race must be developed, documented and implemented.**

- **Protocols for the management of horses sustaining fatal conditions during a race must be developed, documented and implemented.**
- **In the event of an increased occurrence of musculoskeletal injuries during a race meeting, the Veterinary Department should meet to review existing practices, develop strategies to reduce or mitigate injury occurrence, and to enhance identification of horses for which intervention is warranted.**
- **The Veterinary Department should develop and implement strategies intended to identify “horses of interest” that warrant increased scrutiny. (See Exhibit G).**
- **Veterinary Department employees should undergo a structured training program and regular reviews.**

## **2. Necropsy; Review Board; and Post-Mortem Investigation**

- **The NYSRWB should require a complete necropsy at a veterinary diagnostic laboratory of all horses fatally injured at NYRA’s racetracks.**
- **A NYRA Mortality Review Board should be created and convened to review any and all training and racing (exercise-related) fatalities. (See Exhibit I)**
- **The NYSRWB should improve the documentation of findings included in the investigation reports of fatal injuries.**

## **3. Claiming Rules and Policies**

- **The NYSRWB should amend, on an emergency basis, its recently amended Rule 4038.5 to provide that a claim is voidable for a horse that is vanned off the track, within one hour of the race, at the discretion of the claimant.**
- **The NYSRWB should amend, on an emergency basis, Rule 4038 to provide that the claimant of a horse shall be notified, within 48 hours after the claim is finalized, of any intra-articular corticosteroid administrations to the horse within 30 days of the race.**

- In order to ensure that the purses for claiming races more appropriately reflect the value of the horses entered in such races, the NYSRWB should modify its recently amended Rule 4038.2 so that the purse to claim price ratio should be no greater than 1.6, in which the value of the horse is approximately equal to the winner's share of the purse.

#### 4. Medication, Testing and Regulation

- The NYSRWB should, on an emergency basis, amend Rule 4043.2 to prohibit: (1) the intra - articular administration of methylprednisolone (DepoMedrol®) within 15 days of the date of the race; (2) the administration of all other intra - articular corticosteroids within seven days of the date of the race; and (3) the administration of all systemic corticosteroids within five days of the date of the race.
- The NYSRWB should amend Rule 4043.2 (i), on an emergency basis, to require that a trainer must notify the Stewards in writing, within 48 hours, of all intra-articular corticosteroid administrations. The NYSRWB must ensure compliance with, and the enforcement of Rule 4043.2(i).
- The NYSRWB should amend Rule 4043.2, on an emergency basis, to prevent the administration of clenbuterol to a horse within 21 days of the date of the race.
- The NYSRWB should expand its recently enacted out-of-competition testing rule for the Thoroughbred industry to include testing for compliance with the corticosteroid and clenbuterol recommended rule changes in this Report.
- The NYSRWB should perform a comprehensive review of the sample collection and Laboratory testing protocols and procedures to ensure that these protocols meet its regulatory requirements and priorities, including the collection and proper identification of urine and blood samples from all non-fatal and fatally injured horses and the comprehensive testing of such samples. The Laboratory should be required to notify the NYSWB of any sample that was insufficient for full screening for prohibited substances.
- The Laboratory should be required to: 1) complete the ISO 17025 accreditation process as soon as possible; 2) complete RMTC Code accreditation; and 3) participate in any ARCI/RMTC quality assurance program. In the absence of an ARCI/RMTC quality assurance program,

**the laboratory should participate in a passed-sample exchange program with another ISO 17025 accredited laboratory.**

## **5. Medical Records**

- Veterinarians should be required to use practice management software for recording of all veterinary services provided. This software should include user name and time and date stamps for all entries and any subsequent changes so that records cannot be amended or redacted without user accountability.**
- The NYSRWB should amend Rule 4032 to require practicing veterinarians to record dose and route of administration of any medication administered to a horse.**
- The NYSRWB should require that a record of all intra-articular corticosteroid injections of a horse within 30 days of a race should be made available to the successful claimant of a horse within 48 hours from the time the claim is finalized (see Recommendation #4 above).**
- The NYSRWB should require that trainers keep a treatment log, including the time, dose and route of administration of all medications administered to horses under their care by the trainer and that the log be made available to the NYSRWB on request.**
- The NYSRWB should perform regular and random compliance audits. A compliance audit should be required for any positive drug test reported by the Laboratory.**

## **6. Extracorporeal Shockwave Therapy**

- The NYSRWB should adopt a regulation strictly regulating the use of ESWT consistent with the ARCI Model Rule, but limit the scope of the regulation to racing (and breeding) and not general training.**

## **7. Equine Medical Director**

- The NYSRWB should hire an Equine Medical Director.**

## **8. NYRA Governance**

- **Create an executive-level position to oversee and coordinate all aspects of the racing operation, including but not limited to the Racing Office, backstretch, horsemen's relations, stakes coordination, racing surfaces, and pari-mutuels.**
- **Create a NYRA Health and Safety Committee**
- **Incorporate the health and safety of riders and horses in the NYRA Mission Statement.**
- **Empower and protect jockeys to express concerns regarding the condition of their horse prior to the race by promoting a culture of trust.**
- **Educate trainers on the use of risk factors and intervention strategies to reduce injury.**
- **Increase the awareness and transparency of NYRA house rules.**

## **9. Racing Surface and Weather Monitoring**

- **Establish an advanced comprehensive racetrack and weather monitoring program, using electronic monitoring, reporting and record-keeping systems and build a data base to include factors that control track consistency and are thus most likely to influence the safety of the racetrack.**
- **NYRA should perform due diligence and reconsider whether the installation of a synthetic surface on the inner track at Aqueduct would reduce the number of fatalities on that surface.**

*Recommendations of the Task Force is discussed on pages 87-96 of the Report*