

Testimony of Sheila Lyons, DVM

*Public Hearing: To Examine the Health of Racehorses
While Training and Racing, and Resources for Aftercare*

Before the Joint Committees:

Senate Standing Committee on Racing, Gaming and Wagering

Chair: Senator Joseph P. Addabbo, Jr.

Senate Standing Committee on Domestic Animal Welfare

Chair: Senator Monica Martinez

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Dear Senators Addabbo and Martinez, and Committee Members:

My name is Sheila Lyons and I want to thank you for this opportunity to provide testimony to your committees on the subject of horseracing safety, veterinary ethics, and veterinary practices including the use and abuse of medications to the detriment of the health, safety, and welfare of racehorses in New York.

I am a veterinarian in private practice specializing in equine sports medicine and physical medicine and rehabilitation. I graduated from Tufts Veterinary School in 1985 and am licensed by the New York State Veterinary Board and by the New York State Racing and Wagering Board and I also hold licenses other states. My private veterinary consulting practice is both national and international in scope which provides me with a broad view of the horse racing industry and the veterinary profession that includes many distinct regulatory jurisdictions. My patients have included some of the world's best racehorses but I have regularly provided veterinary services to horses at every level of this sport for more than thirty years.

I am the founder and director of The American College of Veterinary Sports Medicine and Rehabilitation ("ACVSMR") which is the educational project of my 501(c)(3) non-profit organization, Homecoming Farm, Inc. Since 1995 I have been providing education to veterinary students, veterinarians, farriers, horsemen and others in *ethical* veterinary sports medicine and rehabilitation which emphasizes that it is only through optimal health and sport specific fitness that safe, humane and optimal athletic performance can be achieved. My ACVSMR students receive their clinical skills training in part through internships at approved equine shelters so that students receive priceless hands-on clinical skills training and horses in need receive specialized rehabilitative veterinary care at no cost. In addition to my work in private clinical practice, this charitable educational and veterinary service project has provided me with a great deal of experience regarding the types of injuries racehorses commonly accumulate in their brief racing careers as I have provided veterinary services to hundreds of ex-racehorses through my equine shelter affiliated educational programs. I have testified as an expert on the subject of racehorse health and safety, and standard of practice for veterinarians before the United States Congress in 2012 (Senate) and 2013 (House) Commerce Committees. A copy of my written testimony before the United States Senate is included in my submission to your Committee as an attachment. I have also been retained as an expert by the FBI, state Attorneys General, and other law enforcement and regulatory agencies.

The public concern regarding racehorse safety and welfare is not limited to New York, but the prevailing standard for the management and veterinary care of racehorses is generally the same nationwide. In New York, this prevailing standard includes an ongoing flagrant violation of standard of care by licensed veterinarians which directly contributes to the lack of health and safety of these animals. It calls for an independent investigation and legislative reform in order to uphold the public ethic, protect the animals, and ensure that the prevailing veterinary statutes

which hold that veterinary services are to be exclusively directed at improving or protecting the health and safety of the animal and that standard of care for licensed veterinarians is strictly enforced.

There is no exception under the law for veterinarians who practice with racehorses allowing them to deliver drugs upon trainer request and yet this practice is prevalent at New York racetracks today. The prevailing standard for veterinary practice at racetracks falls so abhorrently short of meeting the ethical standard set forth as a statutory condition for veterinary licensure that in other states criminal prosecutions have succeeded for such unlawful administration of drugs to racehorses by veterinarians. The abuse of drugs has been directly linked to racehorses becoming permanently injured and dying on racetracks in New York. (See, The New York Task Force on Racehorse Health and Safety Official Report, Investigation of Equine Fatalities at Aqueduct 2011 – 2012 Fall/Winter Meet) Strict enforcement of the veterinary practice act is an essential first step for any effort to improve the health and safety of racehorses.

Please see my attached US Congressional Senate testimony for a detailed description and analysis of the failure of veterinarians to abide by veterinary ethics and licensing board statutes which underlies the unacceptable and unnecessary *expected loss of life* and permanent injury to racehorses. We know from necropsy data that the vast majority of racing fatalities are the result of exacerbation of pre-existing injury. This means they could have been prevented. While abuse of injury masking and performance enhancing drugs may enable the injured horse to appear sound enough to race and train, given the fact that pre-existing orthopedic injury is a precursor to fatality, our attention must be directed at preventing such drug abuse *coupled with* aggressive pre-screening of all racehorses for evidence of pre-existing injury so that these at-risk horses can be prevented from racing and training until they have fully recovered from such injury.

I became so concerned for the wellbeing of my racehorse patients when they came to New York I contacted the veterinary board to ask for their help to stop the flow of unnecessary and potentially harmful drugs into my patients which typically began within days of their arrival. There was absolutely nothing wrong with these horses and I had the comprehensive medical records to document their health status. The trainers simply “liked to use” certain drugs and the veterinarians obliged, seemingly without hesitation or question. In October 2011, I was granted an opportunity to present my concerns to the New York State Veterinary Board regarding the health and safety of my own racing patients when they came to New York. I described discovering unmarked bottles of medications outside my patients’ stalls, colleagues who could offer no records whatsoever for examination or diagnosis- only billing records that would show “what they got”, and colleagues who reported that they believed it was their responsibility to simply provide drugs upon request of the trainers without regard for the impact on health and safety of the horse and without regard for the wishes of the owner. The veterinary board agreed

that this was a violation of the standards in practice but they also said that they typically investigated veterinarians for compliance based upon owner complaints. They seemed well aware of the lack of adherence to standards in practice and would like to enforce them but I believe it would help if the NY Racing and Wagering Board would propose to partner with the Veterinary Board to work out a possible joint effort to rigorously monitor and enforce standards in practice for veterinarians who work with racehorses.

In 2015, at the Global Symposium for Racing and Gaming, I presented a proposal for a project to deploy newly developed CT Scanning technology at racetracks to collect data on the orthopedic injuries of racehorses. It won the audience award for the “best innovation to improve the sport of horseracing”. The proposed use of this unique diagnostic imaging technology would enable regulators to identify horses that were at risk for breakdown and to eliminate them from racing and training until they demonstrated adequate orthopedic health and fitness to protect their safety. It would also produce data that has never been collected and which would assist veterinarians in understanding what veterinary practices, training and management protocols were beneficial to racehorses and which were not. A 3D CT scan can be done in approximately one minute, scanning either both front or both hind legs at the same time, from above the knee or hock through the hoof in the standing horse. Since we know that pre-existing orthopedic injury is the precursor to over 80% of catastrophic breakdown and death it is clear that we need to direct our resources at detecting such pathologies. In addition to its ability to reveal specific injury to bone, the CT can calculate and compare bone densities and bone thickness so that we can know whether or not a racehorse is sufficiently strengthened and conditioned to withstand the rigors of racing.

My personal view of animal welfare in general adheres to advice I was given at the start of my career as a veterinarian and animal welfare advocate. It holds that when trying to decide whether or not to allow a certain activity or use of an animal, one must determine the following: If the activity *can be done* in a way that protects the animal’s health and welfare, then one must aggressively regulate and monitor the activity to ensure that it is carried out in strict compliance with animal welfare needs. If on the other hand, the activity is in it of itself inhumane, then the activity should be banned. I believe that horse racing is at a crossroads. There is no question that horse racing as it is conducted today is not upholding society’s directive that we must protect animal welfare. We are failing. As a veterinarian who provides pro-active health centered veterinary services to racehorses and other sport horses I can say without any doubt that it is possible to honor a commitment to animal welfare and still have a horse participate in the sport of horseracing at all levels. There is nothing intrinsically inhumane about asking a horse to gallop or race once around an oval track with a well-chosen and maintained surface. The activity in it of itself is not inhumane and should not lead to injury or death. But that is not the reality today. The entrenched culture of drugging horses to train and drugging horses to race prevails.

It is time to aggressively regulate this sport to eliminate preventable death and injury to both horse and rider.

The following reforms could be instituted:

1. Monitor all veterinary practices through an independent agency or agent to be sure that medication and other veterinary practices are offered solely to improve or protect the health of the horse. No drug is in it of itself therapeutic, rather, it is the context in which a drug is given that determines its fate as either therapeutic or injury-masking or performance-enhancing. Racehorse is not a diagnosis. Racing is not a condition to be treated with drugs. For example, if a veterinarian prescribes an anti-inflammatory medication to a racehorse to treat acute traumatic arthritis then this drug can only be therapeutic if the horse is rested until the injury heals. Allowing such a horse to continue to train and race while under the influence of an anti-inflammatory and pain masking drug would deny its therapeutic context. Comprehensive medical records must be kept by veterinarians for every patient. Compliance must be monitored continuously.
2. Report suspected violations of standard of care by veterinarians to the New York State Veterinary Board. Revoke the Racing and Gaming licenses of any veterinarian who fails to abide by standard of care for every dose of every drug administered, prescribed, or dispensed to racehorses at any time.
3. Mandate reporting (in real time) of any medication, nutritional supplement, or veterinary treatment of any kind delivered to eligible racehorses at all times. Anything outside of the proverbial “hay, water, and oats” should be reported to regulators. Access to these records should be provided to veterinary regulators, stewards, and “track vet” examining veterinarians. This reporting can be efficiently achieved through an app.
4. Require all private practice veterinarians to report any abnormal diagnostic findings to the examining veterinarians as they occur.
5. Deploy the application of CT Scanning technology as a screening tool to monitor all horses in training for orthopedic injuries that are known to predispose horses to catastrophic injury. Begin with a pilot study to collect data on all horses in training at New York licensed racetracks. (Please see attached *CT Project* document)

6. Improve drug testing by screening post-race samples for additional drugs and conduct extensive out-of-competition testing. If any drug or foreign substance is found in a horse that has not been reported by the veterinarian or trainer, this should be treated as a violation and appropriate sanctions against the licensee apply even if the drug is "allowed" by racing regulation. Invest in the research and development of new tests for new drugs that have the potential to influence racing outcome.
7. Track vets should examine every horse that leaves the racetrack for any purpose other than to race at another track. Many horses that ultimately die of injuries sustained during racing and training are not counted in the official death statistics because they are shipped off racetrack grounds and either euthanized or end up going to slaughter. We need to know the actual numbers of horses that die or are permanently injured due to injuries sustained during racing and training if we are expecting to solve this animal welfare problem.
8. Require continuing education for trainers, farriers and veterinarians on the subject of injury prevention, exercise science and training objectives, and responsible veterinary rehabilitation.
9. Collaborate with veterinary researchers to assist them to access data that informs their work.

While federal legislation has been introduced to eliminate the abuse of drugs in horseracing, states can wait no longer to reform their regulations if the sport is to survive. I have included as an attachment to this written testimony my analysis of the Barr/Tonko bill, the "Horseracing Integrity Act of 2017". It is my opinion that this bill is so seriously flawed that it could actually make things worse. (See, Sheila Lyons, DVM, Analysis of the House bill titled the "Horseracing Integrity Act of 2017") By contrast, Senators Tom Udall and Ron Wyden have recently introduced the "Racehorse Doping Ban Act of 2019". This bill is simple and straightforward in its language and structure for oversight of drug use in horseracing by a fully independent agency.

I look forward to the enacting of reforms that your committees will propose to address the serious problems in horseracing that cause needless suffering and death of racehorses in the state. I would be happy to help your efforts however I can to save the sport by protecting the animals, enforcing veterinary ethics and standard of care, and through programs which support the aftercare needs of former New York racehorses.