Commission Members Present: Michael Timmons, Chair, Gary Reed, William McFarland, William Varney, and Michael Graham

Commission Members Absent: None

Staff Members Present: Ron Guay, AAG, Henry Jennings, Carol Gauthier, Miles Greenleaf, and Zachary Matzkin

1. **Call the Meeting to Order and Introductions:** Michael Timmons, Chair

2. **Review and Approval of Minutes**
   Commissioner Graham made a motion to accept the minutes of April 12, 2018. Commissioner Varney seconded. Vote 5-0.
   Commissioner McFarland made a motion to adopt the minutes as printed for April 25, 2018. Commissioner Reed seconded. Vote 5-0.

   **Review and Approval of Decision and Orders**
   AAG, Guay asked Commissioner McFarland if he had signed the decision and order. Commissioner McFarland stated he had not signed it yet. AAG, Guay stated that once you do then we will be technically in position for the reconsideration. He stated that at the last minute a filing was made by the department. He also stated that he would take a brief recess to meet with the attorneys and the department to have a discussion on the filing. Anyone in the audience was welcomed to attend. After a brief recess, Commissioner McFarland signed the Decision and Order for Heidi Gibbs complaint number 2017 MSHRC 29 and Valerie Grondin complaint number 2017 MSHRC 45 as presented.

3. **Adjudicatory Hearings:**

   **RE: Request to Intervene in and for Reconsideration of Complaint Numbers 2017 MSHRC 29 and 2017 MSHRC 45.** Individuals have petitioned the Commission to become intervenors and to request reconsideration of its decisions pertaining to the consolidated betamethasone case.
   Commissioner Timmons turned the hearing over to AAG, Guay. AAG, Guay stated that Commissioner McFarland executed the decision and order, and what that means is the decision and order is final agency action except to the extent that a partition for reconsideration would be granted. So, for the people who are listening and who are potentially interesting in appealing this next motion will determine when final agency action occurs. So, to be clear if a partition for reconsideration is granted then typically what will happen is it will be set for a hearing at the next meeting and then after that decision potentially a redo of the decision and order will have to occur. Then there would be an adoption of the amended decision and order. So, what that describes is a period of time for which there’s no final agency action. If the partition for reconsideration is denied today, then today will be the day that the clock starts ticking for an appeal. That is sort of the importance of the motion for reconsideration and how it all fits in to the proceeding heretofore. They have a decision and order that was executed today and the question is whether that is final agency action. Mr. Jennings provided AAG, Guay questions and there were a couple of people who had asked about whether or not this decision could be reviewed. AAG, Guay asked Mr. Jennings whether any of the people who were raising this issue if they would be affected by this decision and order, and Mr. Jennings indicated that there were. AAG, Guay stated in his view that there was constructively a request for reconsideration. He set a time for partitions for reconsideration to be filed and the order he issued stated by a certain date, and that any written oppositions needed to be filed the day before the hearing. He got two motions. As part of the
motion they had to move to intervene and the purpose for that was to provide what basis they thought they had standing. He received one from Francis Hanley and one from Alroy Chow on behalf of the Maine Standardbred Breeders and Owners Association. Those two parties have filed for a motion to intervene. The department filed some comments to the decision and order. AAG, Guay stated that the way the motion for reconsideration works he will tell you what the rule says first. Chapter 21, Section 22 says “A person aggrieved by a decision of the Commission may petition the Commission once to reconsider that decision. A petition for reconsideration must be made in writing within 10 days after the Commission’s decision and may be made for: 1. Correction of any part of the decision that the petitioner believes to be in error and not intended-by the Commission, or 2. An opportunity to present new or additional evidence that was not readily available at any prior time in the proceedings.”. With that the first thing that they need to decide on these two partitions is whether or not they have standing and whether their partition will be heard. He gave his view first. The rule requires that timeliness, is that timeliness is told by the time for which the specific action is required and in this case the partition for reconsideration told is ten days after the decision and order is made; so these people filed their partitions prior to ten days expiring. He knows probably on the face of it that most people would think that they weren’t in the case, they didn’t participate in the case, they didn’t participate in the hearing, they are trying to intervene in the hearing, but he thinks that probably his order was in error. He stated that they didn’t need to be in the case but rather just to be aggrieved by the decision. Mr. Handley and the Standardbred Owners have proper standing. Attorney Steigleman stated that the Standardbred association that would-be intervenors it was not the entire association that filed that request. It was the fairness committee of the Standardbred owners and breeder’s association who are members. There’s no evidence before the commission that that committee of the association is acting with the authority of the entire association. AAG, Guay stated that they can explore that. Attorney Childs stated that Chapter 21, Section 7 Intervention and public participation paragraphs one and two both start out with “On timely application”. When the notice was given to the public that notice extended to Mr. Handley and the Standardbred Owners Association, if they wish to intervene at that juncture they should have done so. Now it is an untimely application. AAG, Guay stated that he understands that view and he would agree that to the extent that they wanted to file a brief prior to the deliberations, or they wanted to introduce evidence into the actual proceeding he would agree. They were not in the hearing and they do not have a right to participate in the hearing. The hearing’s over. The precedent that he found both in Maine and in the US Supreme Court was that the measure of timeliness is when that the right itself. In this case this is a right for reconsideration. It’s not limited by rule to the parties to the proceeding but rather a person aggrieved by a decision. Attorney Childs stated that he reads section 7 as saying that’s how a person then has an intervention ability apply with section 7 either as an intervention as a right, then they are probably going to be granted if it’s permissive intervention which he thinks Hanley and the Breeders association probably fall under paragraph 2 of section 7. If they wanted to be parties to this proceeding and speak to the evidence and offer evidence be involved in the process they were free to attempt to do that in a timely fashion. AAG, Guay stated he would agree but that doesn’t mean at this point precluded from filing a reconsideration. The rule says a person aggrieved by a decision and not a party to the proceeding may file a reconsideration. Attorney Childs stated that he thinks you need to comply with section 7 to be a person to be recognized in section 20. AAG, Guay stated that he will note his objection for the record. The other issue is an interesting issue. The argument in support of allowing the intervention was that they represented a class of people who were aggrieved or potentially aggrieved. He asked if there was an officer of the Maine Standardbred Breeders and Owners Association present. There was no officer present. Alroy Chow stated that he filed the partition. He stated that twenty years ago, the MSBOA realized that they needed a subcommittee to really ensure what the Maine Harness Racing Commission was about would be monitored, advised, and in general uphold what the Maine Harness Racing Commission is about. So, they formed this committee called the Fairness Committee. As it name states for fairness and harness racing commission. AAG, Guay stated that he is trying to figure out whether or not there’s been an objection made based on the fact that you are not the Maine Standardbred Breeders and Owners Association. He asked Dr. Chow if the members of the fairness Committee do they own horses that race in Maine State Harness Racing Commission races. Dr. Chow stated yes. AAG, Guay asked how many are members are on this committee. Dr. Chow stated nine. AAG, Guay asked how many voted on this. Dr. Chow stated seven. Does the majority of the members own horses? Dr. Chow stated yes. AAG, Guay stated that he is going to allow this intervention because they are a member of a class that has an interest that is being impaired. The rule requires a showing that it is a person and in this case a person can be a collective aggrieved by a decision of the commission. He
understands the agreement that there are automatic intervenors and that this subcommittee does not meet the standard because they haven’t shown that they are actually the automatic intervenors. However, he thinks they do qualify under the general requirement for the rule. Attorney Steigleman asked if counsel can examine Dr. Chow as to whether the committee is aggrieved as they suggest. AAG, Guay stated you can but it’s pretty clear to him how they are aggrieved. Attorney Steigleman asked Dr. Chow in what way is the fairness committee aggrieved in your view by the decision. Dr. Chow stated that the fairness committee represents horsemen and they are charged with helping the commission drug specifications and penalties. As you know, once this decision was handed down there was a shockwave went through the whole horse racing community because all jurisdictions that use the ARCI guidelines do have classifications for betamethasone as a Class C. AAG, Guay stated to Dr. Chow that he is going beyond. Dr. Chow stated that there are members on the fairness committee who are being aggrieved. Especially Bethany Graffam. She filed a motion for reconsideration. Dennis Foss didn’t file but he was aggrieved. Attorney Steigleman stated that these two people did not file anything. He also stated that they are in disagreement but that shockwave of disagreement doesn’t rise to the level of an aggrieved party. Dr. Chow asked Mr. Jennings about receiving a request from Bethany Graffam for a reconsideration. Mr. Jennings stated that he did received an email from Bethany Graffam requesting reconsideration. When he sent out the instructions per the order from AAG, Guay, Ms. Graffam withdrew her request. Attorney Steigleman yield to Attorney Childs he has an opportunity to exam the witness if he would like. Attorney Childs stated that he didn’t have any questions at this time. AAG, Guay stated that his understanding is that counsel takes exception with the hearing officer’s view that aggrieved would include the precedence, but rather you see the meaning of aggrieved under the rule as having a particular specific interest in the case. Is that correct? Attorney Steigleman stated yes. It does sort of goes back to standing and in this case associational standing. For example, the Luhun case out of the Supreme Court talking about associational standing. It’s not enough to have some sort of unparticularized desire to change things that’s not enough to get associational standing, and it seems to him that’s exactly what this subcommittee of the association is. AAG, Guay asked if there is any evidence that the Maine Standardbred Breeders and Owners Association has authorized intervention. Is there any one here today that can indicate that the party with automatic intervenors standing has authorized this motion. Dr. Chow stated that he spoke with the president of the MSBOA and she has agreed to come and support them. There was a vote of the MSBOA which ending up 4-3 to support their request for intervention. Attorney Steigleman asked Dr. Chow if he had any documentary proof to show what you’re telling the commission right now. Dr. Chow did not. AAG, Guay asked if anyone from the MSBOA wish to speak to this and provide some clarification to the hearing officer as to the position of the MSBOA. Diann Perkins stated that she did speak with president Wendy Ireland and she is not able to come because she is either schooling or qualifying horses. She said that Dr. Chow is going to represent the MSBOA Board for reconsideration. Ms. Perkins is a director of the MSBOA. AAG, Guay stated if there is any business item regarding the MSBOA typically Ms. Perkins is doing it. Attorney Steigleman stated to AAG, Guay that hasn’t the decision already been signed out this morning by Commission McFarland. AAG, Guay stated yes it was. Attorney Steigleman stated that aren’t they past the window to discuss intervention and now we can only at the point talk about reconsideration and not intervention. AAG, Guay stated yes but that is true. Attorney Steigleman stated that it is not a timely application to intervene anymore we should only be talking about reconsideration and the MSBOA would have to show that they are an aggrieved party to this adjudication. AAG, Guay stated that he isn’t sure if an automatic intervenor would have to show that they are an aggrieved party. He will note his objection and his understanding is your objection is that the written filing and that is one of the things here to be aware of. This reconsideration is based on the written filing, so Dr. Chow frankly the rule doesn’t contemplate there is going to be an oral argument, but rather a written filing. But to be clear what he’s hearing the objection is the written filing that occurred on either the 12th or 11th of June was made without the necessary authority of the MSBOA. Is that your objection? Attorney Steigleman stated yes. AAG, Guay stated because they didn’t show that they were an aggrieved party. Attorney Steigleman stated correct, and to the extent it’s only the subcommittee that they don’t have associational standing as a subcomponent of the MSBOA. AAG, Guay stated to Commissioner McFarland that this is where he needs to weigh in. He gave a copy of the written filings to Commissioner McFarland. His advice to Commissioner McFarland is that the rule is pretty clear that the rule requires that it must be made in writing. The motions aren’t contemplated to be oral but rather to be made in writing within 10 days. The rule further details that the petition must set forth in detail the findings or conclusions to which the petitioner objects, the basis of the objections, the nature of any new or additional evidence to be offered.
and the nature of the relief requested. The rule further goes on to say they have 30 days after receiving the reconsideration to act on it. AAG, Guay asked Commissioner McFarland to review the proposed order. On the order for reconsideration, Fran Hanley argues in June 11, 2018 motion for reconsideration that is part of his motion he would like his decision no not classify this as a violation as a Class C drug violation be reconsidered based on the elevated levels of drug which makes it performing enhancing. The MSBOA argues in their June 12, 2018 motion for reconsideration, they believe that the MSHRC geared by not following the penalty guidelines from Chapter 17 Section 5. His advice to Commissioner McFarland is that neither of those motions provides detail or rational for granting of a motion for reconsideration. They disagree but they don’t provide any basis in their written motion for why it would be granted. It’s a technical reason but the rule is very clear. A motion for reconsideration is only to be granted in cases that are very narrowly defined and upon a written motion and in that written motion there is sufficient evidence pleaded in the motion to grant the relief. Attorney Steigleman concurred that the motion did not provide enough argument as to why the commissioner ought to reconsider the decision. He thinks that’s exactly right. In addition, section 5 of chapter 17 for Class C penalties like these clearly says these are recommended penalties they are not mandatory penalties. There is no mandatory minimum they are recommended penalties. The Commissioner clearly explained that he deviated upwards as to the trainer penalty and deviated downwards as to the owner penalties. The Commissioner has all the authority he needs to deviate upward or downwards as he sees fit based on the evidence presented. In fact, the Commissioner did follow the guidelines and exercise the discretion appropriate to his office. So, for that reason the Commissioner shouldn’t reconsider he should simply deny the stay. Attorney Childs didn’t have anything to add. Dr. Chow stated that he disagrees. He’s not a lawyer. The rules are there and we follow the guidelines. Precedence is set all over the county in every jurisdiction follows that and when there is a penalty there is loss of purse everywhere and in Canada. they are trying desperately to keep drugs out of the system. The public knows about it and they complain about it all the time. They are desperate in all they can to have a level playing field so people don’t use drugs. Even the permitted drugs there is a classification Class C and this is an automatic loss of purse for the owner everywhere in this country. They feel it was an error. AAG, Guay says because you’re making that argument he will allow other counsel. He understands his view. He also understands if you were the industry; however, in Maine, we are bound by Maine law and in the statute, purse returns are predicated on very specific findings and that purse returns aren’t part of a general remedy. He doesn’t know what other jurisdictions laws say so he can’t comment as to what the laws of these other states are. However, he will note for the record he has not been a proponent of adopting the ARCI standards, not because he thinks ARCI is bad because he realizes as a lawyer, that model rules such as those are drafted without any particular attention to what specific state laws are. That’s one of the problems with model rules are you can’t just import them without making sure that they comply with our state law. He understands that other states may and the ARCI have these model rules but he isn’t saying it should be a purse return or not be a purse return because that’s a policy decision that the legislature makes. The law says evidently different than what other states say so for that understand that. It’s not legal error. He gave this advice so he’s going to disagree with you. He doesn’t think it is legal error. He recommended his client to sign the order denying the motion. He is giving the opportunity for people to try to persuade the Commissioner that his advice is wrong out of fairness. Dr. Chow thought they were going to make a decision to setup a future meeting for them to debate the issue. AAG, Guay stated according to the rule you have to make a showing by writing that you have a basis to have another hearing. The motion for reconsideration is not granted unless you do that. He stated that’s why he was very clear to the executive director that the motion has to be in writing and it had to be received by the 12th of June and it had to comply with the rule. He was very clear on that requirement. Dr. Chow stated that he did send it in writing. AAG, Guay stated that he didn’t provide sufficient basis under the rule to get his hearing. Dr. Chow wanted to read his letter. Commissioner McFarland stated that Dr. Chow could read his letter. Dr. Chow read the letter. AAG, Guay stated that that basis is not grounds for reconsideration because the rule does not require purse returns; moreover, the law if you’ve read the decision and order the law would seem to indicate that purse returns in the case and the facts in this matter do not apply. Your argument is that got the law wrong. The standard for which it would be granted is if the Commissioner agreed he got the law wrong. Obviously, he just signed the decision he’s being giving advice from his counsel that he didn’t get the law wrong. That’s the basis for why. If you came up with an argument that the commission did not consider x,y,z that would be controlling over this. Then that’s a different argument, the commission would say we probably need to hear that but you’re not what you’re saying. You’re saying they made a mistake. The commissioner
would need to decide if he made a mistake or not at this point. The advice I would give him is he did not make a mistake. Attorney Steigleman stated nothing to add, you have addressed it very well. Attorney Childs stated that there is a lot of misconception from his perspective as to how this case ended. His view of the ARCI rules is that for a Class A violation or Class B violation which are very serious drugs they’re not therapeutic drugs there is a mandatory loss of purse. When we look at Class C then it becomes discretionary with the chair as to whether to impose loss of purse on the owner as well. That’s just a plain reading of the ARCI rules and furthermore our Maine statute is quite clear on the matter. AAG, Guay asked the Commissioner to determine whether or not he is going to grant the motion and if not to sign the order. Commissioner McFarland stated it was with an awful lot of thought his decisions were made previously at the last meeting, and the decision he agreed to was one which followed the current Maine statutes which does not allow in a Class C therapeutic case of taking loss of purse. That is something that ultimately needs to be looked at and fix. He has the greatest respect to everyone in the MSBOA and the Fairness Committee and everything else. His decision is solely made on the fact that it allows for a penalty of fines and of suspensions with absolutely no mention statutorily of taking money back and redistributing. That’s the facts that he based his decision on only and he would do that regardless of who the violator was. It wouldn’t make one bit of difference to him; personally, it has no baring in his decision whatsoever. He wants to make that perfectly clear. Commissioner McFarland denied the reconsideration of this request. AAG, Guay stated with the motion being denied he would put people on notice including the MSBOA, Fairness Committee or Dr. Chow individually or any member individually that the appeal period will start running as of today. Final agency action has occurred. People have 30 days if they disagree with the decision of the Commission to file an appeal. With that he declared the matter of Gibbs and Grondin closed at this point.

Commissioner Timmons left at this point. Commissioner McFarland nominated Commissioner Graham as pro tem for chairman. Commission Varney seconded. Vote 3-0. Commissioner Graham recused himself from the vote.

4. Commission Review of the Statutory Language Pertaining to Purse Returns. At the May 9, 2018, hearing, a single commissioner ruled that purse returns would not be part of the penalties for Complaint Numbers 2017 MSHRC 29 and 2017 MSHRC 45. This ruling was based on a recent interpretation of statutory language contained in 8 M.R.S. §§ 279 and 280. The Maine Standardbred Breeders and Owners Association have requested that the Commission explain its finding relative to the consolidated betamethasone case. In addition, it’s appropriate for the full Commission to review the statutory language, discuss its interpretation, and determine how to proceed. AAG, Guay stated that Mr. Jennings had a request from the MSBOA to have a discussion about this. He also disclosed that he sent around a copy of the decision and order even though all of the Commissioners were not going to be voting on it, so they could read it. It lays out a lot of issues that were raised during the Gibbs and Grondin matter that the Commissioners need to discuss. He suggested seven or eight questions the Commissioners should have a discussion on, and depending on how those came out collectively if there’s agreement then that would sort of dictate what the next steps are. Depending on what the Commissioners think the right thing to do is then either rule changes or statutory changes are probably going to need to occur. Commissioner Graham stated that they should have a discussion amongst anyone here that want to participate. AAG, Guay stated that the Gibbs and Grondin case can be appealed, and whether or not it is a precedential value. This is his prospective, you have a decision of a single commissioner, so by that nature it is somewhat limited precedential value. The probable is he has some decision and orders that he needs to write up so part of it is he needs to understand what their thinking is on this. Not on the Gibbs and Grondin’s case because that’s done but rather on the issues that were raised in the Gibbs and Grondin case. He thinks that’s the way to look at it. Diann Perkins stated that her concern is that the statute directs the Harness Racing Commission to write rules and she believes in the rules we do have for any violation that the purse be returned. AAG, Guay read 279-A under the statute. That is where the authority to conduct rulemaking. He read 279-B. He also stated that it doesn’t say that it is authorized to do purse returns in 279-B. Ms. Perkins stated it is found there in another place. Ms. Perkins stated that she finds that lots of times when these rules are written, and have to be reviewed by the attorney general and the secretary of state that they have not done a very good job. They have not looked at these statutes at all. They have not been reviewed or updated. AAG, Guay stated that he is not going to say that the attorney general office did a bad job, you certainly have a right to that opinion. He says the Commission gives advice as to statutory changes.
Upon consultation of the Commission, the department can put a bill in. He stated to Ms. Perkins that she does accurately state that there is purse returns and that’s under use of drugs or appliances under section 280. That’s a completely different section that does not deal with the rules that are referred to in 279-A, and 280 is sort of this super additional penalty. If you look at it, this section seems to be aimed squarely at cheaters because there is something known as a mens rea of component. Mens rea of component is something needed in criminal cases so there is an intentional and knowing. Typically, to be convicted of a crime the state has to prove that someone did something intentionally and knowingly and in this case, it is to dope a horse, so arguably but purse return is in here right below the fact that the person commits a Class C felony. The purse return seems to be in the same section of law that says the conduct is so bad that they would go not to jail but to prison. That they’ve committed a felony. It’s a reasonable reading that the context of this section is that purse returns at least probably the way the legislature intended in this context is for people committing felonies or cheating and intentionally knowingly cheating. He thinks that’s a real reasonable interpretation of what this is. As commission counsel, he would be very very nervous to be in front of a judge and say that if someone did not intentionally or knowingly do something that they should have a purse return. If the purse return was included in 279-B, there is no question. If the commission and the industry thinks that if people, if veterinarians mess up and the levels are too high that that person should lose the purse, that’s a policy decision. Then the industry, the commission, and the department is going to need to convince the legislature that’s the policy that should to be in place. Ms. Perkins stated that any violation that has to do with drugs, medication there should not be a return of purse. AAG, Guay stated no he is not saying that. If you’ve read the decision and order, in order to get a purse return, you need to have additional factors and the state has to prove those additional factors. It’s not enough to have a level violation. He is not the prosecutor and he has made an issue of this and he has written to the Commissioner of Department of Agriculture. He has asked to be prosecutor and the reason why is because these are pretty complicated legal things here. It is hard to show intent. If he was a prosecutor, 280 that’s something he would have to work hard to do to present evidence that allow the commission to do a purse return. It is possible. He hinted in his decision and order at some ways that it can happen. There is no way that you can never do a purse return on a drug violation. What he is saying is, you have to prove certain things and those are not easy to do. The statute requires additional showing. Intentional, knowing, stimulated, and depressed. Part of the issue with the permitted medications and again the commission in its rulemaking whether it fully understood what it was doing or not pulled in the ARCI’s words. So, ARCI’s words in the schedule of prohibited substances on the schedule of medications those words are the words of the Commission. The words in the classification of the classification for the drugs that a lot of these permitted medications are says that and this is ARCI’s words; and therefore, these are the Commission’s words these drugs do not have a signification impact on the central nervous system in the horse. What a rule is, is a pre-finding of law by the commission. The commission when they adopt the rule instead of making a decision case by case we are going to tell the regulated community right now this is what the law is. In this case, what the commission is saying that we find that Class C or Class IV that those substances don’t have a significant stimulant effect on the nervous system. The requirement under 280 in order to have a purse return the substance has to stimulate or depress the horse, so by rule they said for these medications no it doesn’t; so how can the commission then apply 280 in that type of substance. They can’t. The last thing that the commission has absolutely no ability to do and this is one of the funny things about rules. The commission in adopting the ARCI schedule adopted a column that says dosing specifications. There’s a Maine law court decision that says the law is arbitrary and capricious, and that’s a constitutional deficiency if it does not provide with reasonable certainty what a person can do to avoid a penalty in their occupation. Well here the MSHRC has put out a specification saying these are the dosing specifications and then is going to impose a penalty on someone who followed those dosing specifications. That is really good argument in front of the court that that law is arbitrary and capricious; however, this commission can do nothing about it because that’s rule. The Commission cannot ignore its rule. Ms. Perkins stated what concerns her is that there is a certain amount that is allowed so many days out and when these tests came in and they did split sample and DNA that the levels were higher than what was recommended. How did this happen. She can’t understand why this wasn’t brought up. AAG, Guay stated presumably there was no evidence. People in the industry and in the audience, can speculate and if the test was higher that means they did something wrong. The State of Maine if they are going to deprive somebody of a property right or of a freedom, fact finders can’t speculate they need evidence that something wrong happened. That’s why level violations are good because you don’t have to show what happened. A level violation combined with a
dosing specification. If the person follows the dosing specification, submits proof they followed the dosing specification and then is subsequently punished for it, that potentially is arbitrary and capricious. It is a lot easier again if you read my decision and order, if it is a prohibited substance not a permitted medication and that’s in the horse he thinks it is perfectly reasonable; and he is willing to get in front of a judge and argue it is a proper inference that there is no therapeutic authorization to use that drug, there is no testimony that a veterinarian gave it, there’s no testimony that the horse was suffering from a condition that required it. The fact that it was in that horse it can be inferred that it was used for the purpose of cheating. As a prosecutor, he would be happy to make that argument and that he thinks is a proper inference. To answer Ms. Perkins question, it would be a no. If it was a drug case it could be a purse return. Ms. Perkins asked if it was performance enhancing. AAG, Guay stated that was not the theory of the case. There was a lot of procedure. The theory of the case controls what the Commissioners decide. If the theory of the case is purely a level violation and not that it was performance enhancing, that was never in that case at all. Unlike the Cobalt case, where that was a central factor. With the rule changes, the department doesn’t have to show that it’s performance enhancing. It is enough that it’s on the prohibited substance list. Ms. Perkins was concerned with was what date the rules went into effect and what rules they were using. That really bothered her. She thought she had all the current rules. AAG, Guay stated that Chapter 11 was repealed and replaced on May 7, 2017. At any one rulemaking, there is accumulative effect of all of the different rule changes that have a subsequent effect. Ms. Perkins stated that on that May 7th one it does say loss of purse. AAG, Guay stated that his advice to the commission is given in 280. He could make an argument for a Class C violation. For example, if someone had betamethasone and it wasn’t injected by a veterinarian and the horse didn’t have a condition there’s no evidence of a condition that required a permitted medication to be administered then he would argue to the commission that they could infer if though it is a permitted medication just because it was a permitted medication doesn’t mean that it can be used willy nilly it has to be used within what it’s permitted for which is a veterinarian, and the horse has to have a condition or trying to prevent a condition; and if there is none of that then he would argue to the commission that there was no veterinarian they bought this off the internet they gave it to the horse you can infer they intended to cheat. Mr. Jennings stated that he doesn’t disagree with what he said but his concern is 280 is very specific about stimulant and/or depressant. Doping under the penalties he doesn’t think you would ever get there with the corticoid steroid. AAG, Guay stated that maybe he misspoke with betamethasone but there may be Class C substances that have that effect. Commissioner McFarland stated the basis shouldn’t the statute which is now only requires levying fines and suspensions be clearly identified to allow for loss of purse in some language as it represents 279-A and B. AAG, Guay stated that the legislature can do that but you need to provide some direction. The one that he thinks you need to stack hands on and the industry and if you all agree to convince the Legislature is if it’s a permitted medication and its even worst if the veterinarian actually works for the State of Maine, and giving the drugs to the horse and the level is high do you take the purse away in that instance. To him that’s the difficult policy question. Commissioner McFarland stated that as a commission they would have that discretion. Right now, from where he sits as a Commissioner he doesn’t feel that they have the statute to backup taking loss of purse under 279-A but we do under 280. AAG, Guay stated the reason why he is saying that is Commissioner is to be really really clean and he knows there is a difference of opinion adopting a control medication program means, but that language is problematic as well in 280 and in 279-A. He would suggest that needs to be cleaned up. In order to strip that language out you need to decide if you allow for the controlled use of medications and there’s a violation of that chapter do you take purses away. If you do you need to not only put that in 279-B but you also need to take it out of 280 and 279-A. You can’t avoid that question. If they’re giving the medication as they are supposed to and for whatever reason the level blows higher than what it is, should they lose a purse. If so you’re going to need to change the statute differently. If you want to still have the exemption for permitted medications argueable then you leave that other language alone. If you’re going to make that change you need to consciously he thinks cross that bridge. He doesn’t know if there is an agreement amongst the four of you whether the department says this medication is ok to use under these dosing specifications. They do it, should they lose their purse. Mr. Greenleaf asked if they should take the level into consideration. Let’s say a vet said he did it just how he was instructed, he did it this many days, and they give you a receipt saying this is what he gave; but let’s say it comes back 500 times higher but you have a vet telling you he did it just how you said it. Could you argue that as being doping even though it’s a Class C. AAG, Guay stated he thinks if you had your department veterinarian testify that at the levels found in the blood sample it is not possible that the dosing was done according to the therapeutic guidelines. You have
to have evidence to that. Dr. Matzkin stated that they had evidence to that. AAG, Guay stated that you didn’t put it in. Dr. Matzkin stated that his problem with his big overall picture is every time you talk about the science you say for whatever reason you blow over the limit. We heard tons of evidence about certain horses in those studies being at 11 or 12 or even 13 at ten days but we didn’t hear any evidence about how you could be at 26 or 55. AAG, Guay asked if they could have missed the joint. Dr. Matzkin stated yes. AAG, Guay stated under the 280 right now is that intentionally doping. Dr. Matzkin stated he didn’t know. AAG, Guay stated if you’re a veterinarian and your intent is to inject it into the joint and you miss the joint did you intend to miss the joint. Dr. Matzkin no. AAG, Guay stated that his point is 280 requires intentional and knowing. Ok, the vet screws up. Did the betamethasone nerve the horse, did it stimulate or depress the horse? Dr. Matzkin stated that the problem with that statute is the language is 50 years old. AAG, Guay asked Dr. Matzkin would a high dose of betamethasone stimulate or depress the horse. Dr. Matzkin stated no. AAG, Guay stated then there’s the other problem. Mr. Jennings was wondering about efficiency. The Commission is not going to be able to submit any legislation until January at the earliest if that is their wish. He was wondering if we should start a discussion about rulemaking and what the Commission is going to do in the interim if anything because as he sees it right now where the purse return is off the table for what he thinks basically is 95 percent of the cases is what we typically get, then his concern is there is no deterrent in rule that effects an owner and he thinks they ought to discuss whether that’s ok. AAG, Guay stated that it is hard to craft what the solution is in the rules without understanding this permitted medication. If someone is using the medication as the Commissioners are telling them they can should they lose a purse if they have a higher level. What’s the view of each of the Commissioners. Commissioner McFarland stated if you take the purse aren’t they opening their selves up to a legal challenge. AAG, Guay stated in a perfect world you can wave a wand and you’re going to get whatever policy you want. What do you want the policy to be? Do you want to take purses away from people who have complied with the department’s medication program where they said you can give this stuff and you can give it in these doses? Mr. Sweeney stated that we are talking about taking purses away as a penalty but it’s also in the rulebook as a perceived redress for the other participants in the horse races. It’s a way to redress their inability to compete on a level playing field during that contest. From a theoretical standpoint, we need to get away from just saying we need to slap this guy on the hand but we also have to make it right for the other people who were in the races. AAG, Guay stated that the statute seems to indicate that you have to show that it wasn’t a level playing field because a horse had to be stimulated or depressed because in this case it’s a corticoid steroid. The question is would you take the purse away from someone because the vet missed the joint and it didn’t have an effect on the horse. Mr. Sweeney stated if you look at the historical reference as to why that table was put into the rule as proposed a couple of years ago, it was with the understanding and testimony before this commission that they knew those medications could be therapeutic in nature. They are medications that are used on a regular basis by trainers and that they did not want to have killer penalties for those medications, and that’s why there were no minimum days for trainers to serve there was a recommended minimum fine. There was no setting down of the horse, there was a recommended return of the purse. A much different set of penalties then you saw for Class B violations. AAG, Guay stated that if you’re going to tell the legislature that right now you can take purses away because people are intentionally and knowingly, stimulating or depressing the horse. Now you’re going to say we want to be able to take purses away because the veterinarian screwed up and it didn’t have an effect on the horse. Dr. Matzkin stated that you’re defining stimulating and alter depressed as the only way you can affect the horse, that’s absolutely not true. That’s just what the statute says. AAG, Guay stated that he knows that’s what the statute says but that’s what needs to be changed. Dr. Matzkin stated that’s what they are saying. AAG, Guay asked so what is the effect on the horse of having a high-level corticoid steroids. Dr. Matzkin stated that they are extremely good anti-inflammatories. They kill pain. It’s not simulating or depressing. AAG, Guay asked if that is above curative. If you have a horse that has no pain and you have a horse that has pain is leveling the field making both horses without pain. Are you saying that if a horse has pain and the pain goes away that is an unfair leveling of the field? Dr. Matzkin stated according to our rules, yes. AAG, Guay stated that he would suggest to you that the rules contemplate that you balance the welfare of the horse and the betting public. Do you disclose which horses are in pain on the betting program. How is a better effect? Do they presume that all the horses are in pain and that some horses are not in pain? Dr. Matzkin stated that most of them probably do but that’s kind of beside the point. AAG, Guay stated the rules need to protect either the betting public or the horses, so if you have a rule that says we’re going to have horses race in pain because to take their pain away that’s an unfair leveling of the field. Ms. Grondin
stated that she was pretty sure there was testimony that betamethasone did not sound the horse out. Dr. Matzkin agreed, but to make AAG, Guay’s argument, they can’t mask pain because that is dangerous to everyone including horses and people on the track. If it shows up showing pain, it’s his job to tell the judges to scratch the horse. Ms. Perkins asked where does it say that the Maine Standardbred rules which they were authorized to do statute takes precedence over the them. AAG, Guay stated that he can’t sit here today and tell you but that’s just black letter law. Ms. Perkins stated that when these rules were written there probably wasn’t any trainer responsibility rules involved. AAG, Guay asked the Commissioners if they wanted to weigh in on whether purse returned should be included for permitted medications. Commissioner McFarland stated that he absolutely believes that what they had been doing up until they just had these last two meetings where an awful lot of information about legal and illegal, rules, and statute all came to light for the first time in 4 years this level he has heard any of this to bring light to where we’re at. He firmly believes that what they have been doing was right. He knows from being an adult for 72 years you can get away with whatever you can get away with until it’s questioned; until someone comes before you with the legal backing and the legal interpretations that correct whatever it is you’ve been doing. He’s not saying what they’ve been doing was absolutely wrong, we were all doing it and what they believe to be within the rules; but as a result of this extensive case that we’ve previously had all of this information now has come forth and it’s up to them to try and figure out how to fix it. He firmly believes and he doesn’t want anybody going out of this room not thinking that he is not in agreement with loss of purse. He always has been. It’s the only way to keep things on the level playing field as we’ve all discussed. We need to fix whatever situation we have here within our rules and our statute to make it continue like it has been because that is the only deterrent to those that would willingly and knowingly try to gain an advantage. He does realize the difference between therapeutic medication and the Class A and B’s that they have to deal with. He hopes the commission would move forward in trying to remedy this. He is certainly in agreement with the loss of purse as it’s shown in the ARCI; however, they haven’t covered themselves technically and legally to protect themselves from doing that. Commissioner Graham asked is the method that we need to do this is go to the legislature. AAG, Guay stated that it makes it a lot easier and not only that with the intervening rulemaking we now have a better view of where the end point is so we can start talking about the rulemaking as well. Commissioner Graham agreed with Commissioner McFarland. Ms. Perkins asked Commissioner McFarland what he meant when he said the ARCI rules. Those are only recommendations. Commissioner McFarland stated exactly but we’ve been following them since May 7th. We adopted the ARCI as it’s written in our rules. We would follow them within the parameters that’s legally available to them. William Kasabuski stated that he is at Windsor and there are trainers there that raise babies and they brought to his mind that there’s a separate set of rules for the sire stakes. Nothing will be introduced to the body of a sire stakes horse. AAG, Guay asked if he could site that rule. Mr. Kasabuski could not. He asked if there is a rule. AAG, Guay stated no. Commissioner McFarland stated that he has heard some of those same comments. He is not saying it’s right or wrong. It’s not a rule. Ms. Perkins stated that there is something. When you changed these rules last year, you took out a paragraph that was in there. A horse participating in the sire stakes program that has permitted Lasix in its system that exceeds the blood level concentration of 1c in this section is a violation. It’s in Chapter 11. AAG, Guay stated that he has looked. Mr. Jennings stated that she is talking about the previous version. Dr. Matzkin stated that was only at that time for permitted NSAIDS. AAG, Guay stated based on where the commission would like to end up with rulemaking, you’re right you need to have a legislative fix. He can help with that. You need to not only stick in 279-B language but you need to take out of 279-A and 280 language. Commissioner Graham asked if they had consensus among the Commission. AAG, Guay stated that he thinks these two Commissioners said that purse returns should occur for violations of permitted medications. Commissioner Reed and McFarland agreed. AAG, Guay stated that the other issue he strongly suggests that you to take care of it in rulemaking. If that’s what you want to do. You need to have a new permitted medication rule period. You need to redraft the permitted medication rule. If you take the control medication reference out of the statute, we don’t need to distinguish control verses permitted medication. That will become a moot point now that the Commissioners wish to get there. What you definitely need to do is take the dosing specifications out. Mr. Jennings stated that he is completely aligned with AAG, Guay thinking. In fact, he has never seen anything quite like it in other regulatory structures. Dr. Matzkin stated that they should at least bring up one more time that our rules specifically tried to deal with that problem by saying here are the drug guidelines does not constitute… AAG, Guay stated that he understands that but he would not be able to truthfully tell a judge that withdrawal guidelines are the same as dosing specifications since he knows they use to publish
withdrawal guidelines. He did not see the dosing specifications and then when he saw that language he knew what withdrawal guidelines reference is. Dr. Matzkin asked what’s the difference. AAG, Guay stated that the difference is you had a document titled withdrawal guidelines it was published by the Maine State Harness Racing Commission and you have in here dosing specifications, a judge would not see a difference in it especially since there used to be a document called withdrawal guidelines. Dr. Matzkin stated to his mind they are the same exact thing. AAG, Guay stated that in your mind it is but you’re not a judge and in judge’s mind, it is not. Mr. Jennings stated that he agrees with AAG, Guay and he thinks that it seems to him if there’s going to be guidelines on how to dose and withdraw it should come from an association of veterinarians or something like that it shouldn’t be coming from the regulatory line. He is sensitive to the notion that people need guidance on how to use the drugs but he thinks it shouldn’t come from the regulatory. Attorney Childs stated that the ARCI rules are quite confident in most regards. If your horse is found to have opioids in it, it’s a violation and loss of purse. If it’s found to have amphetamines, it’s a violation for the trainer and loss of purse for the owner. Presently, under the ARCI rules we have two different treatments for Bute, banamine, and ketoprofen. We have a threshold that if you exceed that that’s a violation for the trainer and on a first offense it doesn’t result in a loss of purse to the owner. This is a trainer responsibility rule we are talking about. It is not an owner responsibility rule. If the owner somehow knows that the trainer is giving Bute which is a permitted medication to the horse and the horse has a slight overage should the owner be punished for that. The ARCI sees the distinction between the two situations. If the blood test on a Bute comes back between 5 and 8 micro grams per milliliter its treated as a less serious violation. If it comes back in excess of 8 micro grams, it’s a much more serious violation. Now turning to the Betamethasone and Dexamethasone issues. Two years ago, you could use betamethasone and dexamethasone anytime you wanted day the race and it wasn’t considered to be a violation. Betamethasone is a steroidal anti-inflammatory and Bute is a nonsteroidal anti-inflammatory. The current rule that allows for the loss of purse leaves it up to the discretion of the Commission as to where to take the purse or not. We just need to be looking at these thresholds on betamethasone the 10 pico grams. This is a new series of medications that we are now regulating but sometimes we just need to be cautious that we don’t end up convicting people that were following the rules and doing what they were told yet because of the newness of the rules and the application of those rules in particular situations, it results in unforeseen consequences. There’s a huge difference between intentionally and knowingly doing something trying to affect the outcome of a race and following the rules and withdrawal guidelines to him that isn’t even negligence it’s not even civil negligence. AAG, Guay stated that’s why the statute is going to be changed. Attorney Childs stated that we just want to be cautious before we start saying that any amount of Bute, flunixin, or ketoprofen in the plasma results in loss of purse on a first offense. He just thinks that’s too strict. He would also like to make that same application to Betamethasone and Dexamethasone. They are just better medications for treating race horses than some of the alternatives out there. Dr. Matzkin stated that he agrees there is probably a better setup but as soon as we pick a number out of a hat and we’ve got a case you’re going to argue that there’s no science to that. Attorney Childs stated that the day after they concluded this hearing. The very next day the United States Trotting Association has developed a committee and Dr. Finger is on that committee. He thinks there is just a difference between thoroughbreds and Standardbreds. AAG, Guay stated that the Commission never reached the concept for punishing an owner for negligence of a veterinarian. He thinks it is going to be level. If the vet misses the joint, the owner loses the purse. He asked Attorney Childs if he has a legal argument against that. Attorney Childs did not respond. AAG, Guay stated so, he doesn’t.

5. **Commission Discussion about Potential Rulemaking.** The Maine Standardbred Breeders and Owners Association has requested a couple of minor revisions to Chapter 9 of the Commission rules. In addition, a May 9, 2018 Commission decision was based on a recent interpretation of the Commission’s statutes that purse returns are only authorized for certain types of rule violations. Mr. Jennings stated in Chapter 9 he would like to change the purse structure to 1 percent to go to the 6th, 7th and 8th place winners. Mr. Jennings stated that the MSBOA has two recommendations for Chapter 9 relating to sire stakes. They would like to change the purse structure to 1 percent for 6th, 7th, and 8th place. AAG, Guay stated not to have the last three places the same. The theory is you should be competing so that you are trying to get a little more money. There should be some incentive to do well. Mr. Sweeney stated that the rule won’t allow them to do that because of the hippodroming. Once you determine what the purse is going to be, then you need to determine how you are going to distribute that purse. What he and Mr. Manning came up with is
paying 6th place 3 percent, 7th place 2 percent and 8th place 1 percent, and they would take it from the first and second place horses. We’re adding on an additional 6 percent of purse money for those horses that traditionally didn’t receive anything. So, we are taking 6 percent away from the top two places. Horses finishing first instead of getting 50 percent would now get 47 percent and horses finishing second instead of getting 25 percent are now getting 22 percent. We did that and part of the reason why these rules are being talked about right now is to try to get money to people who are not getting a lot of money in the industry to keep those horses around to encourage them to breed those horses and to keep racing those horses. This is just a proposal for them. If there are not enough horses in a race the track would retain that place money. Ms. Perkins stated that the MSBOA wants to have for 6th, 7th, and 8th place the same amount of money. She stated that they know how much money is available in the Sire Stakes fund. She stated that their membership voted on this in February. Mr. Jennings asked if Ms. Perkins membership would be open to further discussions about how to pay because there are two reasons why. One is that when you break it into strict percentages they can import that into their spreadsheets and that makes it easier for them to calculate to pay out the purses, and the second reason is you would have to leave the reference to hippodroming in order to do that. There are still questions because now you are not incentivizing placing as high as you can as a contestant. AAG, Guay stated that the irony of this is when he was researching the purse return issue. Part of the research that he did is, what is a purse. It’s clear to him that a reasonable definition of a purse is something that the competitors are competing for and it’s not merely for participating and beyond that it is hippodroming rule. It’s questionable whether people being paid merely just to show up isn’t probably keeping in line with what a purse is intended to be. These monies are purse supplements and purse accounts. You’ve kind of got to make it look like a purse and to the extent that it looks like a hippodrome to be paid just to show up. He thinks if you have an incentive to go from 8th to 7th to 6th place he thinks you are ok. That looks to him like a purse. He cannot ever declare anything legal or illegal. All he can do is give advice. If you put into place flat payments for the bottom three that would not prevent someone from challenging and having a legal dispute. Commissioner Graham stated that what he thinks the breeders are trying to do is if they have a consolation race for $10,000 and he is seventh best they would have to race the good ones and he may not stand a chance to get anything but if he backs up a little bit so he can get into the consolation where he would be the best one in the consolation. Mr. Jennings stated that they can take comment on all of this during a rulemaking proceeding. Ms. Perkins stated that the breeders have their own rule in Chapter 9. Mr. Jennings stated that the other thing that the MSBOA advocated for was a requirement for trainers to notify the department where horses are stabled for the purposes of training and to notify the department if they change that location and the purpose of that was to facilitate out of competition testing and checking on stake horses. They need to resubmit the three chapters that they were working on. If the legislature elects to change this 280, 279-A and 279-B, the likelihood that that would be in effect any time before March of 2019. Is there anything you want to change in your rules in the legislature elects to change this 280, 279, and 279-B? AAG, Guay stated that a potential suggestion would be to have owner fines because 279-B allows for fines. You can fine an owner. One it doesn’t get money back to the owners but it is a deterrent to the owners. If you were to do that, you would have to adopt some type of owner responsibility in order to find a violation against the owner. Mr. Jennings is concerned about the current status of the trainer under the rules. As the rule stands right now, we don’t have sufficient reason to actually go through a process to license a trainer because they don’t have to be in the state, they don’t technically ever have to see the horse, or ever be involved in the training of the horse because we don’t require that in the rules anywhere. Right now, if you have a list of trainer responsibilities they are on the hook to pay the fine and to be suspended. If that’s really their only function, then we could just call them the designated finee. Maybe we want to put a clause in there that there is some active participation in the process of training the horse. Do you want to do some rulemaking now or wait until statutory changes do or do not occur? AAG, Guay stated if anything else to take the dosing specifications out. Commissioner Graham agreed to take out the dosing specifications. He also stated that he is not too concerned about 280 and its not fining people. If there’s any question in his mind that it was intentional he is going to take lose of purse unless it’s a stakes race where it’s a big purse and they’re not going to fight it through the courts he doesn’t believe because they are going to spend as much as they’re going to lose. Mr. Jennings asked if he is saying go after the statutory changes and take the dosing specifications out and change Chapter 9. Commissioner Graham stated yes. AAG, Guay stated that he is going to give Commissioner legal advice that other Commissioners had the benefit in executive session. You really can’t do something that you
believe to be unlawful just because someone isn’t going to appeal it, and he will explain that further to you later. Mr. Jennings stated that there are three rules that they were working on that didn’t make it through, do you want to just wait on those. AAG, Guay stated what he heard is the Commissioners would like to have the steady state of where they were and correct the legal defects that have been found. He doesn’t remember all the changes because he wasn’t as active in the rulemaking. The urgent thing is the dosing specifications. Mr. Jennings stated that he thinks it’s an easy fix to do Chapters 7, 11, and 17 and then bring in Chapter 9. Commissioner Graham stated that he agrees with that. All of the Commissioners were in agreement.

6. **Other Business:**

   a. Continued discussion regarding the Commission’s Consent Agreement Policy
   
   Mr. Jennings stated that he is not going to talk about consent agreements at this time.

   Mr. Jennings stated that in the Commissioner’s folders that he put in four different series of racing. He wanted to talk about classified racing. He stated that classified racing makes more sense to him in terms of setting up competitive racing. This is based strictly on the time that the horse has been put up. There is correction for post position, track size, track condition; and they throw out any races in which there is a break, broken equipment, and interference times, and they go with only times where the horse is not interfered with or broke. It is pretty accurate measure of the horse’s ability. Commissioner Varney asked what it does to claiming races. Mr. Jennings stated that you run claiming races different. Commissioner Varney would be in favor of trying it. Commissioner McFarland asked if there are any secretaries that have bought into this idea. Mr. Jennings stated that Kenny Sumner is a big advocate in trying this. Bangor would not do it unless everybody does it. He also stated that Scarborough would not do it.

   AAG, Guay gave an update on the illegal wagering. He would like permission from the Commission to do something. This Commission heard a complaint that there is illegal wagering going on in the State of Maine and that there are internet facilities who are receiving bets on line on horse racing. Mr. Jennings and him met with the executive director of the Gambling Control Board recognizing that the Commission itself has limited resources and investigatory resources. He’s aware of investigations that occurred elsewhere and are potentially occurring; however, he’s become aware that he can do investigation other than what the state police may be doing but he needs their permission. Evidently, in the State of Oregon, the Oregon Harness Racing Commission issues multi-jurisdictional licenses for simulcasting. They are issuing licenses for people to simulcast in the Maine. What he is asking for and what he would like the Commissioners to vote to allow him to do is allow him on behalf of the Maine State Harness Racing Commission to contact the Oregon State Harness Racing Commission and to ask questions about which entities have the multi-jurisdictional ability to conduct this activity in the State of Maine. He would further ask for if they refuse to give him that information the ability to file a Freedom of Information request in the state of Oregon on behalf of the Maine State Harness Racing Commission. He believes that he needs specific authority and permission by the Commissioners to file this request. He is looking for a motion authorizing him to contact the Oregon State Harness Racing Commission on behalf of the Maine State Harness Racing Commission, and if he does not get the information that he needs he would be allowed to file a Freedom of Information Act. Commissioner Varney asked where are they will the bill that is supposed to be happening in Maine. AAG, Guay stated that there is advanced deposit wagering bill that has been passed in Maine. The Bureau of Purchases has changed the forms because of the way the advanced deposit wagering rule works that it has to be put out to bid. That is not something that the Gambling Control Board can do individually, so the executive director is meeting with the Bureau of Purchases. At the next meeting, there is going to be an RFP that hopefully the Gambling Control Board will be able to vote on to issue out there that will allow for someone to bid on for the ADW. The complaint is that in the meantime, there are people that are doing this. You do not have jurisdiction over ADW but what you do have jurisdiction over is simulcasting in harness racing. You license simulcasting in the State of Maine, so what you guys are concerned about is to the extent that these internet providers are simulcasting and taking money out of the State of Maine that’s not going to our simulcast people. He found out through someone in the industry that the way these people are doing it is through this license that’s issued in Oregon. In order for him to go to Janet Mills or whoever is the AG, he needs to have evidence that this is occurring. One way that he can obtain evidence is to get the actual licenses of entities that Oregon is saying that it can happen in Maine. Moreover, the interesting thing in Oregon they get a tax on all of this simulcasting revenue. They know how much money each of these
entities are doing in the various jurisdictions. To the extent, he can get that information, he wants to do a FOIA if they don’t voluntarily give it to him. What he wants to do for those entities that are licensed in Oregon he wants them to provide information on how much they are taking out of the State of Maine on simulcasting. Once he has that information he will have enough to go to Janet Mills that he has evidence. Commissioner Graham made a motion to allow AAG, Guay to contact the state of Oregon and ask for the information and if you don’t get it to file a FOIA. Commissioner Varney seconded. Vote 4-0.

Ms. Perkins stated that she wanted to share with them that there are 88 yearlings that have been nominated. We have 19 trotters in both divisions, 27 colt pacers and 23 filly pacers. The 2 year olds this year is 73. She is quite pleased. She also stated that the earn and learn have started for the 2 year olds. The only complaint is they want some more consistency to skool.

7. **Schedule of Future Meetings:**
   - July 20, 2018
   - August 22, 2018
   - September 13, 2018

8. **Adjourn**
   - 12:55 p.m.