§ 221. New York Jockey Injury Compensation Fund, Inc. 1. There is created a not-for-profit corporation to be known as The New York Jockey Injury Compensation Fund, Inc. and referred to in this section as "the fund". To the extent that the provisions of the not-for-profit corporation law do not conflict with the provisions of this article, or the plan of operation of the fund hereunder, the not-for-profit corporation law shall apply to the fund and the fund shall be a type C corporation pursuant to the not-for-profit corporation law. If an applicable provision of this article or the plan of operation of the fund hereunder relates to a matter embraced in a provision of the not-for-profit corporation law but is not in conflict therewith, both provisions shall apply. The fund shall perform its functions under the plan of operation established and approved under this section and shall exercise its powers through a board of directors established under this section.

2. a. The board of directors shall consist of seven members, six of whom are to be selected from the general membership of the fund in a manner and for terms to be prescribed by the initial fund board. For the purposes of establishing and organizing the fund, at least one hundred fifty days prior to the date that this article shall take effect, the boards of directors of the horsemen's organizations representing at least fifty-one percent of the horsemen utilizing the facilities of any racing corporation, shall designate six members who shall serve as the initial board of directors of the fund. The seventh member shall be elected every two years on the second Tuesday of June, or as designated by the fund, pursuant to paragraph b of this subdivision by a vote of jockeys and apprentice jockeys duly licensed pursuant to this article or article four of this chapter. The members of the board shall elect annually from the members a chairperson and a vice-chairperson who shall act as chairperson in the absence of the chairperson. Each member of the board of directors shall have equal voting rights with the others.

b. (i) The election of the seventh board member shall be conducted by an election administrator selected by the fund no later than November fifteenth of the year preceding the election. The fund shall inform the commission of its selection thereof. The fund shall enter into a

contract with the election administrator at least one hundred twenty days prior to the date of the election. The fund shall be responsible for costs associated with the contract with the election administrator.

(ii) The election administrator may be the individual, organization, or corporation under contract with the fund to provide management services as of November fifteenth of the year preceding the election. The election administrator shall devise and provide nominating petitions to candidates, shall validate such petitions upon submittal by verifying the eligibility of the jockeys and apprentice jockeys to sign such petitions, and shall be responsible for the printing, dissemination, validation, and tabulation of ballots for such election. The commission shall provide a list of all duly licensed jockeys and apprentice jockeys to the fund for purposes of validating nominating petitions and ballots. The election administrator shall report the results of the election to the commission, which shall then certify the election of the seventh board member.

(iii) Any individual seeking election pursuant to this subdivision shall provide a nominating petition containing the signatures of no fewer than ten duly licensed jockeys or apprentice jockeys eligible to sign such petition. To be eligible to sign such petition, a jockey or apprentice jockey shall possess a valid jockey's license as of March first in the year of the election. Such petitions may be signed by eligible jockeys or apprentice jockeys beginning April first of an election year and shall be returned to the election administrator for validation no later than the first Monday of May of an election year. If a jockey's license expires between March second and the first Monday of May and has not been renewed by the latter date, the election administrator shall invalidate such jockey's signature on the nominating petition so submitted.

(iv) To be eligible to vote in the election, jockeys and apprentice jockeys must possess a valid jockey's license at least thirty days prior to the date of the election. If such jockey's license expires during the thirty days preceding the election and such license has not been renewed as of the date of the election, such jockey shall not be eligible to vote.

(v) If, following an election of the seventh board member, such member is unable to discharge his or her duties as a board member or is

otherwise unable to complete his or her term, the fund's chairperson shall offer the seventh board member's position to the candidate who received the highest total number of votes following that received by the elected board member during the election. If such candidate declines to accept such position, the chairperson shall offer the position to each remaining candidate in descending order of the total number of votes received by each such candidate during the election until a candidate has accepted the position. If none of the remaining candidates has accepted the position, the chairperson may appoint an interim member to the position for such time as intervenes until a new seventh board member is elected.

3. Members of the board of directors shall serve without compensation for their services, but shall be entitled to reimbursement for actual and necessary expenses incurred in the performance of their official duties.

4. Members of the board of directors, except as otherwise provided by law, may engage in private employment, or in a profession or business.

5. The affirmative vote of four members of the board of directors shall be necessary for the transaction of any business or the exercise of any power or function of the fund. The fund may delegate to one or more of its members, or its officers, agents or employees, such powers and duties as it may deem proper.

6. (a) The fund shall secure workers' compensation insurance coverage on a blanket basis for the benefit of all jockeys, apprentice jockeys and exercise persons licensed pursuant to this article or article four of this chapter who are employees under section two of the workers' compensation law, and may elect, with the approval of the commission, to secure workers' compensation insurance for employees of licensed trainers or owners. In the event the fund elects, with the approval of the commission, to secure workers' compensation insurance for employees of licensed trainers or owners, the fund may discontinue to secure workers' compensation insurance for employees of licensed trainers or owners only upon prior approval of the commission.

(b) The fund may elect, with the approval of the commission, to secure workers' compensation insurance coverage through a form of self-insurance, provided that the fund has met the requirements of the workers' compensation board, including, without limitation, subdivision three of section fifty of the workers' compensation law.

7. In order to pay the costs of the insurance required by this section and by the workers' compensation law and to carry out its other powers and duties and to pay for any of its liabilities under section fourteen-a of the workers' compensation law, the New York Jockey Injury Compensation Fund, Inc. shall ascertain the total funding necessary and establish the sums that are to be paid by all owners and trainers licensed or required to be licensed under section two hundred twenty of this article, to obtain the total funding amount required annually. In order to provide that any sum required to be paid by an owner or trainer is equitable, the fund shall establish payment schedules that reflect such factors as are appropriate, including where applicable, the geographic location of the racing corporation at which the owner or trainer participates, the duration of such participation, the amount of any purse earnings, the number of horses involved, or such other factors as the fund shall determine to be fair, equitable and in the best interests of racing. In no event shall the amount deducted from an owner's share of purses exceed two percent; provided, however, through calendar year two thousand twenty-seven, the New York Jockey Injury Compensation Fund, Inc. may use up to two million dollars from the account established pursuant to subdivision nine of section two hundred eight of this article to pay the annual costs required by this section and the funds from such account shall not count against the two percent of purses deducted from an owner's share of purses. The amount deducted from an owner's share of purses shall not exceed one percent after April first, two thousand twenty-seven. In the cases of multiple ownerships and limited racing appearances, the fund shall equitably adjust the sum required.

The commission shall, as a condition of racing, require any racing corporation or any quarterhorse racing association or corporation authorized under this chapter to conduct pari-mutuel betting at a race

meeting or races run thereat, to require that each trainer using the facilities of such association or corporation and each owner racing a horse shall place or have placed on deposit with the horsemen's bookkeeper of such racing association or corporation, an amount to be established and paid in a manner to be determined by the fund.

Should the fund determine that the amount that has been collected in the manner prescribed is inadequate to pay the annual costs required by this section, it shall notify the commission of the deficiency and the amount of the additional sum or sums necessary to be paid by each owner and/or trainer in order to cover such deficiency. The commission shall, as an additional condition of racing, direct any racing corporation or any quarterhorse racing association or corporation authorized under this chapter to conduct pari-mutuel betting at a race meeting or races run thereat, to require each trainer and owner to place such additional sum or sums on deposit with the respective horsemen's bookkeeper.

All amounts collected by a horsemen's bookkeeper pursuant to this section shall be transferred to the fund created under this section and shall be used by the fund to purchase workers' compensation insurance for jockeys, apprentice jockeys and exercise persons licensed pursuant to this article or article four of this chapter who are employees under section two of the workers' compensation law, and at the election of the fund, with the approval of the commission, to secure workers' compensation insurance for employees of licensed trainers or owners to pay for any of its liabilities under section fourteen-a of the workers' compensation law and to administer the workers' compensation program for such jockeys, apprentice jockeys and exercise persons and, if approved by the commission, employees of licensed trainers or owners required by this section and the workers' compensation law.

In the event the fund elects, with the approval of the commission, to secure workers' compensation insurance for employees of licensed trainers or owners, the fund may elect to have the sum required to be paid by an owner or trainer pursuant to this section be subject to an examination of workers' compensation claims attributable under the fund to each such owner or trainer, including the frequency and severity of

accidents and injuries.

8. a. The fund shall submit to the commission a plan of operation and any amendments thereto necessary or suitable to assure the fair, reasonable and equitable administration of the fund. Such amendments, if any, relating to the assessment of the costs of insurance for the subsequent year, other than deficiency assessments, shall be submitted to the commission no later than November fifteenth of each year. The plan of operation and any amendments thereto shall become effective upon approval in writing by the commission, and shall be published by the fund upon such approval in one or more trade publications likely to be obtained by owners and trainers.

b. If the fund fails to submit a suitable plan of operation within one hundred eighty days following the effective date of this section or if at any time thereafter the fund fails to submit suitable amendments to the plan, the commission shall, after notice and hearing, adopt and promulgate such reasonable rules as are necessary or advisable to effectuate the provisions of this article. Such rules shall continue in force until modified by the commission or superseded by a plan submitted by the fund and approved by the commission.

c. The plan of operation shall constitute the by-laws of the fund and shall, in addition to requirements enumerated elsewhere in this article:

(i) establish procedures for handling the assets of the fund;

(ii) establish regular places and times for meetings of the board of directors;

(iii) establish procedures for records to be kept of all financial transactions of the fund, its agents and the board of directors;

(iv) establish a formula for determining the appropriate amount of the assessments under this section;

(v) establish the rules and procedures to govern the conduct of an election held pursuant to paragraph b of subdivision two of this section; and

(vi) contain such additional provisions as the commission or fund may deem necessary or proper for the execution of the powers and duties of the fund.

9. The fund shall be subject to examination and regulation by the commission. The fund shall submit to the commission not later than May first of each year, a financial report for the preceding calendar year in a form approved by the commission and a report of its activities during the preceding calendar year.

10. The fund shall be exempt from payment of all fees and all taxes levied by this state or any of its subdivisions, except taxes levied on real property.

11. The fund shall purchase such insurance as necessary to protect any director, officer, agent or other representative from liability.

12. For purposes of this section, the term "employees of licensed trainers or owners" shall have the same meaning as subdivision twenty-four of section two of the workers' compensation law.

13. a. There is created a racing safety committee to review the risk management report submitted to the commission by the fund on or about September thirtieth, two thousand sixteen and to make non-binding recommendations for the implementation of the safety proposals and initiatives set forth in such report. Such committee shall consist of seven members, each to serve a term of three years, with one member each appointed by:

(i) the fund;

(ii) the commission;

(iii) the franchised corporation;

(iv) the racing association or corporation licensed pursuant to this article or article four of this chapter to operate the racing and training facilities at Finger Lakes racetrack;

(v) the horsemen's organization representing at least fifty-one percent of the owners and trainers using the facilities of the franchised corporation;

(vi) the horsemen's organization representing at least fifty-one percent of the owners and trainers using the facilities of the Finger Lakes racetrack; and

(vii) the Jockeys' Guild.

The member of the racing safety committee appointed by the fund shall serve as chairperson and the member of the racing safety committee appointed by the commission shall serve as vice-chairperson. Members of the racing safety committee shall have equal voting rights.

b. The racing safety committee shall meet within ninety days following the effective date of this subdivision to review and discuss the implementation of the recommendations contained in the risk management report submitted to the commission by the fund on or about September thirtieth, two thousand sixteen. The racing safety committee shall meet on or after July first, two thousand seventeen, and at least annually thereafter, to review the workers' compensation loss information and the status of safety-related findings and recommendations and to develop an annual strategic plan to address identified safety issues.

c. The members appointed pursuant to subparagraph (iii) and (iv) of paragraph a of this subdivision, in consultation with the other members of the racing safety committee, shall:

(i) Within one hundred eighty days following the effective date of this subdivision, for each track, develop safety rules for training activities to be documented and communicated, in both English and Spanish, to jockeys, apprentice jockeys, and exercise persons licensed pursuant to this article or article four of this chapter who are employees under section two of the workers' compensation law, and at the election of the fund, with the approval of the commission, employees of licensed trainers or owners. Such safety rules shall include, but not be limited to, proper usage of personal protective equipment, required response to loose horses, prohibition of cell phone use while mounted on a horse, general requirements for jogging, galloping, breezing, ponying a horse, and starting gate safety protocols. Refresher training related to such safety rules shall be required at the start of each meet.

(ii) Prior to the start of each meet, following the effective date of this subdivision, meet with trainers or their representatives to discuss and address identified safety issues.

(iii) Within one hundred eighty days following the effective date of

this subdivision, for each track, develop a written, documented emergency response plan to address response protocols to on-track accidents and incidents, which, at a minimum, shall include detailed information regarding roles and responsibilities for individuals who are responsible for track-related accidents and incidents, including, but not limited to, outriders, emergency medical technicians/paramedics, ambulance drivers, security, and veterinary staff and clockers.

(iv) Within two hundred ten days following the effective date of this subdivision, communicate the emergency response plan to all on-track personnel as part of new hire orientation and job assignment.

(v) Within two hundred ten days following the effective date of this subdivision, and at least once annually thereafter, for each track, conduct a mock emergency response drill for on-track accidents prior to the opening of each race meet. Such emergency response drill shall be filmed and used for education and training purposes for personnel, including in new hire orientation, and to assess the performance of individuals involved in the emergency response.

(vi) Within one hundred eighty days following the effective date of this subdivision, upgrade the current level of emergency medical responders from emergency medical technicians to paramedics.

14. The fund and the commission shall have such power as is necessary to implement the provisions of this section.