

'RACE HORSE IS NOT A DIAGNOSIS': THE PATH FORWARD

Part VI of A PAINFUL TRUTH: A six-part series on medication and the reform movement in U.S. racing

Patient Name: Horse, Amy Date: 2013
Address: Stall 3
Diagnosis: Pre-Race

Rx

phenylbutazone

flunixin

furosemide

adequan

hyaluronic acid

thiamine Hcl

calcium levulinate

oral electrolytes

estrone suspension

xylazine (Rompun)

dormosedan

depo-medrol

MD: _____

Signature: [Signature]

By Ryan Goldberg

It takes a lot to shock a regulatory veterinarian of 25 years. But that's how Dr. Mary Scollay felt last October after Kentucky switched from private vets to state-employed ones for the administration of Lasix on race day. Scollay, the equine medical director of the Bluegrass State, said she soon learned that something as simple as giving a routine shot with the authorized dosage had been regularly abused by trainers and their vets.

After the change, the concentration of Lasix in post-race samples dropped 30 percent – a significant difference, Scollay said. This meant that private vets had been giving Lasix “darn near an hour closer to the race” previously, she said. “The rule was not being consistently followed.” And these were the tests of winners – knowing that Lasix moves up a horse, had they gained an extra advantage?

The samples were not the only evidence of deeply-rooted misconduct Scollay said she found. On their rounds, state vets received other illegitimate requests. “We’d have trainers ask if we could give it in the muscle,” said Scollay, even though administration is only allowed jugular. “We’d also have trainers ask for other drugs. That is not permitted.”

“It raised questions as to what degree of compliance there had been with the rules prior to state regulation,” she concluded. “It opened my eyes.”

Many in the industry believe the path to a cleaner sport begins here: getting private-practicing vets out of the stalls on race day.

Besides the volume of Lasix, murkier drugs largely disappeared from post-race tests. Scollay said she had seen evidence that a drug called GABA, short for gamma-aminobutyric acid, was commonplace in Kentucky. The amino acid, which is present in the supplement “Carolina Gold,” is endogenous to horses as well as humans – it’s the

predominant receptor blocker in the central nervous system. It has a pain-mitigating and calming effect that can conserve a horse’s energy prior to a race. However, because it’s naturally occurring and leaves a horse’s system within three to four hours, finding suspicious levels in post-race tests is difficult.

Its use in Kentucky was apparently curtailed once regulatory vets came in. The “noise” in post-

race samples all but departed. Lasix is administered within four hours of a race; private vets were apparently giving GABA at the same time. There was no trace. GABA doesn’t specifically appear in the Uniform Classification Guidelines for Foreign substances, which means that, under RCI guidelines, it should be treated as a Class 1 violation unless otherwise advised.

Kentucky horsemen had bitterly contested the change to state regulation. It only came into practice



Dr. Mary Scollay

Horsephotos



Carolina Gold

www.eurodressage.com

after an overriding vote from Governor Steve Beshear. Scollay now believes the reasons for the fight are clear. "It really wasn't about Lasix," but all this other stuff," she said. (The president of the Kentucky HBPA did not return several messages seeking comment.)

Many in the industry believe the path to a cleaner sport begins here: getting private-practicing vets out of the stalls on race day. "When you look at it honestly, it's a bit of an indictment of the veterinary profession," said Dr. Ken Quirk, the equine medical director of the Texas Racing Commission.

New York and Delaware also have state administration of Lasix; Minnesota has a state official supervise, Penn National has an association veterinarian administer it, and Monmouth Park recently hired a private company to do so. California and Maryland are in the process of joining them. The rest of the country lags, according to a

...a win-at-all-costs mentality has turned this exquisite animal into something like a breathing Petri dish atop four brittle legs.

survey of state racing commissions.

That trainers and vets were eager to get ever more substances into a horse hours prior to a race counters the idea that permissive medication is intended to provide therapy to a horse. It only reinforces the belief that a win-at-all-costs mentality has turned this exquisite animal into something like a breathing Petri dish atop four brittle legs.

"It's what the game has become," says Jerry Brown, the founder of Thoro-Graph, echoing a familiar sentiment.

Brown's view is a qualified one; in making his trademarked handicapping sheets over the years, he has monitored dramatic improvements in the performances

of horses and trainers and seen telltale signs of performance-enhancing drug use. After a lifetime handicapping countless races, he surmises few other explanations. Thoro-Graph's website also hosts a message board where tipsters offer leads for Brown's

pursuits.

So where does racing go from here? The first step, you might say, is acknowledging the problem. Knowing these stories, how can racing officials tell the public that theirs is a clean sport? Or, as Kent Stirling of the National HBPA told the U.S. Senate Committee on Commerce, Science and Transportation last year, that racing "should be the envy of every other sport that tests for drugs, like professional football, baseball, cycling..."

The reality is that those inside and out racing see it as beguiled by drugs and suffering dearly for it. Among those surveyed in The



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Jockey Club-commissioned 2011 McKinsey study, only 22 percent have a positive impression of horse racing. In three out of every four stakeholder interviews, medication was highlighted as an issue adversely affecting racing.

Many believe even a casual look at state-by-state regulations shows a sport profoundly dependent on drugs, legal and otherwise. Reform should include a number of policies, but the whole approach to testing and enforcement and medication policy must change, rather than the piecemeal moves offered up in response. What's needed goes beyond slightly adjusting threshold levels and withdrawal times. An inexorable tide has washed more drugs onto the backstretch and with penalties the way they are – even for obvious doping – the incentives are aligned to encourage wrongdoing.

One place to start concerns the calculus for private vets, who profit from the volume of drugs

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– Dr. Sheila Lyons

they prescribe. As has been well documented, most vets see their roles as answering to the trainers, not the horses. Several generations of trainers, too, have only practiced their trade in an age of permissive medication. “Because of this,” Team Valor president Barry Irwin testified to that Senate committee, “trainers to a much greater extent than at any time in the history of the sport rely on veterinarians.”

With this dependence, vets have

trouble saying no, but they can.

“If these horses are acutely unwell and in need of drug therapy, then on this basis alone, they should not be allowed to race,” said Dr. Sheila Lyons at the same hearing. “And if they are not unwell, they cannot be given medication under the law which regulates my profession. Race horse is not a diagnosis.”

Even if there has been support for reform in the last four decades, which is questionable, the logjam of state racing commissions and various representative groups makes action all but impossible. Uniformity has long been held up like a panacea, but this only touches upon the myriad issues. “Uniformity is a complex issue,” Scollay said. “Uniformity means uniform testing, regulation and enforcement.”

There is nothing remotely close to that now: one state allows a 24-hour free-for-all of permissible drugs and another acts more conservatively; one state uses outdated testing equipment and another state-of-the-art technology; one state fines a trainer a few hundred bucks for a clenbuterol positive and another state five-thousand; one racetrack uses its private-property rights to exclude a known cheater, next door he's welcomed.

Yes, regulation has made strides in recent years; in March, eight states agreed to participate in the Mid-Atlantic Uniform Medication



Barry Irwin with Captain Bodget

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Program, which has agreed on 24 controlled therapeutic medications. Other states, like California, have signaled they'll join. But clearly the most significant proposal is the Horseracing Integrity and Safety Act of 2013, a bill introduced recently by U.S. Senator Tom Udall and four House of Representatives members, which would grant oversight to the U.S. Anti-Doping Agency (USADA).

The racing industry has long held onto its grip to regulate itself. But at what cost? In 1973, a House committee considered recommending a national commissioner for racing, but decided to leave it to the states. In 1980, the Corrupt Horseracing Practices Act, which called for regulation by the Drug Enforcement Administration, was defeated. Two years later, August Belmont IV told Congress that states could handle racing's problems and urged "that the industry be accorded more time to get its house in order..."

Similar arguments still circulate. An industry based on interstate wagering and interstate movement of horses and stables only widens the cracks in this fractured system. Change is glacial. For example, of the 16 laboratories which handle the nation's drug testing, just days ago the first two earned RMTCC accreditation after all these years – the HFL Sport Science lab in Lexington and the Kenneth L. Maddy Equine Analytical Laboratory at the UC Davis School of Veterinary Medicine in California.

What happens at those labs is also part of the path forward.

"Transparency is the single most important thing," Brown said. "This information needs to be made public: who is tested, what they were tested for, what type of test was used, and what was the result of that test – not just pass/fail."

In the process of writing this series, we came upon regulators



Orb, who finished third in the Belmont S. was one of only two horses who did not get medication at 72 hours before the race
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who didn't know what the rules in their own states were, Brown pointed out.

"Everybody has an opinion on this subject, but nobody has the facts. Until you get the facts out there, there is no basis for figuring out what needs to be changed."

Vets, trainers and regulators know, but the betting public exists in the dark, other than recognizing

which barns get spectacular form reversals. Do they know that Florida uses Thin-Layer Chromatography (TLC) for its testing, a method seen as outdated since the 1980s? Or that New York uses only one step up – Enzyme-linked immunosorbent assay (ELISA) – a practice that, when used for general screening, has also been eclipsed by newer methods? Does a state test for clenbuterol in blood or urine, the latter being the most effective?

Brown offered two examples. In 2005, Pennsylvania announced it would begin testing for total carbon dioxide (TCO2), the byproduct of milkshaking. For five years bettors operated on this assertion. Then in 2010 the state finally started testing, without acknowledging its earlier claim. The same goes for Kentucky. In 1999, it came out that TCO2 was not illegal and guys could do it right in the paddock. State officials said they'd fix it in two weeks. "Six years later, they made a big announcement that they were now going to test for TCO2," Brown said. "Six years later. That is insane."

Making medication records public

is not such a longshot. The New York Racing Association released them for this year's Belmont Stakes entrants. (Only Orb and Giant Finish didn't get medication in the 72 hours before the Belmont, Lasix notwithstanding.) Such transparency could stop in its tracks excessive drug use. In Louisiana, for instance, where every medication classified as therapeutic (the state doesn't elaborate) is allowed within 24 hours of a race, how would the public, not to mention animal-welfare groups, react to seeing this information?

Still, must every handicapper then get a degree in chemistry?

To answer this gives a convincing argument for rolling back permissive medication. Brown, for his part, sees regulators as "unwilling to do what's necessary to protect their customers. There are weapons that can be used here which are not being used."

For decades, state racing commissions have mostly rested on post-race tests alone. These are no longer the Great Wall of deterrence. Particularly when the nature of sophisticated doping, as evidenced by GABA or Erythropoietin (EPO), has changed in both horses and humans – from a substance that leaves a residue to one that mimics endogenous functions, switching on a gene, hormone or amino acid and then turning it off.

These are the weapons that Brown believes are collecting dust: out-of-competition testing and 24-hour surveillance of barns and checking treatment records. The latter is commonplace in Great Britain and France and is what caught Godolphin trainer Mahmood Al Zarooni. Al Zarooni told regulators that he believed the steroids he used – their presence was detected from out-of-competition testing – were legal. Why then, he was asked, did he not log the treatments in his record books?

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Death and disarray at America's racetracks

Mangled Horses, Maimed Jockeys

The new economics of horse racing are making an always-dangerous game even more so, as lax oversight puts animal and rider at risk.

By WALT BOGDANICH, JOE DRAPE, DARA L. MILES and GRIFFIN PALMER

Published: March 24, 2012 | 481 Comments

RUIDOSO, N.M. — At 2:11 p.m., as two ambulances waited with motors running, 10 horses burst from the starting gate at Ruidoso Downs Race Track 6,900 feet up in New Mexico's Sacramento Mountains.

Nineteen seconds later, under a brilliant blue sky, a national champion jockey named Jacky Martin lay sprawled in the furrowed dirt just past the finish line, paralyzed, his neck broken in three places. On the ground next to him, his frightened horse, leg broken and chest heaving, was minutes away from being euthanized on the track.

For finishing fourth on this early September day last year, Jacky Martin got about \$60 and possibly a lifetime tethered to a respirator.

The next day, it nearly happened again. At virtually the same spot, another horse broke a front leg, pitching his rider headfirst into the ground. The jockey escaped serious injury, but not the 2-year-old horse, Teller All Gone. He was euthanized, and then dumped near an old toilet in a junkyard a short walk from where he had been sold at auction the previous year.

In the next 24 hours, two fearful jockeys refused their assigned mounts. The track honored two other riders who had died racing. As doctors fought to save Mr. Martin's life, a sign went up next to the track tote board: "Hang in there, Jacky. We love you."

On average, 24 horses die each week at racetracks across America. Many are inexpensive horses racing with little regulatory protection in pursuit of bigger and bigger prizes. These deaths often go unexamined, the bodies shipped to rendering plants and landfills rather than to pathologists who might have discovered why the horses broke down.

In 2008, after a Kentucky Derby horse, *Eight Belles*, broke two ankles on national television and was euthanized, Congress extracted promises from the racing industry to make its sport safer. While safety measures like bans on anabolic steroids have been enacted, assessing their impact has been difficult because many tracks do not keep accurate accident figures or will not release them.

But an investigation by The New York Times has found that industry practices continue to put animal and rider at risk. A computer analysis of data from more than 150,000 races, along with injury reports, drug test results and interviews, shows an industry still mired in a culture of drugs and lax regulation and a fatal breakdown rate that remains far worse than in most of the world.

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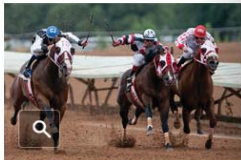
THE WAY BACK WATCH TRAILER



A Jockey's Story

Jockeys are on the front lines of the risky business of horse racing. Twenty-four horses a week die at racetracks around the country.

Video by Matthew Orr/The New York Times



The Most Dangerous Track

In 2011, Ruidoso Downs had the highest incident rate of any track in New Mexico, the state with the worst safety record in the country.

New Mexico was the focus of several of the *New York Times's* series on drug problems in horse racing.

Stateside, it's clear that wanton cheating still exists; the presence of painkillers derived from South American frogs and sea snails illustrate this. Demorpin, the former, was found in a half-dozen states. At last year's Senate hearings, all eight industry panelists said the use of demorpin, which has no purpose other than to dope a horse, should merit a lifetime ban.

Except that didn't happen. In most cases, the suspensions meted out were five years and the fines not larger than \$10,000. States were legally powerless to go beyond that level. Nearly all of the accused trainers appealed

their suspensions, but racetracks in Oklahoma, California, New Mexico and Texas wielded their private-property rights to exclude them. Loopholes still existed, however, for the trainers to move their horses to assistants. Louisiana tracks Delta Downs and Evangeline Downs, which Boyd Gaming owns, allowed the trainers to continue racing as they appealed.

On April 11, Jess C. Meche, a 21-year-old exercise rider at Delta Downs, died in a training accident aboard a Quarter horse named Czech Revolution. The horse was conditioned by M. Heath Taylor, a leading Quarter horse trainer who,

in September, received a five-year suspension and \$10,000 fine for a demorphin positive. Delta Downs officials said they would name a race on May 18 in Meche's honor.

In New Mexico, the racetracks and racing commission set out to make sure a similar situation wouldn't occur there. No state suffered a harsher glare from The *New York Times* investigation of racing's runaway medication and breakdowns problems. In response to the demorphin positives, all five New Mexico tracks – Downs of Albuquerque, Ruidoso, Zia Park, Sunray Park and Sunland Park – decided to deny stalls or entries to any Class 1 or 2 violators. Letters were sent around the country.

"They knew that the racing commission was limited as far as what we could do," said Vince Mares, a former police chief who was named its executive director in January 2012. The demorphin trainers, for instance, had the right of due process to see out their appeals. "The tracks stepped up and said we don't want you here. I have to commend them."

Several years ago, New Mexico was not even associated with the RCI, said Ed Martin, its current president. "They couldn't pay the dues and so they couldn't see who was suspended in other states." A trainer could be suspended in Oklahoma and show up in New Mexico to race without the state or track aware.

Presently, the tracks and racing commission are harmonized in New Mexico, which is not the case everywhere. Urged by the racing commission, in April the state legislature removed the cap of \$10,000 on a Class 1 fine, setting a new ceiling at \$100,000. In a separate bill, the governor signed into law a nearly four-fold increase in the testing budget, accompanied by out-of-competition testing and a more aggressive necropsy program. New Mexico transferred its testing to the UC Davis lab, the most advanced in the U.S. "We are bound by law now to make sure our

of participants who are excluded. When Gural took over the lease of the Meadowlands in 2012, the first thing he did was boot Lou Pena, the leading trainer of the previous two years, who earned more than 1,700 drug violations in a two-year period. Pena challenged this in court but the judge reaffirmed the track's right of exclusion.

"I'm sort of amazed other people don't use it," Gural said in a recent interview at his Manhattan office. "On the other hand, you're judge and jury so you have to be careful and try to use your best judgment."

Most recently, the Meadowlands turned away Rene Allard, the second leading trainer by earnings in harness racing. Gural doesn't release his evidence.

Gural gathers this information in several ways and on his own dime. He hired a former state trooper named Brice Cote as his private investigator. Since Gural took over the Meadowlands, trainers who want to race there must sign an agreement which

allows his investigators to visit their farms at any time and test their horses. Standardbreds train away from the track, making out-of-competition testing imperative, in Gural's estimation. Those who don't sign don't get to race. Gural sends his samples to many different labs, some of them overseas, to keep cheaters guessing.

"I think that by the end of the year I'll have a pretty good idea of



Meadowlands owner Jeff Gural pioneered the use of house rules

Lisa photo

labs stay up to par," Mares said.

The best example of using private-property rights to clean up the track comes from harness racing and Jeff Gural, the principal owner of the Meadowlands and upstate New York's Tioga and Vernon Downs. Gural, the straight-talking chairman of commercial real-estate company Newmark Grubb Knight Frank, calls this their "number one weapon."

His three tracks keep a long list

whether or not you can catch these guys." Allard, he added, "could just be the tip of the iceberg."

"Let's face it, no vet is giving a horse something that they think is going to test positive," he continued. "So they're either giving it to them in a dosage that won't test positive or they know the state isn't testing for that particular drug."

Gural attributes increases in handle at the Meadowlands, in part, to his reforms. Bettors positively respond to a level playing field. But if he's carving out a template, so far there are no copy-cats. He has not been contacted by officials on the Thoroughbred side. And the trainers he's excluded have found a receptive audience elsewhere. None of the Meadowlands's competitors has reciprocated, pointing to limitations in using house rules. For example, NYRA would have trouble going this route since its tracks are state property.

Perhaps a regional compact, like the Mid-Atlantic consortium for nine states from Massachusetts to Virginia, can solve situations like this, although skepticism on the state-run apparatus runs deep. Alan Foreman, the chairman of the Thoroughbred Horsemen's Association and one of its architects, outlined its three-pronged approach: uniform testing for 24 controlled medications; testing done at fully-accredited labs; and a new penalty system. It also mandates third-party administration, not private, of race-day Lasix.

Though the list of medications appears settled, agreement on penalties is in flux. The states will retain their current frameworks to set fines, which, as they stand now, are widely seen as insufficient deterrents. However, one add-on with broad support is a points-based penalty system, similar to that of a

driver's license, which The Jockey Club first proposed in August 2011 as part of its Reformed Racing Medication Rules. The RMTC adopted a model based in large part on The Jockey Club's system, and the Mid-Atlantic states are moving forward with it. The RCI is scheduled to formally approve it in late July.

In this system, a trainer earns additional penalties after accumulating a certain number



Alan Foreman

Horsephotos

of points. These penalties are superimposed on those fines and penalties already accrued. Foreman gave the example of trainer Rudy Rodriguez, who this year in New York has five positives for flunixin, a non-steroidal anti-inflammatory drug. "This would easily trip the system," Foreman said.

"If you are a flagrant violator, the industry is now ready to deal with that," he added.

To its credit, the Mid-Atlantic pact will allow states to take into consideration what happens

elsewhere in the region, and it will curb the practice of trainers shopping jurisdictions for relaxed medication policies and weak adjudication. For example, many trainers from outside New York quit shipping to Aqueduct last winter after NYRA extended its withdrawal times for clenbuterol and corticosteroids. Come January 1, this won't be possible.

Foreman said states outside the region have expressed interest in tagging along, such as Kentucky, California, Illinois, Arkansas, and Minnesota, which makes him believe that this is a basis for a national program. Some places, specifically Florida and Louisiana, are problems, he said, but if many states sign on, "Those not participating will be hard-pressed to explain why they aren't doing it."

Gural though, who's a lone crusader, sees promise in the effort to bring USADA on board. State racing commissions and their budgets tend to inadequately fund testing and enforcement. Plus, racetracks owned by casino companies "don't want to be bothered," he said, since racing revenue is a small portion of their business. New York stands alone in pledging a small percentage of casino revenue to pay for integrity measures.

"We need to have one super-duper lab, as opposed to labs all over the place," Gural said. "Because the states all have budgetary problems. Nobody is out there demanding that they catch the cheats in horse racing. The reality is that there are a handful of people demanding action. The vast majority of voters could care less; they don't go to the track, they don't bet on these things."

He paused for a moment. "I hate to say it, but I think the federal government is on the right track."