

National Horsemen's Benevolent & Protective Association

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**Written Testimony of Eric Hamelback
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before the
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Subcommittee on Digital Commerce and Consumer Protection
Hearing on "H.R. 2651, the "Horseracing Integrity Act of 2017"
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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, 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 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.

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, Idaho, Illinois, Indiana, Iowa, Kentucky, Louisiana, Michigan, Minnesota, Montana, Mountaineer Park, WV, Nebraska, New England, Ohio, Oklahoma, Oregon, Pennsylvania, Tampa Bay, Florida, 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), the largest organization in the United States representing owners and trainers of thoroughbred race horses, is democratically elected by the members. There are organizations that purport to speak for thoroughbred owners and trainers are not as representative or as inclusive as the NHBPA.

At the outset, the NHBPA believes it helpful to, again, unequivocally and publically 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, after a fair hearing, are found to have cheated by intentionally administering drugs that have no legitimate therapeutic use in horses, should be expelled from horse racing.

The NHBPA opposes enactment of H.R. 2651, as do the other two major racing breeds, the United States Trotting Association (USTA) and the American Quarter Horse Association (AQHA) because the bill bans the use of 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 regulatory initiative that neither appears to have the experience to carry out.

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 furosemide (commonly called “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 one, to my knowledge, can reasonably conclude otherwise. Its use is safe and has been routinely administered by veterinarians for the past 40 years in the treatment of horses. Moreover, Lasix treatment is transparent to the public. It is noted beside a horse’s name in racing programs with the letter, “L”, to note that the horse is racing with Lasix.

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

The support for H.R. 2651 comes from a well-financed vocal minority of owners and trainers in the horse industry, some of whom represent private clubs, and who claim “the fragmented system of medication regulation for horse racing in the United States is not working.” The implication here is that the result is widespread illegal drug use or “cheating.” However, those who make that claim offer no evidence to support the notion of rampant illegal drug use. That is no surprise because there is none that I know of.

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. USADA as the proposed testing authority would not create a change to the methods and protocols that are currently in use. The only significant difference that USADA brings to the table is the lack of equine testing knowledge and the significant additional expenses that would be involved with USADA’s involvement.

In 2017, according to data from state racing commission records compiled by the Association of Racing Commissioners International (“ARCI”), 99.5% of over 354,000 tests of biological samples taken from thoroughbred race horses were negative for drug use. That rate of “clean tests,” by no stretch of the imagination, shows evidence of rampant unregulated drug use. On the contrary those results should be the envy of every other sport that tests athletes for drugs.

While there were a few positive test results in racehorses in 2017, 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,

similar to Aspirin, Advil, and Aleve taken by humans. Only 169 positives, out of a total 354,000 tests, 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 so that on race day no horse will be under the direct influence of therapeutic medication, except for the race day use of Lasix.

Unfortunately race day Lasix use, which H.R. 2651 prohibits, without any scientific basis that I know of, and seemingly without regard for the well-being of race horses, 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. 2651:

- 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 stop the horse outright (i.e., publicly killing 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 is usually the standard in other countries in Europe and Asia for determining whether a horse is a “bleeder.”
- Lasix prevents and lessens 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 that 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. On the other hand, bleeding does make a horse run slower and can stop it outright.

While the National HBPA opposes enactment of H.R. 2651 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 a transient industry, for example racing one week in Maryland and the next in Kentucky, to comply with different sets of rules. But lack of uniformity is no longer the problem it once was. In 2012 the Racing Medication and Testing Consortium, the ARCI, and various industry professionals, established the National Uniform

Medication Program (“the Uniform Program”) as 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 six 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 (RMTTC), in 2017, 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.

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 (“EIPH”), 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 Hinchliff 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) if EIPH adversely affects the health and welfare of horses; (2) if EIPH affects the athletic capacity of horses; and (3) if 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 9000 veterinarian members, has publicly stated its support for Lasix, and its opposition to H.R. 2651, 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.

The North American Association of Racetrack Veterinarians also supports use of race day Lasix and opposes H.R. 2651. In a November 9, 2017 letter to one of the bill sponsors, 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. 2651 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 in daily training to prevent or lessen EIPH, but is not permitted on race day. From a horse welfare standpoint that makes no sense. No one disputes that Lasix works to eliminate or alleviate EIPH. Why not use it on race day when the stress of competitive racing heightens the risk of harm caused by EIPH?

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, which for the most part already exist in the states. We have high regard for USADA's

efforts in policing illegal drug use in human sports competition, but, to our knowledge, it has no expertise in equine veterinary science, or experience in the horse racing industry. Thus, it would likely take USADA years to gain that knowledge and would probably require millions of dollars, in the long run, most likely coming out of the pockets of horse owners and trainers, to create an infrastructure to test the race horses racing across the country in over 30,000 races a year, and conduct enforcement proceedings for violations found.

As a final point, it is worth repeating that in 2017, state racing regulators tested at least 354,000 biological samples from race horses. During the same year USADA, according to its website, conducted less than 13,000 tests, or about 4% of the number of tests conducted by state racing commissions.

In closing, we concur with, and endorse the observations and conclusions of our co-panelists, Edward Martin and Alan Foreman, in their discussion of the H.R. 2651 organizational and structural shortcomings. We would be remiss if we did not point out that we have real concerns over the ultimate funding source for the federal infrastructure authorized under the bill. We believe that the states, and ultimately the NHBPA owner and trainer members, will be saddled with untold costs over which they have no control. This would impose unlimited new taxes on our industry, without any checks or balances, and would threaten the economic well-being of the industry.

According to a recent American Horse Council study, the horse racing industry contributes some \$36 billion annually to the national economy and provides about 240,000 direct 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 testify here today. We hope you will continue to include horsemen in your considerations 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. 2651 is not in the best interest of our industry.

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