

State of Arkansas
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Memorandum

TO: ALC—Executive Subcommittee

FROM: Laura Kehler Shue, Legislative Attorney, Administrative Rules Review Section, Legal Services Division

CC: Marty Garrity, Director, Bureau of Legislative Research;
Jessica Sutton, Administrator, Administrative Rules Review Section, Legal Services Division

DATE: January 5, 2018

SUBJECT: Legal Authorization for Arkansas Racing Commission—Emergency Rule regarding shock wave therapy or radio pulse wave therapy

The Arkansas Racing Commission’s stated purpose for amending its Rule 1217(C) is to comply with standards of the Racing Commissioners International (RCI) to protect horses and jockeys from injury after a horse has received Extracorporeal Shock Wave Therapy or Radio Pulse Wave Therapy. The added language requires all treatments to be approved in advance and all horses treated with the therapy to be placed on a list and not be permitted to race or workout for a minimum of 10 days following treatment. Any violations of the rule will be considered to be a Prohibited Practice and be subject to a “Class A Penalty” under Arkansas Racing Rules.

The Arkansas Racing Commission has sole jurisdiction over the business and sport of horse racing in the State of Arkansas. *See* Ark. Code Ann. § 23-110-204(a). Further, the Racing Commission has full, complete, and sole power and authority to promulgate rules, impose fines for any violations, and suspend or revoke licenses. *See* Ark. Code Ann. § 23-110-204(b)(1)(A),(E),(G). Indeed, “[f]or the purpose of regulating its own procedure and carrying out its functions, powers, and duties, the commission shall have the authority from time to time to make, amend, and enforce all necessary or desirable rules not inconsistent with law.” *See* Ark. Code Ann. § 23-110-204(d).