

# Revised Equine Medication Classification Policy and Penalty Guidelines

## Effective September 10, 2018

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### **Purpose**

This policy is intended to assist the stewards at Texas pari-mutuel horse racetracks in issuing consistent and effective rulings against licensees for violations of the Texas Racing Act (Act) and the Texas Racing Commission's rules (Rules) prohibiting the illegal influencing of a race. It is the policy of the Commission to discipline licensees in a consistent and fair manner that will foster honest and safe pari-mutuel racing and a better understanding of the Commission's rules.

### **Authority**

Under the Act, §3.16, the Commission is charged with adopting rules prohibiting a person from illegally influencing the outcome of a race, including rules relating to the use of a prohibited substance. The Commission is authorized by the Act to conduct pre-race and post-race testing to determine whether a prohibited substance was present in a race animal. Section 3.16(h) of the Act further provides:

*The licensed trainer of an animal is:*

- (1) considered by law to be the absolute insurer that no prohibited substance has been administered to the animal; and*
- (2) is responsible for ensuring that no prohibited substance is administered to the animal.*

In Rule 311.104(b), the Commission adopts the "absolute insurer" rule, which is in practice in most U.S. racing jurisdictions. This rule states that each trainer shall ensure that a race animal that runs a race while in the care and custody of the trainer is free from all prohibited drugs, chemicals, or other substances. Rule 319.1(b) defines a prohibited drug, chemical, or other substance as:

- (1) any stimulants, depressants, tranquilizers, local anesthetics, drugs, [or] other drug metabolites which could affect the health or performance of a race animal, however minimal, except as expressly permitted by this chapter;*
- (2) a drug permitted by this chapter in excess of the maximum or other restrictions in this chapter; and*
- (3) [a] drug or substance, regardless of how harmless or innocuous it might be, which interferes with the detection of stimulants, depressants, tranquilizers, local anesthetics, drugs, or drug metabolites which could affect the health or performance of a race animal, however minimal, or quantitation of drugs permitted by this chapter.*

This policy is developed and adopted pursuant to Rule 319.304(b), which authorizes the Executive Director to promulgate a classification for prohibited drugs, chemicals, and other substances and a recommended schedule for disciplinary action.

## **Responsibility for Violation**

Because the Act and the Rules require a trainer to prevent the administration of prohibited substances to a race animal, it is the Commission's policy to hold the trainer of record for a race animal responsible when a pre-race or post-race specimen from the animal tests positive for a prohibited drug, chemical, or other substance.

## **Classification System**

The classification of substances is based largely on the Uniform Classification Guidelines for Foreign Substances issued by the Association of Racing Commissioners International. The classification of a given substance is based on several factors, including the substance's pharmacology, its ability to influence the outcome of a race, whether or not it has a legitimate therapeutic use in a race horse, or other evidence that it may be used improperly. Any substances or drugs found that are not included in these guidelines should be treated as Class 1 violations warranting a Class A penalty unless otherwise advised by the executive director.

*Pharmacology.* Substances that are known to be potent stimulants or depressants are placed in higher classes, while those that have or would be expected to have little effect on the outcome of a race are placed in lower classes.

*Use Patterns.* Consideration is given to placement of substances based on practical experience with their use and the nature of positive tests. For example, procaine positives have in the past been associated primarily with the administration of procaine penicillin, and this has been taken into consideration in the placement of procaine into Class 3 instead of Class 2 with other injectable local anesthetics.

*Appropriateness of Use.* Substances that clearly are intended for use in equine therapeutics are placed in lower classes. Substances that clearly are not intended for use in the horse are placed in higher classes, particularly if they might affect the outcome of a race. Substances that are recognized as legitimately useful in equine therapeutics but could affect the outcome of a race are placed in the middle or higher classes.

### **Class 1**

Class 1 substances are stimulant and depressant drugs that have the highest pharmacologic potential to affect performance and have no generally accepted medical use in race horses. This class includes drugs that are potent stimulants of the central nervous system. Many of these substances are classified by the Drug Enforcement Agency (DEA) as Schedule I or II controlled substances. These include opiates, opium derivatives, synthetic opioids, psychoactive drugs, amphetamines, and amphetamine-like drugs as well as related drugs, including but not limited to apomorphine, nikethamide, mazindol, pemoline, and pentylentetrazol.

### **Class 2**

Class 2 substances have a high potential for affecting the outcome of a race. These substances are not generally accepted as therapeutic agents in race horses or they are

therapeutic agents that have a high potential for abuse. Many are products intended to alter consciousness or the psychic state of humans and have no approved or indicated use in a race horse. Some, such as injectable local anesthetics, have legitimate use in veterinary medicine but should not be found in a race horse. Drugs in this class include certain nervous system and cardiovascular system stimulants, depressants, and neuromuscular blocking agents. Injectable local anesthetics are included in this class because of their high potential for abuse as nerve blocking agents. The class includes:

- Opiate partial agonists or agonist-antagonists
- Non-opiate psychotropic drugs that may have stimulant, depressant, analgesic, or neuroleptic effects
- Drugs that may have a stimulant effect on the central nervous system
- Drugs with prominent central nervous system depressant action
- Anti-depressant and antipsychotic drugs, with or without prominent central nervous system stimulatory or depressant effects
- Drugs that have a direct neuromuscular blocking action
- Local anesthetics that have a reasonable potential for use as nerve-blocking agents (except procaine)
- Snake venoms and other biologic substances that may be used as nerve-blocking agents

### **Class 3**

Class 3 substances may or may not have a generally accepted therapeutic use in race horses. They all have the potential of affecting the performance of a race horse, but the pharmacology suggests less potential to affect performance than substances in Class 2. Many are drugs that affect the cardiovascular, pulmonary and autonomic nervous systems. The class includes:

- Drugs affecting the autonomic nervous system that do not have prominent central nervous system effects, but which do have prominent cardiovascular or respiratory system effects, such as bronchodilators
- A local anesthetic that has nerve-blocking potential but also has a high potential for producing urine residue levels from a method of use not related to the anesthetic effect of the drug (procaine)
- Miscellaneous drugs with mild sedative action, such as the sleep-inducing antihistamines
- Primary vasodilating/hypotensive agents
- Potent diuretics affecting renal function and body fluid composition
- Anabolic and/or androgenic steroids and other drugs

### **Class 4**

Class 4 substances are therapeutic medications routinely used in race horses. These may influence performance, but generally have a more limited ability to do so. The class includes:

- Non-opiate drugs that have a mild central analgesic effect
- Drugs affecting the autonomic nervous system that do not have prominent central nervous system, cardiovascular, or respiratory effects, such as topical vasoconstrictors or decongestants, gastrointestinal antispasmodics, drugs used to void the bladder, and drugs with a major effect on central nervous system vasculature or smooth muscle of visceral organs

- Antihistamines that do not have a significant central nervous system depressant effect
- Mineralocorticoid drugs
- Skeletal muscle relaxants
- Anti-inflammatory drugs, such as non-steroidal anti-inflammatory drugs (NSAIDs) and corticosteroids (glucocorticoids)
- Less potent diuretics
- Cardiac glycosides and antiarrhythmic agents
- Topical anesthetics - agents not available in injectable formulations
- Antidiarrheal drugs
- Miscellaneous drugs, such as expectorants with little or no other pharmacologic action, stomachics, and mucolytic agents.

### **Class 5**

Class 5 substances are therapeutic medications with very localized actions only, such as anti-ulcer drugs, certain antiallergic drugs, and miscellaneous other substances.

### **Penalty Determinations**

When determining the amount of a penalty, the stewards should consider what penalty would best punish the violator for the harm caused by the violation and deter future similar violations by the violator and other licensees.

The stewards should avoid blindly assessing "consistent" penalties without regard to the specifics of each case. Each violation must be reviewed according to the individual circumstances of the case. The Legislature intended each Board of Stewards to use the qualifications, experience, and collective wisdom of its members to act as an adjudicatory body when considering violations of the Act or the Rules. To ensure due process for the affected licensees, every violation must be judged on the evidence presented to the stewards, with the stewards weighing the evidence and the credibility of the witnesses.

### **Mitigating/Aggravating Circumstances**

Because the facts of each case will vary, an exhaustive list of mitigating or aggravating circumstances is not practical. Generally, mitigating or aggravating circumstances must be shown by persuasive, credible evidence that the circumstances were actually present in the instant case, not mere speculation that the circumstances could have been present. An example of mitigating circumstances is when the trainer presents credible evidence that another individual actually caused the horse to race with a prohibited substance in its system. An example of aggravating circumstances is when the staff or other party to the proceeding presents credible evidence that the trainer administered a prohibited substance or permitted a prohibited substance to be administered despite warnings that the administration of the substance would likely result in a positive test.

Except for permitted medications which the Commission quantifies, the amount of the substance in a sample should not be considered a mitigating or aggravating factor. The definition of a prohibited substance adopted by the Commission in §319.1(b) establishes a zero-tolerance standard. In other words, the presence in a post-race sample of any amount of a prohibited drug, chemical, or other substance is a *per se* violation of the Commission's rules.

For further guidance on Mitigating/Aggravating Circumstances, see the Enforcement Policy and Guidelines for Stewards/Racing Judges.

### **Penalty Recommendations**

The following recommended penalties should be followed in all cases in the absence of persuasive, credible evidence of mitigating circumstances justifying a lesser penalty or aggravating circumstances justifying an enhanced penalty.

The recommended penalties for medication violations are based on those found within the model rules of the Association of Racing Commissioners International. In all cases, however, the stewards have the discretion to impose the penalty that best accomplishes the Commission's enforcement goals:

1. To protect the health and safety of the participants in racing, including licensees, patrons, and race animals.
2. To ensure pari-mutuel racing is conducted honestly and fairly.

If the stewards deviate from the recommended penalty, the ruling should include an explanation of the mitigating or aggravating circumstances that support the modification.

In determining whether a violation involving a positive test is a second or third (or subsequent) offense, the stewards shall use successive 365-day periods. For a second offense, the 365-day period is measured from the date of the race that resulted in the first violation. For a third (or subsequent) violation, the 365-day period is measured from the date of the race that resulted in the second (or subsequent) violation. A violation is a first offense if there have been no violations within the same class of substances within the preceding 365 days.

The stewards shall take administrative notice of final, unappealable rulings concerning medication violations in any racing jurisdiction and shall consider those rulings in determining whether a positive test is a second or third (or subsequent) offense.

### **Violations involving Positive Tests**

Class 1, Penalty A substance (lifetime)

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| 1st offense         | One-year suspension, fine of \$10,000 or 10 percent of purse (whichever is greater, up to \$25,000), and loss of purse; refer to executive director.  |
| 2nd offense         | Three-year suspension, fine of \$25,000, and loss of purse; refer to executive director.  |
| Subsequent offenses | Five-year suspension, fine of \$25,000, and loss of purse; refer to executive director.   |
| Ineligibilities     | For the 1st lifetime offense in an owner's stable: declare horse ineligible to race for 90 days, place horse on veterinarian's list, and refer to the veterinary medical director; horse must |

complete period of ineligibility and must pass a Commission-approved exam before becoming eligible to be entered.

For the 2nd lifetime offense in an owner's stable: declare horse ineligible to race for 120 days, place horse on veterinarian's list, and refer to the veterinary medical director; horse must complete period of ineligibility and must pass a Commission-approved exam before becoming eligible to be entered.

For the 3rd lifetime offense in an owner's stable: declare horse ineligible to race for 180 days, place horse on veterinarian's list, and refer to the veterinary medical director; horse must complete period of ineligibility and must pass a Commission-approved exam before becoming eligible to be entered.

#### Class 2, Penalty A substance (lifetime)

1st offense One-year suspension, fine of \$10,000 or 10 percent of purse (whichever is greater, up to \$25,000), and loss of purse; refer to executive director.

2nd offense Three-year suspension, fine of \$25,000, and loss of purse; refer to executive director.

Subsequent offenses Five-year suspension, fine of \$25,000, and loss of purse; refer to executive director.

Ineligibilities For the 1st lifetime offense in an owner's stable: declare horse ineligible to race for 90 days, place horse on veterinarian's list, and refer to the veterinary medical director; horse must complete period of ineligibility and must pass a Commission-approved exam before becoming eligible to be entered.

For the 2nd lifetime offense in an owner's stable: declare horse ineligible to race for 120 days, place horse on veterinarian's list, and refer to the veterinary medical director; horse must complete period of ineligibility and must pass a Commission-approved exam before becoming eligible to be entered.

For the 3rd lifetime offense in an owner's stable: declare horse ineligible to race for 180 days, place horse on veterinarian's list, and refer to the veterinary medical director; horse must complete period of ineligibility and must pass a Commission-approved exam before becoming eligible to be entered.

#### Class 2, Penalty B substance (365-day period)

1st offense 15-day suspension, \$500 fine, and loss of purse.

2nd offense 30-day suspension, \$1,000 fine, and loss of purse.

Subsequent offenses 60-day suspension, \$2,500 fine, and loss of purse; refer to executive director.

Ineligibilities For the 1st offense in an owner's stable within a 365-day period, horse must pass a Commission-approved exam before becoming eligible to start.

For the 2nd offense in an owner's stable within a 365-day period, horse must pass a Commission-approved exam before becoming eligible to start.

For the 3rd offense in an owner's stable within a 365-day period: declare horse ineligible to race for 45 days, place horse on veterinarian's list, and refer to the veterinary medical director; horse must complete period of ineligibility and must pass a Commission-approved exam before becoming eligible to be entered.

### Class 3, Penalty A substance (lifetime)

1st offense One-year suspension, fine of \$10,000 or 10 percent of purse (whichever is greater, up to \$25,000), and loss of purse; refer to executive director.

2nd offense Three-year suspension, fine of \$25,000, and loss of purse; refer to executive director.

Subsequent offenses Five-year suspension, fine of \$25,000, and loss of purse; refer to executive director.

Ineligibilities For the 1st lifetime offense in an owner's stable: declare horse ineligible to race for 90 days, place horse on veterinarian's list, and refer to the veterinary medical director; horse must complete period of ineligibility and must pass a Commission-approved exam before becoming eligible to be entered.

For the 2nd lifetime offense in an owner's stable: declare horse ineligible to race for 120 days, place horse on veterinarian's list, and refer to the veterinary medical director; horse must complete period of ineligibility and must pass a Commission-approved exam before becoming eligible to be entered.

For the 3rd lifetime offense in an owner's stable: declare horse ineligible to race for 180 days, place horse on veterinarian's list, and refer to the veterinary medical director; horse must complete period of ineligibility and must pass a Commission-approved exam before becoming eligible to be entered.

### Class 3, Penalty B substance (365 day period)

1st offense 15-day suspension, \$500 fine, and loss of purse.

2nd offense 30-day suspension, \$1,000 fine, and loss of purse.

Subsequent offenses 60-day suspension, \$2,500 fine, and loss of purse; refer to executive director.

Ineligibilities For the 1st offense in an owner's stable within a 365-day period, horse must pass a Commission-approved exam before becoming eligible to start.

For the 2nd offense in an owner's stable within a 365-day period, horse must pass a Commission-approved exam before becoming eligible to start.

For the 3rd offense in an owner's stable within a 365-day period: declare horse ineligible to race for 45 days, place horse on veterinarian's list, and refer to the veterinary medical director; horse must complete period of ineligibility and must pass a Commission-approved exam before becoming eligible to be entered.

Additional ineligibility for clenbuterol positives Place horse on veterinarian's list for 60 days; horse must test negative for clenbuterol after the period of ineligibility before becoming eligible to be entered.

#### Class 4 substance (365 day period)

1st offense 15-day suspension, \$500 fine, and loss of purse.

2nd offense 30-day suspension, \$1,000 fine, and loss of purse.

Subsequent offenses 60-day suspension, \$2,500 fine, and loss of purse.

Ineligibilities For the 1st offense in an owner's stable within a 365-day period, horse must pass a Commission-approved exam before becoming eligible to start.

For the 2nd offense in an owner's stable within a 365-day period, horse must pass a Commission-approved exam before becoming eligible to start.

For the 3rd offense in an owner's stable within a 365-day period: declare horse ineligible to race for 45 days, place horse on veterinarian's list, and refer to the veterinary medical director; horse must complete period of ineligibility and must pass a Commission-approved exam before becoming eligible to be entered.

#### Class 5 substance (except Lasix overages) (365-day period)

1st offense \$100 fine

2nd offense \$250 fine

3rd offense \$500 fine

Subsequent offenses at least \$750 fine and possible suspension

**Lasix overages**

Per individual horse (365-day period)

1st offense	\$100 fine
2nd offense	\$500 fine
Subsequent offenses	\$500 fine or 10 percent of the purse, whichever is greater, up to a maximum fine of \$5,000.

**Bicarbonate-containing or other alkalinizing substances**

1st offense	\$1,000 fine, 30-day suspension, and loss of purse
2nd offense	\$2,500 fine, 60-day suspension, and loss of purse
Subsequent offenses	\$5,000 fine, 120-day suspension, and loss of purse

**Dimethylsulfoxide (DMSO) Overages (365-day period)**

1st offense	\$250 fine
2nd offense	\$500 fine
Subsequent offenses	\$500 fine, 15-day suspension, and loss of purse; horse must pass a Commission-approved examination before becoming eligible to start.

## Phenylbutazone Overages (365 day period)

(All concentrations are for measurements in serum or plasma.)

<b>Licensed Trainer</b>	<b>&gt;2.0 to 5.0 mcg/ml</b>	<b>&gt;5.0 mcg/ml</b>
1st Offense	Minimum fine of \$250 absent mitigating circumstances	Minimum fine of \$500 absent mitigating circumstances
2nd Offense	Minimum fine of \$500 absent mitigating circumstances	Minimum fine of \$1,000 and 15 day suspension absent mitigating circumstances
Subsequent Offenses	Minimum fine of \$1,000 and 15 day suspension absent mitigating circumstances	Minimum fine of \$2,500 and 30 day suspension absent mitigating circumstances
<b>Licensed Owner</b>	<b>&gt;2.0 to 5.0 mcg/ml</b>	<b>&gt;5.0 mcg/ml</b>
1st Offense	NONE	Loss of purse. Horse must pass a Commission-approved examination before becoming eligible to start.
2nd Offense	NONE	Loss of purse. Horse must pass a Commission-approved examination before becoming eligible to start.
3rd Offense	NONE	Loss of purse. Horse must pass a Commission-approved examination before becoming eligible to start.

## **NSAID Stacking Violations**

The presence of more than one non-steroidal anti-inflammatory drug (NSAID) constitutes an NSAID stacking violation under the following circumstances:

(A) A Class 1 NSAID stacking violation occurs when:

(1) two NSAIDs are found at individual levels determined to exceed the following restrictions:

- (a) Diclofenac – 5 nanograms per milliliter of plasma or serum;
- (b) Firocoxib – 20 nanograms per milliliter of plasma or serum;
- (c) Flunixin – 20 nanograms per milliliter of plasma or serum;
- (d) Ketoprofen – 2 nanograms per milliliter of plasma or serum;
- (e) Phenylbutazone – 2 micrograms per milliliter of plasma or serum; or
- (f) all other NSAIDs – laboratory level of detection in plasma, serum or urine; or

(2) three or more NSAIDs are found at individual levels determined to exceed the following restrictions:

- (a) Diclofenac – 5 nanograms per milliliter of plasma or serum;
- (b) Firocoxib – 20 nanograms per milliliter of plasma or serum;
- (c) Flunixin – 3 nanograms per milliliter of plasma or serum;
- (d) Ketoprofen – 1 nanogram per milliliter of plasma or serum;
- (e) Phenylbutazone – .3 micrograms per milliliter of plasma or serum; or
- (f) all other NSAIDs – laboratory level of detection in plasma, serum or urine.

(B) A Class 2 NSAID stacking violation occurs when any one substance listed in Subsection (A)(1) above is found in excess of the limits stated therein in combination with any one of the following substances at levels below the restrictions contained therein in combination with any one of the following substances at levels below the restrictions stated in Subsection (A)(1) but in excess of the following levels:

- (1) Flunixin – 3 nanograms per milliliter of plasma or serum;
- (2) Ketoprofen – 1 nanogram per milliliter of plasma or serum; or
- (3) Phenylbutazone – 0.3 micrograms per milliliter of plasma or serum.

(C) A Class 3 NSAID stacking violation occurs when any combination of two of the following NSAIDs are found at or below the restrictions in Subsection (A)(1)(a through e) above but in excess of the following levels:

- (1) Flunixin – 3 nanograms per milliliter of plasma or serum;
- (2) Ketoprofen – 1 nanogram per milliliter of plasma or serum; or
- (3) Phenylbutazone – 0.3 micrograms per milliliter of plasma or serum.

## NSAID Stacking Penalties

A stacking violation occurs when a sample contains two or more non-steroidal anti-inflammatory drugs (NSAIDs) at levels exceeding the thresholds stated in the Texas Racing Commission's permissible therapeutic levels memo. Penalties for such violations are as follows:

Violation Class	1 <sup>st</sup> Offense within 365 days	2 <sup>nd</sup> Offense within 365 days	3 <sup>rd</sup> Offense within 365 days
Class 1 violation	15-day suspension \$1,000 fine Loss of purse Horse must pass Commission exam to be eligible to start	15-day suspension \$1,500 fine Loss of purse Horse must pass Commission exam to be eligible to start	30-day suspension \$2,000 fine Loss of purse Horse must pass Commission exam to be eligible to start
Class 2 violation	15-day suspension \$750 fine Loss of purse Horse must pass Commission exam to be eligible to start	15-day suspension \$1,000 fine Loss of purse Horse must pass Commission exam to be eligible to start	30-day suspension \$1,500 fine Loss of purse Horse must pass Commission exam to be eligible to be entered
Class 3 violation	\$500 fine No loss of purse	\$1,000 fine No loss of purse	\$1,500 fine No loss of purse

Note: Any 3<sup>rd</sup> or subsequent Class 1 NSAID stacking violation within an owner's stable (365-day period) shall result in the horse being ineligible to race for 45 days and must pass a Commission-approved examination before becoming eligible to be entered.

## **Violations involving Contraband**

For purposes of these guidelines, "possession" may be proved by credible evidence that the person possessed the item of contraband at one time on association grounds. Recovery of the item of contraband is not a prerequisite to prove possession of the item.

Unauthorized possession of substance in Class 1, 2, or 3:

1/2 the recommended penalty for medication violation for the applicable class of substance; refer to executive director

Unauthorized possession of substance in other class found in a location indicating high probability of intended use on association grounds (i.e. tack room, loaded syringe):

1/2 the recommended penalty above for the applicable class of substance

Unauthorized possession of substance in other class found in a location indicating low probability of intended use on association grounds (i.e. inadvertently left in vehicle when entering stable area):

Written warning or fine at discretion of stewards

Unauthorized possession of controlled substance not included in classification primarily used by humans:

Fine or suspension at discretion of stewards

Possession of an unlabeled or mislabeled drug in violation of Rule 319.7(a)

\$100 fine

Possession, dispensation or sale by a veterinarian on association grounds of a mislabeled or unlabeled product in violation of Rule 319.7(c) and/or, in the case of compounded medications, in violation of State Board of Veterinary Medical Examiners Rules 573.40 and 573.44 (22 TAC §573.40 and §573.44)

\$500 fine

Possession of a product on association grounds whose label is inaccurate or untruthful regarding the actual contents of the product.

\$250 fine plus penalty as appropriate for actual contents

Possession of an electrical device ("machine") or other device that could influence the outcome of a race:

\$25,000 fine and 5 year suspension; refer to executive director

Possession while participating in a race of an electrical device ("machine") or other device that could influence the outcome of a race:

\$25,000 fine; revocation under TRA §3.16(j) of all licenses issued by the Commission; refer to executive director

Unauthorized possession or use of Extracorporeal Shock Therapy or Radial Pulse Therapy machine:

\$5,000 fine and 1 year suspension

Possession of a weapon prohibited under Penal Code §46.05:

\$500 fine and possible suspension; refer to executive director

Possession of other weapons or ammunition:

\$100 fine and possible suspension

Possession of unloaded syringe with needle capable of giving injections:

Fine at discretion of stewards

Possession of syringe loaded with prohibited substance:

1/2 the recommended penalty for medication violation for the applicable class of substance; refer to executive director

Possession of alcoholic beverages in restricted area:

Oral or written warning or fine at discretion of stewards