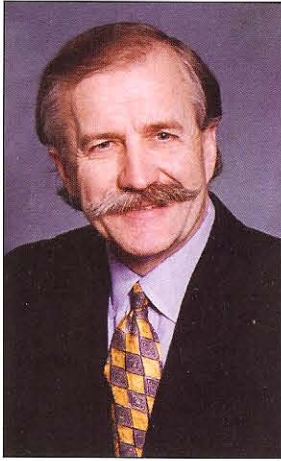


# considering cloning issues



By Mati Jarve  
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**T**HE QUESTION IS NO LONGER A SCIENTIFIC OR MEDICAL QUESTION OF WHETHER a horse can be cloned, because they can be cloned. Nor is the question any longer an ethical question of whether they should be cloned, because they are being cloned. The question now evolves into a legal dilemma: should these cloned horses (and their progeny) be registered by their respective breed registries and should these horses be permitted to compete in the show ring or race track? Currently, the American Quarter Horse Association says no. That, however, may change. For the second year in a row AQHA will be considering a rule change to allow registration of cloned horses. The outcome of the proposed change to Rule 227(a) is far from certain. But if AQHA refuses to recognize cloned horses in its registry, there will likely be a legal challenge at some time in the future. Although the issues are not precisely the same, AQHA faced a similar challenge several years ago when it denied registration for multiple embryo transfers from a mare in a single year. Ultimately a Texas court ruled against AQHA and the case settled thereafter.

Whether equine breed registries and organizations should accept cloned horses for registration and competition is certainly debatable. Generally, courts have given deference to breed registries and other equine organizations in formulating its rules and policies. The legal justification for not disturbing the judgment of these private organizations is that no governmental action is involved and because participation in these private organizations is a privilege and not a right. However, if it is determined that the breed organization's rules or policies violate specific laws, such as the federal antitrust laws, the courts would have the legal authority to intervene and impose its own view of the issue on the parties. Consequently, it is incumbent upon the various equine associations to act reasonably, rationally and fairly in formulating its rules, regulations and policies and within the framework of the law.

Vital to the economic success of cloned horses is the opportunity to compete and recoup the extraordinary expense involved in cloning. It doesn't do much good if the horse can be registered but not shown or raced (nor have its offspring compete). Even before cloning became an issue, many non-breed equine organizations permitted nonregistered horses to compete. For example, neither the National Cutting Horse Association nor the National Reining Horse Association requires specific breed registration. However, since Quarter Horses dominate these associations, it probably was not a coincidence, given the large amounts of money involved, that five of the first six known Quarter Horse clones were cutting horses, including Doc's Serendipity, Smart Little Lena, Royal Blue Moon, Playboy's Ruby and Tap O Lena. Whether or not other equine organizations follow suit, it is at least interesting to note that NCHA has since approved a policy allowing clones to be shown.

In addition to NCHA and NRHA events, there are numerous other competitions that generally permit nonregistered horses to participate, including show jumping, hunter/jumper shows, dressage, three day events, polo and driving events. These competitions are at least arguably then, open to cloned horses. If they are not, a legal challenge to registration requirements by such individual competitions may be more likely to succeed than against a breed registry because they presumably have less of an interest in registration issues. In other words, these organizations are, or perhaps should be, more concerned with the identification rather than the registration of the horses that participate in their competitions.

This, of course, brings the issue full circle to confront the National Snaffle Bit Association. It will be interesting to see how the NSBA Board of Directors and membership deal with the issue. It is an issue that will not simply fade away.

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