

## 205 CMR: MASSACHUSETTS GAMING COMMISSION

### 3.29: Medications and Prohibited Substances

(1) Aggravating and Mitigating Factors. Upon a finding of a violation of 205 CMR 3.29, the judges shall consider the classification level of the violation as listed at the time of the violation in the *Uniform Classification Guidelines for Foreign Substances* as promulgated by the Association of Racing Commissioners International (ARCI) and impose penalties and disciplinary measures consistent with the recommendations contained therein. The judges shall also consult with the official veterinarian, laboratory director or other individuals to determine the seriousness of the laboratory finding or the medication violation. All medication and drug violations shall be investigated and reviewed on a case by case basis. Extenuating factors include, but are not limited to:

- (a) The past record of the trainer, veterinarian and owner in drug cases;
- (b) The potential of the drug(s) to influence a horse's racing performance;
- (c) The legal availability of the drug;
- (d) Whether there is reason to believe the responsible party knew of the administration of the drug or intentionally administered the drug;
- (e) The steps taken by the trainer to safeguard the horse;
- (f) The probability of environmental contamination or inadvertent exposure due to human drug use;
- (g) The purse of the race;
- (h) Whether the drug found was one for which the horse was receiving a treatment as determined by the Medication Report Form;
- (i) Whether there was any suspicious betting pattern in the race; and
- (j) Whether the licensed trainer was acting under the advice of a licensed veterinarian.

As a result of the investigation, there may be mitigating circumstances for which a lesser or no penalty is appropriate for the licensee and aggravating factors, which may increase the penalty beyond the minimum.

### (2) Penalties.

- (a) In issuing penalties against individuals found guilty of medication and drug violations, a regulatory distinction shall be made between the detection of therapeutic medications used routinely to treat racehorses and those drugs that have no reason to be found at any concentration in the test sample on race day.
- (b) If a licensed veterinarian is administering or prescribing a drug not listed in the ARCI *Uniform Classification Guidelines for Foreign Substances*, the identity of the drug shall be forwarded to the official veterinarian to be forwarded to the Racing Medication and Testing Consortium for classification.
- (c) Any drug or metabolite thereof found to be presenting a pre- or post-race sample which is not classified in the version of the ARCI *Uniform Classification Guidelines for Foreign Substances* in

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effect at the time of the violation shall be assumed to be a ARCI Class 1 Drug and the trainer and owner shall be subject to those penalties as set forth in schedule “A” therein unless satisfactorily demonstrated otherwise by the Racing Medication and Testing Consortium, with a penalty category assigned.

(d) Any licensee of the Commission, including veterinarians, found to be responsible for the improper or intentional administration of any drug resulting in a positive test may, after proper notice and hearing, be subject to the same penalties set forth for the licensed trainer.

(e) Procedures shall be established to ensure that a licensed trainer is not able to benefit financially during the period for which the individual has been suspended. This includes, but is not limited to, ensuring that horses are not transferred to licensed family members.

(f) Multiple positive tests for the same medication incurred by a trainer prior to delivery of official notice by the Commission may be treated as a single violation. In the case of a positive test indicating multiple substances found in a single post-race sample, the Stewards may treat each substance found as an individual violation, depending upon the facts and circumstances of the case.

(2A) Multiple Medication Violations (MMV). A trainer who receives a penalty for a medication violation based upon a horse testing positive for a Class 1-5 medication with Penalty Class A-C, as provided in the most recent version of the ARCI *Uniform Classification Guidelines for Foreign Substances*, or similar state regulatory guidelines, shall be assigned points as follows:

Penalty Class	Points if Controlled Therapeutic Substance	Points if Non-controlled Substance
Class A	N/A	6
Class B	2	4
Class C	½ for first violation with an additional ½ point for each additional violation within 365 days <sup>1</sup> one for first violation with an additional ½ point for each additional violation within 365 days	
Class D	0	0

<sup>1</sup> Points for NSAID violations only apply when the primary threshold of the NSAID is exceeded. Points

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*are not to be separately assigned for a stacking violation.*

If the Stewards or Commission determine that the violation is due to environmental contamination, they may assign lesser or no points against the trainer based upon the specific facts of the case.

(a) The points assigned to a medication violation by the Stewards' or Commission's Ruling shall be included in the ARCI official database. The ARCI shall record points consistent with Section 13(a) including, when appropriate, a designation that points have been suspended for the medication violation. Points assigned by such regulatory ruling shall reflect, in the case of multiple positive tests as described in 205 CMR 6.29(3)(d), whether they constitute a single violation. The Stewards' or Commission's Ruling shall be posted on the official website of the Commission and within the official database of the Association of Racing Commissioners International. If an appeal is pending, that fact shall be noted in such Ruling. No points shall be applied until a final adjudication of the enforcement of any such violation.

(b) A trainer's cumulative points for violations in all racing jurisdictions shall be maintained by the ARCI. Once all appeals are waived or exhausted, the points shall immediately become part of the trainer's official ARCI record and shall be considered by the Commission in its determination to subject the trainer to the mandatory enhanced penalties by the Stewards or Commission as provided in 205 CMR 3.00.

(c) Multiple positive tests for the same medication incurred by a trainer prior to delivery of official notice by the Commission may be treated as a single violation. In the case of a positive test indicating multiple substances found in a single post-race sample, the Stewards may treat each substance found as an individual violation for which points will be assigned, depending upon the facts and circumstances of the case.

(d) The official ARCI record **and/or USTA record** shall be used to advise the Stewards or Commission of a trainer's past record of violations and cumulative points. Nothing in 205 CMR 3.00 shall be construed to confer upon a licensed trainer the right to appeal a violation for which all remedies have been exhausted or for which the appeal time has expired as provided by applicable law.

(e) The Stewards or Commission shall consider all points for violations in all racing jurisdictions as contained in the trainer's official ARCI record when determining whether the mandatory enhancements provided in 205 CMR 3.00 shall be imposed.

(f) In addition to the penalty for the underlying offense, the following enhancements shall be imposed upon a licensed trainer based upon the cumulative points contained in his or her official ARCI record:

Points	Suspension in Days
5-5.5	15 to 30
6-8.5	30 to 60

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9-10.5	90 to 180
11 or more	180 to 360

(g) MMV penalties are not a substitute for the current penalty system and are intended to be an additional uniform penalty when the licensee:

1. Has had more than one medication violation for the relevant time period, and
2. Exceeds the permissible number of points.

(h) The Stewards and Commission shall consider aggravating and mitigating circumstances, including the trainer’s prior record for medication violations, when determining the appropriate penalty for the underlying offense. The MMP is intended to be a separate and additional penalty for a pattern of violations.

1. The suspension periods as provided in Section 13(g) shall run consecutive to any suspension imposed for the underlying offense.
2. The Stewards’ or Commission’s Ruling shall distinguish between the penalty for the underlying offense and any enhancement based upon a Steward or Commission review of the trainer’s cumulative points and regulatory record, which may be considered an aggravating factor in a case.
3. Points shall expire as follows:

<b>Penalty Classification</b>	<b>Time to Expire</b>
A	three years
B	two years
C	one year

In the case of a medication violation that results in a suspension, any points assessed expire on the anniversary date of the date the suspension is completed.

(3) Medication Restrictions.

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(a) A finding by the Commission approved laboratory of a prohibited drug, chemical or other substance in a test specimen of a horse is *prima facie* evidence that the prohibited drug, chemical or other substance was administered to the horse and, in the case of a post-race test, was present in the horse's body while it was participating in a race. Prohibited substances include:

1. Drugs or medications for which no acceptable threshold concentration has been established;
2. Controlled therapeutic medications in excess of established threshold concentrations or administration within the restricted time period as set forth in the version of the ARCI Controlled Therapeutic Medication Schedule in effect at the time of the violation;
3. Substances present in the horse in excess of concentrations at which such substances could occur naturally; and
4. Substances foreign to a horse at concentrations that cause interference with testing procedures.

(b) Except as otherwise provided by 205 CMR 3.00, a person may not administer or cause to be administered by any means to a horse a prohibited drug, medication, chemical or other substance, including any restricted medication pursuant to 205 CMR 3.00 during the 24-hour period before post time for the race in which the horse is entered.

### (4) Medical Labeling.

(a) No person on association grounds where horses are lodged or kept, excluding licensed veterinarians, shall have in or upon association grounds which that person occupies or has the right to occupy, or in that person's personal property or effects or vehicle in that person's care, custody or control, a drug, medication, chemical, foreign substance or other substance that is prohibited in a horse on a race day unless the product is labeled in accordance with 205 CMR 3.29(4).

(b) Any drug or medication which is used or kept on association grounds and which, by federal or state law, requires a prescription must have been validly prescribed by a duly licensed veterinarian, and in compliance with the applicable state statutes. All such allowable medications must have a prescription label which is securely attached and clearly ascribed to show the following:

1. The name of the product;
2. The name, address and telephone number of the veterinarian prescribing or dispensing the product;
3. The name of each patient (horse) for whom the product is intended/prescribed;
4. The dose, dosage, duration of treatment and expiration date of the prescribed/ dispensed product; and
5. The name of the person (trainer) to whom the product was dispensed.

(5) Non-steroidal Anti-inflammatory Drugs (NSAIDs). The use of one of three approved NSAIDs shall be permitted under the following conditions:

(a) Not to exceed the following permitted serum or plasma threshold concentrations which are consistent with administration by a single intravenous injection at least 24 hours before the post time for the race in which the horse is entered:

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1. Phenylbutazone. two micrograms per milliliter;
2. Flunixin. 20 nanograms per milliliter;
3. Ketoprofen. two nanograms per milliliter.

(b) These or any other NSAID are prohibited to be administered within the 24 hours before post time for the race in which the horse is entered.

(c) The presence of more than one of the three approved NSAIDs in the post-race serum or plasma sample is not permitted.

1. A finding of phenylbutazone below a concentration of .5 microgram per milliliter of blood serum or plasma shall not constitute a violation of 205 CMR 3.29(5).
2. A finding of flunixin below a concentration of three nanograms per milliliter of blood serum or plasma shall not constitute a violation of 205 CMR 3.29(5).

(d) The use of all but one of the approved NSAIDs shall be discontinued at least 48 hours before the post time for the race in which the horse is entered.

(e) The presence of any unapproved NSAID in the post-race serum or plasma sample is not permitted.

(6) Furosemide.

(a) In order for a horse to be placed on the Furosemide List the following process must be followed.

1. After the horse's licensed trainer and licensed veterinarian determine that it would be in the horse's best interests to race with furosemide, the official veterinarian or his or her designee shall be notified, using the prescribed form, that the horse is to be put on the Furosemide List.
2. The form must be received by the official veterinarian or his or her designee by the time of entry.
3. A horse placed on the official Furosemide List must remain on that list unless the licensed trainer and licensed veterinarian submit a written request to remove the horse from the list. The request must be made to the official veterinarian or his or her designee, on the proper form, no later than the time of entry.
4. After a horse has been removed from the Furosemide List, the horse may not be placed back on the list for a period of 60 calendar days unless it is determined to be detrimental to the welfare of the horse, in consultation with the official veterinarian. If a horse is removed from the official Furosemide List a second time in a 365-day period, the horse may not be placed back on the list for a period of 90 calendar days.
5. Furosemide shall only be administered on association grounds.
6. Furosemide shall be the only authorized bleeder medication.
7. The use of furosemide shall not be permitted in two year olds.

(b) The use of furosemide shall be permitted under the following circumstances on association grounds where a detention barn is not utilized:

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1. Furosemide shall be administered by single intravenous injection no less than four hours prior to post time for the race for which the horse is entered.
2. The furosemide dosage administered shall not exceed 500 mg. nor be less than 150 mg.
3. After treatment, the horse shall be required by the Commission to remain in the proximity of its stall in the care, custody and control of its trainer or the trainer's designated representative under general association and/or Commission security surveillance until called to the saddling paddock.

(c) Test results must show a detectable concentration of the drug in the post-race serum, plasma or urine sample.

1. The specific gravity of post-race urine samples may be measured to ensure that samples are sufficiently concentrated for proper chemical analysis. The specific gravity shall not be below 1.010. If the specific gravity of the urine is found to be below 1.010 or if a urine sample is unavailable for testing, quantitation of furosemide in serum or plasma shall be performed;
2. Quantitation of furosemide in serum or plasma shall be performed when the specific gravity of the corresponding urine sample is not measured or if measured below 1.010. Concentrations may not exceed 100 nanograms of furosemide per milliliter of serum or plasma.

(d) A horse which has been placed on the Furosemide List in another jurisdiction pursuant to 205 CMR 3.00 shall be placed on the Furosemide List in this jurisdiction. A notation on the horse's electronic eligibility certificate of such shall suffice as evidence of being on a Furosemide List in another jurisdiction.

(7) Bleeder List.

(a) The official veterinarian shall maintain a Bleeder List of all horses, which have demonstrated external evidence of exercise induced pulmonary hemorrhage from one or both nostrils during or after a race or workout as observed by the official veterinarian.

(b) Every confirmed bleeder, regardless of age, shall be placed on the Bleeder List and be ineligible to race for the minimum following time periods:

1. First incident - 14 days;
2. Second incident - 30 days;
3. Third incident - 180 days; and
4. Fourth incident - barred for racing lifetime.

(c) For the purposes of counting the number of days a horse is ineligible to run, the day the horse bled externally is the first day of the recovery period.

(d) The voluntary administration of furosemide without an external bleeding incident shall not subject the horse to the initial period of ineligibility as defined by 205 CMR 3.29(7).

(e) A horse which has been placed on a Bleeder List in another jurisdiction pursuant to rules similar to 205 CMR 3.29(7) shall be placed on a Bleeder List in this jurisdiction.

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(8) Androgenic-anabolic Steroids (AAS).

(a) No AAS shall be permitted in test samples collected from racing horses except for residues of the major metabolite of nandrolone, and the naturally occurring substances boldenone and testosterone at concentrations less than the indicated thresholds.

(b) Concentrations of these AAS shall not exceed the following plasma or serum thresholds for unchanged (*i.e.*, not conjugated) substance or urine threshold concentrations (*i.e.*, free drug or metabolite and drug or metabolite liberated from its conjugates):

1. Boldenone: 15 ng/ml of total boldenone in urine of male horses other than geldings, or 25 pg/ml of boldenone in plasma or serum of all horses regardless of sex;

2. Nandrolone: 1 ng/ml of total nandrolone in urine for fillies, mares, and geldings, or 45 ng/ml (as 5 $\alpha$ -estrane-3 $\beta$ , 17 $\alpha$ -diol) in urine, in male horses other than geldings, or 25 pg/ml of nandrolone in plasma or serum for geldings, fillies, and mares.

3. Testosterone:

a. In Geldings. 20 ng/ml total testosterone in urine, or 25 pg/ml of testosterone in plasma or serum; and

b. In Fillies and Mares. 55 ng/ml total testosterone in urine, or 25 pg/ml of testosterone in plasma or serum.

(c) Any other anabolic steroids are prohibited in racing horses.

(d) Post-race urine samples must have the sex of the horse identified to the laboratory.

(9) Alkalinizing Substances. The use of agents that elevate the horse's TCO<sub>2</sub> or Base excess level above those existing naturally in the untreated horse at normal physiological concentrations is prohibited.

(a) The following levels also apply to blood gas analysis:

1. The regulatory threshold for TCO<sub>2</sub> is 37.0 millimoles per liter of plasma/serum or a Base excess level of 10.0 millimoles; and

2. The decision level to be used for the regulation of TCO<sub>2</sub> is 37.0 millimoles per liter of plasma/serum plus the measurement uncertainty of the laboratory analyzing the sample or a Base excess level of 10.4 millimoles per liter of plasma/serum.

(b)1. If the level of TCO<sub>2</sub> is determined to exceed 37.0 millimoles per liter of plasma/ serum plus the laboratory's measurement of uncertainty and the owner or trainer of the horse certifies in writing to the judges within 24 hours after the notification of the test results that the level is normal for that horse, the owner or trainer may request in writing that the horse be held in quarantine. If quarantine is requested, the licensed association shall make guarded quarantine available for that horse for a period of time to be determined by the steward or judges, but in no event for more than 72 hours.

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2. The expense to maintain the quarantine shall be borne by the owner or trainer.
3. During quarantine, the horse shall be retested periodically by the Commission veterinarian.
4. The horse shall not be permitted to race during a quarantine period, but it may be exercised and trained at times prescribed by the licensed association and in a manner that allows monitoring of the horse by a Commission representative.
5. During quarantine, the horse shall be fed only hay, oats, and water.
6. If the Commission veterinarian is satisfied that the horse's level of TCO<sub>2</sub>, as registered in the original test, is physiologically normal for that horse, the judges:
  - a. Shall permit the horse to race; and
  - b. May require repetition of the quarantine procedure established in 205 CMR 3.29(9)(b)1. through 6. to reestablish that the horse's TCO<sub>2</sub> level is physiologically normal.

REGULATORY AUTHORITY

205 CMR 3.00: M.G.L. c. 128A, § 9