



The National HBPA, Inc.

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January 24, 2020

The Honorable Jan Schakowsky
Chairwoman
Energy and Commerce Subcommittee on Consumer Protection & Commerce
United States House of Representatives
2125 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Cathy McMorris Rodgers
Ranking Member
Energy and Commerce Subcommittee on Consumer Protection & Commerce
United States House of Representatives
2322 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairwoman Schakowsky and Ranking Member McMorris Rodgers:

Madam Chairwoman, Ranking Member McMorris Rodgers, and distinguished members of the Committee, I appreciate the opportunity to submit a written statement on behalf of the National Horsemen's Benevolent and Protective Association ("NHBPA") in opposition to H.R. 1754, the Horseracing Integrity Act of 2019. The NHBPA, based in Lexington, Kentucky, has represented the interests of thoroughbred racehorse owners and trainers in North America since 1940. There are approximately 30,000 owner and trainer members of HBPA affiliates throughout the United States and Canada, focused on a twofold, common goal: 1) safe and fair horse racing on all levels and 2) an unwavering commitment to the well-being of racehorses.

The NHBPA has 30 affiliates across the United States and Canada, including: Alabama, Arizona, Arkansas, Canadian Provinces, Charles Town-West Virginia, Colorado, Finger Lakes-NY, Florida, Illinois, Indiana, Iowa, Kentucky, Louisiana, Michigan, Minnesota, Mountaineer Park-West Virginia, Nebraska, New England, Ohio, Oklahoma, Oregon, Pennsylvania, Tampa Bay-Florida, Virginia, and Washington. Membership is open to all owners and trainers licensed by state racing authorities.

The NHBPA and its affiliates is the largest organization in the United States representing owners and trainers of thoroughbred racehorses, and its leadership is democratically elected by the members. While other organizations may purport to speak for thoroughbred owners and trainers, they are not as representative or as inclusive as the NHBPA.

At the outset, the NHBPA believes it helpful to, once again, unequivocally and publicly state its position on racing medication and integrity in racing. The use of performance-enhancing drugs has no place in horse racing. The NHBPA believes that owners and trainers who are found, after a fair hearing, to have cheated by intentionally administering drugs that have no legitimate therapeutic use in horses, should be expelled from horse racing.

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The NHBPA opposes the enactment of H.R. 1754, as do the other two major racing breeds, the United States Trotting Association (USTA) and the American Quarter Horse Association (AQHA), because the bill does nothing to coordinate efforts and formalize strategic safety plans aimed at reducing horse deaths. Horse racing has inherent risks but is legally sanctioned in 34 jurisdictions in the United States with pari-mutuel wagering. All stakeholders agree that precautions are needed to enhance continued safety and protection of both our human and equine athletes.

H.R. 1754 bans the use of furosemide (commonly called “Lasix”), seemingly attempting to solve a problem that does not exist. As written, the bill would task the United States Anti-Doping Agency (USADA) and the Federal Trade Commission (FTC) with carrying out a new regulatory initiative, but neither agency appears to have the experience or the knowledge to do so.

The NHBPA does draw a distinction between illegal doping and lawfully medicating for therapeutic purposes, such as when medications are administered in horse racing by licensed veterinarians to treat injuries and infirmities. For example, a medication like Lasix that acts to prevent exercised induced pulmonary hemorrhaging (EIPH or “bleeding in the lungs”) during racing is necessary to keep a horse healthy. Lasix use is not doping, and no knowledgeable person can conclude otherwise. Its use has been proven safe through research and through its routine administration by veterinarians for over 40 years in the treatment of horses. Additionally, Lasix treatment is transparent to the public. It is noted beside a horse’s name in racing programs with the letter, “L”, to indicate that the horse is racing with Lasix. More importantly, the medication has never been linked to catastrophic fatalities in a racehorse, yet EIPH, which it prevents, has been linked to equine sudden death.

The NHBPA supports the continued use of Lasix on race day, as well as the pre-race day use of other common therapeutic medications like phenylbutazone, an anti-inflammatory similar to the aspirin used by humans. The NHBPA further supports uniform medication rules and the application of science-based medication thresholds in post-race test samples to ensure that no therapeutic medication that affects performance remains in a horse’s system during the race.

The support for H.R. 1754 comes from a well-financed, vocal minority of owners and trainers in the horse industry, some of whom represent private, invitation-only elite clubs. These individuals claim that current medication regulations are fragmented and not working. The implication is that there exists widespread illegal drug use or “cheating.” However, those who make that claim offer no evidence to support the notion of rampant, illegal drug use-- because there is none.

Since the spate of equine fatalities in California at the Santa Anita racetrack, ill-informed media, animal rights groups, such as Animal Wellness Action, and some entities within horse racing have continually used these horrible deaths to advance this legislation. Allegations such as “the deaths point to widespread ‘doping’ in the horse racing industry” and “American horse racing is addicted to drugs,” are completely false. Again, those who make these statements have no evidence to support the notion of rampant, illegal drug use.

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In fact, the proof actually points to the contrary. A recent Los Angeles County District Attorney report on the deaths of the horses at Santa Anita Park found no criminal wrongdoing at Santa Anita Park. Instead, the report showed the following:

- None of the medications found are illegal to administer to racehorses;
- None of the medications found were at levels that would constitute a violation for a horse that was racing or training; and
- After an exhaustive evidentiary investigation, the District Attorney Task Force determined there was insufficient evidence to prove criminal animal cruelty or other unlawful conduct under California law.

Medication rules and provisions for their enforcement have long existed in the 34 jurisdictions that have horse racing with pari-mutuel wagering. Any asserted problem is one of misperception caused by recurrent sensationalism in the public media. News reports often claim that state regulatory bodies are ignoring the illegal use of drugs in horse racing. However, an analysis of regulatory data in thoroughbred racing states shows that such assertions are without foundation.

Horse racing in the United States has the most comprehensive testing program of any sport in the world and employs the most sophisticated and sensitive equipment found anywhere. If given the authority to regulate horses, USADA would not improve on the methods and protocols that are already in use. What would change is that testing would now be regulated by a body with no knowledge of how to test equines, and that change would come with significant, additional, open-ended expenses, which would be borne by the industry.

In 2018, according to data from state racing commission records compiled by the Association of Racing Commissioners International (“ARCI”), 99.4% of over 258,000 tests of biological samples taken from racehorses were found to be negative for drug use. Such a high rate of “clean tests,” disproves any stories of rampant, unregulated drug use. On the contrary, those results should be the envy of every other sport that tests athletes for drugs.

Even among the few samples of racehorses that did test positive for drugs in 2018, the vast majority were for overdoses of lawful, therapeutic medications, the effects of which had not dissipated by race day. Examples of such medications are common anti-inflammatory drugs used for sore muscles, which are similar to Aspirin, Advil, and Aleve taken by humans. Of the 0.6% violations, only 107 samples (or .04%), out of a total 258,920 samples were for illegal substances that serve no purpose other than to dope a horse or “cheat” in an attempt to affect the outcome of a race.

By regulation in every state, therapeutic drugs may be used in the days preceding a race, but not on race day, so that they have no likelihood of affecting performance. Threshold limits for therapeutics are set by state racing commissions under the guidance of the Racing Medication and Testing Consortium (RMTC), so that on race day no horse will be under the direct influence of therapeutic medication, except for the race-day use of Lasix.

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Unfortunately, race-day Lasix use, which H.R. 1754 prohibits without any scientific basis and, seemingly, without regard for the well-being of racehorses, is being swept up in the hysteria over alleged doping of horses with illegal drugs, aided and abetted by individuals and organizations that should know better. Media reports that call for a ban on race-day medication blur the line between that which is permitted on race day (Lasix) and that which is not (all other therapeutic medication). In turn, this has obscured some basic scientific and medical facts which support the use of Lasix but seem to be ignored by proponents of H.R. 1754:

- The extreme physical stress of hard running causes nearly all horses to bleed in their lungs, some more severely than others. Bleeding in the lungs robs horses of oxygen, causes progressive and irreversible scarring in the lungs, makes breathing more difficult, and can suddenly and publicly kill the equine athlete.
- Nearly all bleeding remains internal and is only detectable by endoscopic examination. Detection by an externally visible nose bleed is the rare exception but, unfortunately, it is the usual standard in countries in Europe and Asia for determining whether a horse is a “bleeder.”
- Lasix prevents or lessens the severity of pulmonary bleeding. Usage is safe and has been used effectively for nearly forty years. Published research shows that its use does not prevent the post-race detection of other drugs (“masking”), in part because of the increased sensitivity of test instruments and reliance on plasma samples as opposed to urine. Similarly, research demonstrates Lasix does not cause a loss of bone density in horses, which would lead to breakdowns.
- Lasix is not performance enhancing. It does not make a horse run faster than its natural talent does. On the other hand, bleeding does make a horse run slower and, if not treated, can cause sudden equine death.

While the National HBPA opposes enactment of H.R. 1754 as unnecessary, the organization does recognize the utility of uniform medication rules among the racing states. Medication use, post-race thresholds, and penalties in the past often varied from state to state. That made it very challenging for owners and trainers in an industry requiring state-to-state travel to comply with different sets of rules. But lack of uniformity is no longer the problem it once was, because in 2012 the Racing Medication and Testing Consortium, the ARCI, and various industry professionals, established the National Uniform Medication Program (“the Uniform Program”), a blueprint for achieving uniformity across racing states. It has four parts: (1) a Controlled Substance List that identifies permitted therapeutic medications and prohibited performance enhancing drugs; (2) a component that establishes Lasix as the only therapeutic medication permitted on race day; (3) accreditation of all equine drug testing laboratories through a dual accreditation process; and (4) penalty guidelines, including enhanced penalties for repeat offenders.

In the eight years since the unveiling of the Uniform Program, horse racing has made, and continues to make, significant progress toward uniformity. According to the Racing Medication and Testing Consortium (RMTC), in 2019, 95% of horse racing, measured by the volume of pari-mutuel wagering on races, was governed, at a minimum) by the Uniform Program Controlled Substance List.

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Significantly, the Uniform Program permits Lasix use on race day. That is because scientific studies prove the efficacy of Lasix in treating exercise induced pulmonary hemorrhaging, as evidenced in the 2009 definitive South African study by an international team of researchers. Oddly enough, the study was funded, in part, by the Jockey Club, which now opposes the use of Lasix. That study, Hinchcliff et al., *Efficacy of furosemide for prevention of exercise-induced pulmonary hemorrhage in Thoroughbred*

racehorses, JAVMA, Vol. 235, No. 1, July 1, 2009, showed that 80% of the 167 horses in the study suffered from EIPH which, in subsequent races, was alleviated by administration of Lasix to those horses.

In 2015, Hinchcliff et al. went further and conducted a review of all other published scientific studies of EIPH, some of which were equivocal or conflicting, to evaluate the evidence and determine: 1) whether EIPH adversely affects the health and welfare of horses; 2) whether EIPH affects the athletic capacity of horses; and 3) whether Lasix affects the athletic capacity of horses. The consensus study of the literature concluded there was “*moderate to high quality evidence that EIPH is progressive . . . ; that it adversely affects racing performance; that severe EIPH is associated with a shorter career duration; [and], that furosemide is efficacious in decreasing the incidence and severity of EIPH . . .*” See, Hinchcliff, et al., *Exercise Induced Pulmonary Hemorrhage in Horses: American College of Veterinary Internal Medicine Consensus Statement*, J. Vet. Intern Med 2015; 29:743-758.

The American Association of Equine Practitioners (AAEP), with over 9,000 veterinarian members, has publicly stated its support for Lasix and its opposition to previous almost identical legislation, H.R. 2651 in the last Congress, noting in a June 5, 2017 statement by its President, Dr. R. Reynolds Cowles, that AAEP’s “*current policy on race-day administration endorses use of furosemide [Lasix] to help mitigate the occurrence of exercise-induced pulmonary hemorrhage (EIPH) in the race horse. This policy is based on the overwhelming body of international scientific and clinical evidence.*

The AAEP in an earlier statement warned of the likely result if Lasix is not permitted on race day:

The racing industry should anticipate that other methods will be employed to reduce the incidence of EIPH if a race-day ban on Lasix is instituted. The practice of withholding food and water from the horse in the days leading up to a race should be expected. As doctors of veterinary medicine we believe that the detriments of withholding food and water to the health and welfare of the horse outweigh the current concerns about race-day Lasix administration.

The racing industry should also expect that unproven and perhaps undetectable products will be used in an attempt to alleviate EIPH on race day. Some of these products may include, but are not limited to, herbal remedies, nutraceuticals, and compounded medications that are not approved for use in the horse and have no scientific merit or efficacy in treating EIPH. The potential harmful side effects of these products to the horse are a serious concern.

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The North American Association of Racetrack Veterinarians also supports use of race-day Lasix and opposes H.R. 1754. In a November 9, 2017 letter to a bill sponsor, NAARV's board member, Dr. Andrew Roberts, stated:

As veterinary practitioners, who tend daily to the health and welfare of racehorses, we have grave concerns about a ban on furosemide [Lasix] on race day. The reason: the drug provides important mitigation of the occurrence of exercised induced pulmonary

hemorrhage (EIPH) in the racehorse. This factor is significant in maintaining the health of the animal, and is based on an overwhelming body of scientific and clinical evidence.

Furosemide is the only scientifically proven and approved treatment for EIPH in the horse.

As experienced veterinary practitioners our experience also tells us that until science provides an efficacious alternative to the use of this drug, we should not abandon current policy that protects the health and welfare of the racehorse. To do so would eliminate a key protection for horses on race day.

It is also important to note that the American Veterinary Medical Association (AVMA), which has no vested interest in the racing industry and represents more than 91,000 veterinarians nationwide, supports AAEP's position on the utilization of Lasix.

Supporters of the H.R. 1754 ban on race-day Lasix, seemingly ignoring the scientific evidence and the well-being of racehorses, assert that "the rest of the world does not use Lasix and neither should we." To put it mildly, that is misleading. In European horse racing, Lasix is used frequently in training to prevent or lessen EIPH but is not permitted on race day. From a horse welfare standpoint, that practice makes no sense. By using Lasix during training, Europeans are admitting that it works to eliminate or alleviate EIPH. Why do they then withhold it on race day when the stress of competitive racing heightens the risk of harm caused by EIPH? This unscientific, reckless endangerment of equine athletes is not a practice Americans should copy from Europe.

In summary, the NHBPA submits that there is no need for the federal government to reinvent the wheel by designating USADA and the FTC to write and enforce uniform medication rules because, for the most part, they already exist in the states. We have high regard for USADA's efforts in policing illegal drug use in some human sports competitions, but, to our knowledge, it has no expertise in equine veterinary science, no experience in the horse racing industry, and no experience even in testing equine Olympic athletes. Accordingly, it would likely take USADA years to gain the knowledge it would need to create an infrastructure to test racehorses in over 30,000 thoroughbred races a year across the country and to conduct enforcement proceedings for violations found for all breeds of racehorses. It would also require millions of dollars, most likely coming from the pockets of horse owners and trainers.

We would be remiss if we did not point out that we have real concerns over the ultimate funding source for the mandate authorized under the bill. We believe the states, and ultimately the NHBPA owner

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and trainer members, will be saddled with untold costs over which they have no control. This bill would impose unlimited new expenses on our industry, without any checks or balances, and will likely threaten the economic well-being of the industry.

Remember, this bill allows for assessments of fees for every horse in every race in a given year to fund the new anti-doping program, plus assessments to liquidate any loans or funding shortfalls incurred by the new authority, known as the Horseracing Anti-Doping and Medication Control Authority (HAMCA), in current and prior years. The components that underlie these determinations will be made by HAMCA, which is made up of the CEO and board members who control the business that will manage the anti-doping program and collect the fees for the tests. Therefore, a lot of money will flow to the business that is overseen by HAMCA, with no metric as to how the funds will improve on the methods already in place.

According to a recent American Horse Council study, the horse racing sector in the United States has a total economic impact of \$63 billion annually and supports over 472,000 jobs. Any measure which will add further regulatory and cost burdens will only harm those state and local economies that depend on the industry.

Thank you for allowing me to submit my written testimony. We hope you will continue to include horsemen in your consideration and decisions in order to properly ensure the health and welfare of our equine athletes. We ask each of you to understand that H.R. 1754 is not in the best interest of racehorses or our industry.

Sincerely,

CEO, National HBPA

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