

**Subpart F. FOREIGN SUBSTANCES, MEDICATIONS, DRUGS AND  
EQUINE VETERINARY PRACTICES**

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**Cross References**

This subchapter cited in 7 Pa. Code § 303.72 (relating to duties and responsibilities).

**CHAPTER 401. PROHIBITED AND UNLAWFUL PRACTICES—  
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##### Cross References

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#### § 401.1. Definitions.

The following words and terms, when used in this part, have the following meanings, unless the context clearly indicates otherwise:

*Administer* or *Administration*—The introduction of a substance into the body of a horse.

*Bleeder*—A horse which hemorrhages from the respiratory tract during a race or within 1 hour post-race, or during exercise or within 1 hour of the exercise or as specifically set forth in the Commission's regulations.

*Bleeder List*—A tabulation of bleeders to be maintained by the Commission.

*Commission Testing Laboratory*—The officially accredited laboratory of the Commission designated as the primary laboratory for the detection, confirmation and reporting of primary sample findings.

*Controlled substance*—A substance included in the five classification schedules of the Controlled Substance Act of 1970 (21 U.S.C.A. §§ 801—971).

*Controlled therapeutic medication*—A medication approved by the Commission or the Association of Racing Commissioners International (ARCI) for which the regulatory analyte concentration in the samples may not exceed specified regulatory limits approved and published by the Commission.

*Foreign substances*—All prohibited substances except those which exist naturally in the untreated horse at normal physiological concentration.

*Furosemide*—4-chloro-N-(2-furylmethyl)-5-sulfamoylanthranilic acid. Also known as Lasix.

*Horse*—Either Thoroughbred or Standardbred horses registered for racing under the jurisdiction of the Commission and for the purposes of this chapter shall mean stallion, colt, gelding, ridgling, filly or mare.

*Hypodermic injection*—An injection into or under the skin or mucosa, including intradermal injection, subcutaneous injection, submucosal injection, intramuscular injection, intravenous injection, intra-arterial injection, intra-articular injection, intra-bursal injection, intraocular (intra-conjunctival) injection.

*Overage*—A finding certified by the Commission Testing Laboratory that a regulatory analyte from a controlled therapeutic medication is present in the sample in an amount that exceeds the regulatory limit or threshold level.

*Positive test*—A determination by the Standardbred or Thoroughbred Bureau Directors based upon a finding by the Commission Testing Laboratory that a regulatory analyte from a prohibited substance is present in the sample in an amount that exceeds the regulatory limit.

*Practicing veterinarian*—A private veterinary practitioner licensed by the Commission and authorized to practice at a licensed racetrack facility within this Commonwealth.

*Prohibited substance*—Any substance, other than controlled therapeutic medication, or vaccine, equine antihelminthic, antibiotic, equine feed supplement, vitamins and minerals (collectively, “horse health and husbandry products”), for which the regulatory analyte concentration in samples may not exceed specified regulatory limits published herein.

*Race day*—The 24-hour period prior to the scheduled post time for the first race.

*Regulatory analyte*—An analyte or substance identified and, where appropriate, quantified in a specified matrix for regulatory purposes.

*Regulatory limit or Threshold level*—The concentration of a specified regulatory analyte that has been defined and published by the Racing Medication and Testing Consortium (RMTC) or ARCI and adopted by the Commission provided that exceeding the specified concentration is deemed either an overage or a positive test.

*Security area*—The area surrounding the security stall delineated by the Commission and controlled by it.

*Security stall*—The stall assigned by the Commission to a horse on the bleeder list, for occupancy as a prerequisite for receiving bleeder medication, sometimes called the detention stall.

*Split sample laboratory*—A duly accredited facility approved by the Commission to test split samples.

*Test sample*—A portion of a biological or bodily substance or fluid, including, but not limited to, tissue, hair, blood or urine obtained from a horse at the direction of the Commission for the purposes of determining the presence or concentration, or both, of regulatory analytes.

### § 401.2. General provisions.

(a) The purpose of this chapter is to protect the integrity of horse racing, to ensure the health and welfare of the horse and to protect the interests of the betting public and racing participants through the prohibition, strict control and detection of drugs, medications, foreign substances to the untreated horse and the regulation of devices for the administration of those substances. In this context:

(1) A horse participating in a race may not carry in its body a prohibited drug, medication, chemical, substance or any other substance foreign to the untreated horse, except as otherwise provided.

(2) A person acting alone or in concert may not provide, administer, cause to be administered or allow to be administered to a horse, by any means or methods, a foreign substance, a prohibited drug, medication, chemical or other substance, including any restricted medication under this chapter during the 24-hour period prior to the scheduled post time for the race in which the horse is entered, except as otherwise provided.

(3) In addition to the Commission approved Prohibited Substances List and the provisions of Chapter 403 (relating to equine veterinary practices—temporary regulations), the term prohibited substance shall include:

(i) Drugs or medications for which no acceptable threshold concentration has been established;

(ii) Controlled therapeutic medications in excess of established threshold concentrations or administration within the restricted time period, if approved by the Commission, and set forth by the *ARCI Controlled Therapeutic Medication Schedule* and the *Uniform Classification Guidelines of Foreign Substance*;

(iii) Substances present in the horse in excess of concentrations at which the substances could occur naturally; and

(iv) Substances foreign to a horse at concentrations that may cause interference with testing procedures.

(b) No person may possess or use a drug, substance, chemical or medication on the premises of a licensed racetrack or other facility under the jurisdiction of the Commission that:

- (1) A recognized analytical method has not been developed to detect and confirm the administration of the substance;
- (2) Its use may endanger the health and welfare of the horse or endanger the safety of the rider or driver;
- (3) Its use may adversely affect the integrity of racing;
- (4) No generally-accepted use in equine care exists; or
- (5) Has not been approved by the United States Food and Drug Administration (FDA) for use in the United States.

(c) Notwithstanding subsection (b), a person may have in his possession within a race track enclosure a medication or drug for that person's own use if the person produces a proper and valid prescription. If the medication, drug or chemical substance is prohibited from being dispensed by Federal or State law without a prescription, that person shall possess documentary evidence that a valid prescription for the chemical substance has been issued to him. However, regardless of a valid prescription, a jockey, driver or trainer may not use or be under the influence of a medication, drug or other chemical substance while actively engaged in their respective activities. The possession of a medical marijuana card by a licensee shall not be a defense to the charge of violating the rules of racing for possession of a controlled substance for jockeys, drivers and trainers engaged in their respective occupational duties.

**§ 401.3. Restrictions; prima facie evidence.**

(a) *General Rule.* A horse participating in a race may not carry in its body a prohibited drug, medication, chemical, substance or any other substance foreign to the natural horse, except as provided in § 401.4 (relating to substances of therapeutic value).

(b) The detection and confirmation by the Commission's Testing Laboratory of a prohibited drug, medication, chemical, substance or any other foreign substance in a test sample of a horse shall be prima facie evidence that the prohibited drug, medication, chemical, substance or other foreign substance was administered to the horse and carried in the body of the horse while participating in a race. This finding shall also be taken as prima facie evidence that the trainer and the trainer's agents responsible for the care, custody or control of the horse has been negligent in the handling or care of the horse.

(c) The determination by the Standardbred or Thoroughbred Bureau Directors, based upon a finding by the Commission Testing Laboratory of a foreign substance or an approved therapeutic substance above the established level in violation of this chapter, may be declared an overage or positive test and may result in the horse being disqualified from purse money or other awards, except for purposes of pari-mutuel wagering, which shall be in no way affected.

**§ 401.4. Substances of therapeutic value.**

(a) A foreign substance of accepted therapeutic value may be administered as prescribed by a veterinarian when test levels and guidelines for its use have been established, adopted and published by the Commission, the RMTC *Schedule of Therapeutic Medications*, the ARCI, the USTA, or a similar Nationally recognized organization.

(1) The administration of Furosemide shall be permitted for the prophylactic treatment of a confirmed bleeder under the specific provisions set forth in §§ 403.14 and 403.15 (relating to Furosemide (Lasix—Thoroughbred); and Furosemide (Lasix—Standardbred)).

**Cross References**

This section cited in 7 Pa. Code § 401.3 (relating to restrictions; prima facie evidence).

**§ 401.5. Tubing, dosing or jugging prohibited.**

The tubing, dosing or jugging of any horse for any reason within 24 hours prior to its scheduled race is prohibited unless administered for medical emergency purposes by a licensed veterinarian treating the horse. The licensed veterinarian shall comply with the reporting and treatment requirements set forth in these regulations. The horse shall immediately be scratched by the Judges or Stewards. The practice of administration of any substance by means of a naso-gastric tube or dose syringe into a horse's stomach within 24 hours prior to its scheduled race is considered a violation of these rules and subject to disciplinary action, which may include fine, suspension and revocation of license.

**§ 401.6. Possession of illegal, prohibited substances and devices.**

(a) The Commission, its investigative personnel, the Judges and Stewards or other Commission designee personnel shall have the right to enter buildings, stables, rooms or other places within the grounds of a licensed racetrack facility and to examine and inspect those locations and the personal property and effects of a person within these locations.

(b) A person granted a license by the Commission, by accepting his license, consents to the search and seizures of all contraband, including hypodermic syringes, hypodermic needles or other devices and drugs, stimulants or narcotics which could be, used in connection therewith, or appliances (electrical, mechanical or otherwise) other than ordinary racing equipment, of the nature that could affect the speed, performance or racing condition of a horse.

**PRE-RACE TESTING****§ 401.11. Pre-race blood gas testing—Standardbred.**

(a) *General Rule*—The administration or use of alkalizing agents or similar substances that elevate a horse's Base Excess (BE) or TCO<sub>2</sub> levels above those

existing naturally in the untreated horse at normal physiological concentrations is prohibited. To assist in the detection of the prohibited substances in a horse entered to race, the Commission may conduct prerace blood sampling and prerace testing with the use of an accepted, reliable testing instrument, including but not limited to a blood gas analyzer for measuring BE levels in blood samples.

(b) Unless otherwise permitted by these rules, no foreign substance shall be carried in the body of a horse when the horse is on the grounds of the licensed racetrack. It shall be a violation of this rule for a horse to test above the established BE levels on race day.

(c) The Board of Judges shall determine which horses will be selected for blood gas testing by random lots or by pre-determined selection based on previous elevated levels found in horses from a particular trainer or owner, probable cause or a trainer or owner's conditional license status.

(1) All horses selected to be tested shall be brought to the designated area for the prerace testing before the horse's first warm up. The order and number of horses which shall have blood drawn for prerace testing shall be randomly selected by lots by the Presiding Judge or the Judges' designee.

(2) In accordance with the Commission's regulations, it is presumed that a horse, when entered to race by an owner or trainer, shall be presented on race day in a sound and healthy condition. It is the sole responsibility of the owner, trainer or groom accompanying the horse to identify any health issues pertaining to the horse and immediately notify the Commission Veterinarian or other Commission personnel prior to the initiation of pre-race testing.

(3) Failure or refusal by a licensee to present a selected horse under his care, custody or control for blood gas analyzer testing, or who refuses in any other way, shall result in an automatic scratch of the horse from the racing program, and any other appropriate disciplinary action in the discretion of the Judges. The Commission Veterinarian shall document the name of the trainer or person who refuses to have blood drawn from the horse and shall file a report with the Commission.

(4) An owner, trainer or groom shall be permitted to observe the testing procedure but may not question, object or otherwise disrupt the testing by the blood gas technician or the Commission Veterinarian.

(d) The Commission shall adopt standard operating procedures documenting the calibration procedures for the blood gas analyzer, sampling procedures, initial testing and retesting procedures, methods used by personnel and positive test notification processes. The documentation related to these procedures shall be made a part of the Commission's chain of custody documentation and shall be admitted into evidence any subsequent hearings without need for authentication or the presence of individuals preparing those documents.

(e) The Commission Veterinarian shall provide documentation reflecting the tattoo or name of the horse from which the blood was drawn, the date and time the blood was drawn, and any other identifying information the Commission

deems necessary and appropriate. The Commission Veterinarian shall be responsible to verify that the blood samples for the specific horse in question were tested in accordance with the Commission's procedures.

**§ 401.12. Initial testing procedures.**

In accordance with the Commission's procedures, the Commission Veterinarian shall draw a blood sample from the selected horse which shall be tested by the blood gas technician using a blood gas analyzer or similar machine. Should the initial testing indicate an elevated level of BE in the horse, a Commission representative will immediately notify the owner, trainer or groom present of the horse's elevated levels. The horse's initial high levels will be duly documented in the control sheet.

**§ 401.13. Retesting procedures.**

(a) The Commission Veterinarian or designee shall take the rectal temperature of the horse who had elevated Base Excess (BE) levels. The horse's temperature will be recorded on the Commission Veterinarian's control sheet. The Commission Veterinarian shall extract a second blood sample from the horse.

(b) The horse's second blood sample shall be tested three times utilizing the same procedures and blood gas analyzer machine as the horse's initial blood sample. If the horse's three retests still indicate a high BE level, it shall be considered a positive test and the following will occur:

- (1) The Commission Veterinarian shall inform the owner, trainer or groom present of the positive test;
- (2) The Commission's investigator shall advise the Board of Judges of the BE positive test; and
- (3) The Board of Judges will scratch the horse from the race.

(c) Should any of the three retests fall below the Commission's established threshold, it shall be considered negative and the horse shall be permitted to race.

**§ 401.14. Base excess prohibited levels.**

The prohibited Base Excess (BE) concentrations are as follows: BE level of 10.0 mmol/l (mEq/l) or higher for non-Furosemide (Lasix) treated horses and BE level of 12.0 mmol/l (mEq/l) or higher for Furosemide (Lasix) treated horses. The level of uncertainty will be included before it is considered a violation of these rules. The level of uncertainty is 0.4 mmol/l (mEq/l) and a positive test report must include this level of uncertainty. A horse must show a BE level of 10.4 mmol/l (mEq/l) or higher for a non-Furosemide (Lasix) treated horse and a BE level of 12.4 mmol/l (mEq/l) or higher for a Furosemide (Lasix) treated horse in order for a violation to be reported under this rule.

**§ 401.15. Alternate TCO2 protocol and levels.**

(a) The Commission may establish an alternate protocol to determine the levels of total carbon dioxide (TCO2) in a horse using the same methods and procedures as the Base Excess testing, except that the horse's second blood sample may be obtained, sealed and secured and stored in the same manner as post-racing samples. The second blood sample taken from a horse with a positive Base Excess may be forwarded to the Commission Testing Laboratory and subjected to post-race testing in accordance with the Commission's regulations.

(b) *Standardbred TCO2 levels:* A blood serum or plasma TCO2 level shall not exceed 37.0 millimoles per liter in a non-Furosemide (non-Lasix) horse and not to exceed 39 mmol/L for a Furosemide (Lasix) horse.

**§ 401.16. Base excess penalties.**

The Commission may establish and publish a list of penalties against an owner or trainer for positives tests of the Base Excess or TCO2 levels, if applicable, as previously set forth.

**§ 401.17. Total carbon dioxide testing for stakes races—Thoroughbred.**

(a) For Thoroughbred stakes races or other races as directed by the Commission, the Commission may establish procedures and protocols for the testing, detection and confirmation of an alkalizing substance which could alter the blood serum, plasma pH or concentration of bicarbonates or carbon dioxide in a horse. The use of any foreign substance within 24 hours prior to post time of the race in which the horse is entered is strictly prohibited.

(b) The Commission may utilize either pre-race sampling or post-race sampling and post-race testing procedures of blood samples from a horse to determine the total carbon dioxide concentration in the blood serum or plasma of the horse.

(c) *Thoroughbred TCO2 levels:* A blood serum or plasma TCO2 level shall not exceed 37.0 millimoles per liter in a non-Furosemide (non-Lasix) horse and not to exceed 39 mmol/L for a Furosemide (Lasix) horse.

**POST-RACE TESTING**

**§ 401.21. Refusal to submit to test.**

No owner, trainer or any other person having the care, custody or control of a horse, whether entered in a race or not, whether the horse participated in the race or not, may refuse to produce a horse for testing, if requested by the Judges or Stewards during the race meeting. This refusal by the horse's owner, trainer or other person having care, custody or control, shall be deemed a violation of these rules and subject the licensee to a penalty. The horse entered in the race shall be scratched by the Judges or Stewards.

**§ 401.22. Test barn.**

(a) A licensed racing entity shall provide and at all times maintain in good condition a designated test barn on the racetrack grounds which shall be considered a secured location.

(b) The test barn shall be of an appropriate size and sufficient to accommodate the safe stabling of horses temporarily detained for the taking of biologic samples and shall be structurally designed and constructed to prevent entry by unauthorized persons.

(c) The test barn shall be deemed a restricted area and under the internal supervision and control of the Commission Veterinarian. No access to individuals other than Commission personnel shall be permitted without permission of the Commission Veterinarian.

(d) Notwithstanding subsection (c), the owner, trainer or the trainer's representative, whose horse is in the test barn for sampling, may be present to witness the Commission's sampling process. Those individuals shall properly display their current Commission identification/license badge, and clearly identify the horse they are accompanying. The Commission Veterinarian or the racetrack security may properly exclude any person or licensee that does not have a legitimate reason for being in the test barn area.

(e) The absence of the owner, trainer or trainer representative shall not invalidate the procedures followed in taking the sample, nor shall the absence be the grounds for objection to Commission action based on a laboratory report resulting from the test of a sample taken in the absence of the owner, trainer or their representative.

(f) Stable equipment other than that necessary for washing or cooling out a horse shall not be permitted in the test barn. Buckets and water shall be furnished by the Commission.

**§ 401.23. Reporting to the test barn.**

(a) The official winning horse and any other horse which participated in the race, as determined by Judges, Stewards or the Commission shall be selected to have blood, urine or other biological samples taken in accordance with the guidelines and procedures established by the Commission.

(b) Random or for cause testing may be required by the Judges or Stewards or the Commission at any time based upon reasonable suspicion of unlawful or violative conduct.

(c) Unless otherwise directed by the Judges or Stewards or the Commission Veterinarian, a horse that is selected for testing must be taken directly to the test barn and shall remain there until released by the Commission Veterinarian.

**§ 401.24. Primary sample collection.**

(a) The collection of blood, urine or other biological samples shall be done in accordance with the Commission's established procedures or other National

guidelines or procedures approved by the Commission. In every event, “primary” and “split” portions of a sample shall always be taken at the same time and shall be of the same substance.

(b) Any combination or sufficient quantity of blood, urine or other biological samples, as determined by the Commission Veterinarian or the Commission, may be used by the Commission testing laboratory for purposes of testing for prohibited substances under this chapter. The election by the Commission testing laboratory to use one form of biological sample shall not be a basis to challenge the detection and confirmation of a prohibited substance in the tested horse.

(c) The Commission shall approve and provide the urine containers, blood sample receptacles and all other materials, plastic bags, evidentiary security/evidence tape and equipment necessary to properly identify, seal, secure and store the samples from the selected horses.

(d) The samples taken from a horse by the Commission Veterinarian or the Commission’s test barn staff shall be collected in the appropriate number of containers and shall be designated as the primary and split samples. At least two blood samples for each horse shall be collected in sample receptacles approved by the Commission. These samples shall be sealed with tamper-proof tape and bear the specific identification tracking number associated with that horse and its samples.

(e) The Commission Veterinarian and testing barn staff shall create and properly maintain records of the sampling, evidentiary sealing and storing of the primary and split samples which shall be made a part of the Commission’s chain of custody documentation for administrative hearing purposes.

(f) Once collected, sealed and documented, all primary samples shall be placed into locked refrigerators designated for storage of biological samples under the supervision of the Commission Veterinarian or the Commission’s designee, to be safeguarded until the primary samples are packaged and shipped to the Commission testing laboratory for chemical analysis.

(g) At all times during the sampling, testing and administrative process, the Commission shall be considered the owner of the primary sample.

#### Cross References

This section cited in 7 Pa. Code § 401.25 (relating to storage of split samples).

#### § 401.25. Storage of split samples.

(a) In accordance with § 401.24 (relating to primary sample collection) the blood, urine or other biological samples previously taken and designated as split samples shall be stored and maintained in a locked freezer in the test barn until an owner or trainer requests that the split samples be tested in accordance with the Commission’s procedures.

(b) The freezer for storage of split samples shall be opened only for depositing or removing split samples, review of inventory or for checking the condition

of the split samples. A log shall be maintained by the Commission Veterinarian or the Commission investigators and an entry shall be made each time the split sample freezer is opened to indicate the following:

- (1) Persons in attendance;
  - (2) The purpose for opening the freezer;
  - (3) Identification of split samples deposited or removed;
  - (4) The date and time the freezer was opened or when was closed;
  - (5) Verification that the lock was secured prior to and after opening of the freezer; and
  - (6) Evidence of a malfunction, if any, of the split sample freezer.
- (c) At all times, the Commission shall be considered the owner of the split sample.
- (d) If the results of the split sample testing do not substantially confirm the findings by the Commission testing laboratory of the primary sample, the Commission will not consider the sample to constitute a prima facie violation of this chapter and no penalty will be imposed.
- (e) If the Standardbred or Thoroughbred Bureau Directors declare a positive test based upon the reported findings of the Commission testing laboratory, it shall be considered to be a prima facie violation of the applicable provisions of this chapter and written and dated notification of the positive test shall be made to the trainer of record for the tested horse. The trainer shall be solely responsible to notify the owner of the horse of the positive test.
- (f) Within 48 hours after receiving written notification of the positive test, the owner or trainer of the horse in question may request that the split sample be tested. The Commission may provide a form for a request which must be signed and dated by the owner or trainer. Failure by either the owner or trainer to make a timely request within 48 hours of notice of the positive shall constitute a waiver of the right to have the split sample tested. The findings of the primary sample by the Commission testing laboratory shall be deemed conclusive at any subsequent hearing.
- (g) Upon application by the trainer or owner of the horse in question, the split portion of the sample taken shall be tested by a duly accredited laboratory designated and approved by the Commission under the minimum standards set forth in § 401.29 (relating to split sample testing laboratory minimum standards).
- (h) If the Commission is unable to secure the services of a specific laboratory with the proper accreditation or testing methods to test the split portion of a sample, the Commission will have the option of having the split sample retested at the laboratory which tested the original sample. The owner and trainer affected will be notified by the Commission.
- (i) If an act of God, power failure, accident, strike or other action prevents a retest from being made which is beyond the control of the Commission, the results of the primary official test shall be accepted as prima facie evidence.

**§ 401.26. Packaging and shipping of split samples.**

(a) The Commission or its investigative staff shall be responsible for the packaging and shipping of the split sample and shall coordinate the time and location for the packaging of the split sample at the test barn with the owner, trainer or representative. The owner or trainer requesting testing of a split sample shall be responsible for the cost of the testing, including the cost of shipping.

(b) Failure of the owner, trainer or a designee to appear at the time and place designated by the Commission representative in connection with packaging and shipping the split sample shall constitute a waiver of any right to challenge Commission's procedures.

(c) Prior to opening the split sample freezer or refrigerator, the Commission's representative shall provide the split sample verification form or split sample packaging form or any other similar form approved by the Commission. The forms shall be completed fully during the retrieval, packaging and shipment of the split sample and shall contain the following information:

- (1) The date and time the sample is removed from the split sample freezer;
- (2) The sample number;
- (3) The address where the split sample is to be sent; and,
- (4) A check from the owner or trainer made payable to the split sample laboratory with the appropriate testing fee.

(d) The Commission representative shall remove the split sample from the freezer and shall package it in accordance with the packaging procedures directed by the Commission. All necessary Commission chain of custody forms shall be signed by the owner, trainer or other representative, if present, and the Commission representative to confirm the proper packaging of the split sample for shipment. The exterior of the package shall be secured and sealed to prevent tampering with the package.

(e) The owner, trainer or representative, if present, may inspect the package containing the split sample immediately prior to transfer to the delivery carrier to verify that the package is intact and has not been tampered with.

(f) Prior to shipment of the split sample, the Commission's representative shall confirm:

- (1) That the split sample laboratory has agreed to provide the testing requested;
- (2) That the split sample laboratory has agreed to send results to the Commission; and
- (3) That arrangements for payment satisfactory to the split sample laboratory have been made.

**§ 401.27. Frozen samples.**

(a) The Commission from time to time may direct the Commission Testing Laboratory to retain and preserve by freezing samples for future analysis or research purposes.

(b) After 1 year from the date of sampling, the Commission may grant permission, at the request of the Commission Testing Laboratory, to properly dispose of primary samples which were determined to contain no prohibited substances or in the case of samples which were determined as positive, after all administrative appeals have been exhausted.

(c) The distribution of purse money prior to the issuance of a final laboratory report shall not be considered a finding that no prohibited drug, medication, substance or metabolic derivative has been administered to a horse.

**§ 401.28. Commission Testing Laboratory minimum standards.**

(a) The purpose of the Commission Testing Laboratory is to analyze biologic samples for the presence in race horses of any drugs, medications, foreign substances or other substances including permitted medications in excess of the maximum allowable levels and to reports those findings to the Standardbred and Thoroughbred Horse Racing Bureau Directors.

(b) The Commission Testing Laboratory shall at all times continue to meet and maintain the minimum competency standards as set forth by National and International accrediting bodies such as the American Association of Laboratory Accreditation (A2LA) and the RMTC or other similar accrediting bodies under the globally recognized ISO/IEC 17025 *General Requirements for the Competence of Testing and Calibration Laboratories*.

**§ 401.29. Split sample testing laboratory minimum standards.**

(a) The designated split sample testing laboratory (Split Lab) conducting split post-race sample analysis must, at a minimum, demonstrate technical competence in the field of chemical testing and laboratory quality management be meeting similar accreditation standards and testing standards as the Commission Testing Laboratory.

(b) The Commission shall provide a list of approved split sample laboratories for use.

**Cross References**

This section cited in 7 Pa. Code § 401.25 (relating to storage of split samples).

**UNIFORM MEDICATION CLASSIFICATION AND PENALTIES****§ 401.41. Determination of positive test results.**

(a) If the Standardbred or Thoroughbred Bureau Directors declare a positive test based upon the reported findings of the Commission testing laboratory, and

if applicable, the confirmation by the split sample laboratory, it shall be considered a possible violation of the provisions of this chapter. The Bureau Directors shall authorize and direct Commission investigators to immediately conduct an investigation of the matters relating to the positive finding. Medication and drug violations shall be investigated and reviewed on a case by case basis.

(b) The results of biological sample testing and analysis prepared by the Commission Testing Laboratory shall be deemed prima facie correct and all steps undertaken in the collection, preservation, handling and testing thereof shall be presumed correct in the absence of affirmative proof to the contrary.

(c) The Board of Judges or Board of Stewards shall thereafter schedule and conduct a hearing consistent with the provisions set forth in Chapter 179 (relating to Rules of Administrative Practice and Procedure—temporary regulations) of the Commission's regulations to determine whether a violation of the Commission's regulations has occurred. In addition to the penalty provisions contained in the act and the Commission's regulations, the Judges and Stewards may consider the specific drug classification level of the violation and the appropriate penalty categories as set forth in the *Uniform Classification Guidelines of Foreign Substances* established by the ARCI and set forth in §§ 401.42 and 401.43 (relating to uniform classification guidelines for foreign substances; and positive test penalty categories).

(d) Prior to issuing the medication violation ruling, the Judges and Stewards, may also consult with the Commission Veterinarian to determine if the violation was a result of the administration of a therapeutic medication as documented in a veterinarian's Medication Report Form (treatment sheets) received under § 403.4 (relating to treatments sheets or veterinarian medication report forms) and may also consult with the Commission's Testing Laboratory director to determine the seriousness of the laboratory finding or the medication violation penalties.

(e) For purposes of determining mitigating or aggravating circumstances, the Judges and Stewards may consider the following factors:

- (1) The past record of the trainer, veterinarian and owner in drug cases;
- (2) The potential of the drugs to influence a horse's racing performance;
- (3) The legal availability of the drug;
- (4) Whether there is reason to believe the responsible party knew of the administration of the drug or intentionally administered the drug;
- (5) The steps taken by the trainer to safeguard the horse;
- (6) The probability of environmental contamination or inadvertent exposure due to human drug use;
- (7) The purse of the race;
- (8) Whether the drug found was one for which the horse was receiving a treatment as determined by the Medication Report Form;
- (9) Whether there was any suspicious betting pattern in the race; and

(10) Whether the licensed trainer was acting on the advice of a licensed veterinarian.

(f) As a result of the investigation, the Judges or Stewards may determine that mitigating circumstances exist for which a lesser or no penalty is appropriate for the licensee or that aggravating factors exist, which may increase the penalty beyond the minimum.

(g) Whenever there is a positive result of a post-race test the purse may be redistributed.

**§ 401.42. Uniform classification guidelines for foreign substances.**

The Commission adopts the following outline which describes the types of medications, drugs and substances placed in each classification. This list shall be publicly posted on the Commission's web site, in the offices of the Commission Veterinarian and in the office of the racing secretary.

(1) *Class 1:*

Opiates, opium derivatives, synthetic opioids, psychoactive drugs, amphetamines, all United States Drug Enforcement Agency Schedule I drugs and many Schedule II drugs. Also found in this class are drugs that are potent stimulants of the central nervous system. Drugs in this class have no generally accepted medical use in the racing horse and their pharmacologic potential for altering the performance of a racing horse is very high.

(2) *Class 2:*

Drugs placed in this classification have a high potential for affecting the outcome of a race. Most are not generally accepted as therapeutic agents in the racing horse. Many are products intended to alter consciousness or the psychic state of humans and have no approved or indicated use in the horse. Some, such as injectable local anesthetics, have legitimate use in equine medicine, but should not be found in a racing horse. The following groups of drugs placed are in this class:

- (i) Opiate partial agonists or agonist-antagonists;
- (ii) Non-opiate psychotropic drugs. These drugs may have stimulant, depressant, analgesic or neuroleptic effects;
- (iii) Miscellaneous drugs which might have a stimulant effect on the central nervous system (CNS);
- (iv) Drugs with prominent CNS depressant action;
- (v) Antidepressant and antipsychotic drugs, with or without prominent CNS stimulatory or depressant effects;
- (vi) Muscle blocking drugs that have a direct neuromuscular blocking action;
- (vii) Local anesthetics that have a reasonable potential for use as nerve blocking agents (except procaine); and
- (viii) Snake venoms and other biologic substances, which may be used as nerve blocking agents.

(3) *Class 3:*

Drugs placed in this classification may or may not have an accepted therapeutic use in the horse. Many are drugs that affect the cardiovascular, pulmonary and autonomic nervous systems. They all have the potential of affecting the performance of a racing horse. The following groups of drugs are placed in this class:

- (i) Drugs affecting the autonomic nervous system that do not have prominent CNS effects, but which do have prominent cardiovascular or respiratory system effects. Bronchodilators are included in this class;
  - (ii) 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);
  - (iii) Miscellaneous drugs with mild sedative action, such as the sleep-inducing antihistamines;
  - (iv) Primary vasodilating/hypotensive agents;
  - (v) Potent diuretics affecting renal function and body fluid composition;
- and
- (vi) Anabolic and/or androgenic steroids and other drugs.

(4) *Class 4:*

Drugs in this classification comprise primarily therapeutic medications routinely used in racing horses. These may influence performance, but generally have a more limited ability to do so. Groups of drugs assigned to this category include the following:

- (i) Non-opiate drugs that have a mild central analgesic effect;
- (ii) Drugs affecting the autonomic nervous system that do not have prominent CNS, cardiovascular or respiratory effects:
  - (A) Drugs used solely as topical vasoconstrictors or decongestants;
  - (B) Drugs used as gastrointestinal antispasmodics;
  - (C) Drugs used to void the urinary bladder;
  - (D) Drugs with a major effect on CNS vasculature or smooth muscle of visceral organs;
  - (E) Antihistamines which do not have a significant CNS depressant effect (This does not include H1 blocking agents, which are listed in Class 5);
- (iii) Antihistamines that do not have a significant CNS depressant effect. (This does not include H2 blocking agents, which are in Class 5).
- (iv) Mineralocorticoid drugs;
- (v) Skeletal muscle relaxants;
- (vi) Anti-inflammatory drugs. These drugs may reduce pain as a consequence of their anti-inflammatory action.
  - (A) Non-Steroidal Anti-Inflammatory Drugs (NSAIDs);
  - (B) Corticosteroids (glucocorticoids); and
  - (C) Miscellaneous anti-inflammatory agents.
- (vii) Less potent diuretics;

- (viii) Cardiac glycosides and antiarrhythmic agents.
    - (A) Cardiac glycosides;
    - (B) Antiarrhythmic agents (exclusive of lidocaine, bretylium and propranolol); and
    - (C) Miscellaneous cardiotoxic drugs.
  - (ix) Topical Anesthetics—agents not available in injectable formulations;
  - (x) Antidiarrheal drugs;
  - (xi) Miscellaneous drugs.
    - (A) Expectorants with little or no other pharmacologic action;
    - (B) Stomachics; and
    - (C) Mucolytic agents.
- (5) *Class 5:*

Drugs in this classification are therapeutic medications for which concentration limits have been established by the racing jurisdictions as well as certain miscellaneous agents. Included specifically are agents that have very localized actions only, such as anti-ulcer drugs and certain antiallergenic drugs. The anticoagulant drugs are also included.

#### Cross References

This section cited in 7 Pa. Code § 401.41 (relating to determination of positive test results).

### § 401.43. Positive test penalty categories.

(a) To maintain consistency of drug medication penalties with surrounding racing jurisdictions, in accordance with section 9312(6) of the act (relating to additional powers of commission), the Commission shall adopt and publish in the *Pennsylvania Bulletin* the most recent version of the “Penalty Categories” set forth in the *Uniform Classification Guidelines of Foreign Substances* as established by ARCI. The penalty categories “A”, “B”, “C” and “D” and their related schedules for trainers and owners shall also contain provisions for the number of offenses committed which shall determine the level of penalty assessed.

(b) The Commission, Bureau Directors, Judges or the Stewards may use the penalty “categories” and medication guidelines schedule as a starting place in the penalty stage of the deliberations for a violation of the Commission’s medication and foreign substance rules.

(c) In issuing penalties against individuals found guilty of medication and drug violations, a regulatory distinction may 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.

(d) 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 Commission Testing Laboratory for classification.

(e) A drug or metabolite thereof found to be present in a pre-race or post-race sample which is not classified in the most current ARCI *Uniform Classification Guidelines for Foreign Substances* shall be deemed Class 1 drug and the trainer and/or owner shall be subject to those penalties as set forth in schedule “A.”

(f) The recommended penalty for a violation involving a drug that carries a Category “D” penalty is a written warning to the trainer and owner. Multiple violations may result in fines or suspensions, or both.

(g) A licensee of the Commission, including practicing 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.

**Cross References**

This section cited in 7 Pa. Code § 401.41 (relating to determination of positive test results).

**§ 401.44. Criminal or administrative licensing referrals.**

(a) In addition to any penalties issued by the Judges, Stewards or the Commission, a veterinarian found to be involved in the administration of any drug carrying the penalty category of “A” shall be referred to the State Board of Veterinary Medicine for consideration of further disciplinary action or license revocation.

(b) In accordance with the provisions of the act, a person believed to have committed acts in violation of Pennsylvania criminal statutes may be referred to the appropriate law enforcement agency. Administrative action taken by the Judges, Stewards or the Commission shall not prohibit a prosecution for criminal acts committed, nor shall a criminal prosecution preclude the administrative action by the Judges, Stewards or the Commission.

(c) 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 shall include ensuring that horses are not transferred to licensed family members or employees of the suspended person.

**§ 401.45. Responsibility of a trainer.**

As fully set forth in Chapters 205 and 305 (relating to rules of Standardbred racing—temporary regulations; and rules of Thoroughbred racing—temporary regulations), a trainer shall be responsible for the condition of the horses in the care, custody or control of the trainer regardless of the trainer’s physical location.

**§ 401.46. Control of horse, presumption of knowledge.**

Whenever the chemical analysis test described in this chapter discloses the presence of a drug, stimulant, depressant or foreign substance or therapeutic medications above the established levels, it shall be presumed that the same was administered by the person having the care, custody or control of the horse and

that the administering was done with the intent to affect the speed or condition of the horse and the result of the race in which it participated.

**§ 401.47. Persons found guilty of administration of drugs.**

A person found guilty by the Commission of participation in or knowledge that a narcotic, stimulant or similar illegal drug has been administered to a horse shall be summarily ruled off from all tracks in this Commonwealth and upon notice and hearing, the occupational license may be revoked.

**MULTIPLE MEDICATION VIOLATION  
POINT SYSTEM**

**§ 401.51. Multiple medication violation points.**

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

<i>Penalty Class</i>	<i>Points If Controlled Therapeutic Substance</i>	<i>Points If Non-Controlled Substance</i>
Class A	N/A	6
Class B	2	4
Class C	1/2 for first violation with an additional 1/2 point for each additional violation within 365 days <sup>1</sup>	1 for first violation with an additional 1/2 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 are not to be separately assigned for a stacking violation.

(1) If the Standardbred or Thoroughbred Horse Racing Bureau Directors, or Judges and Stewards 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.

(b) The points assigned to a medication violation ruling by the Judges or Stewards shall be included in the trainer's Commission licensing records and forwarded to the ARCI official database or any other similar recordkeeping entity. MMV points shall be recorded consistent with subsection (a) including when appropriate, a designation that points have been suspended for the medication

violation. Points assigned by the Judges' or Stewards' rulings shall reflect, in the case of multiple positive tests as described in subsection (d), whether they constitute a single violation. The Judges' or Stewards' rulings shall be posted on the Commission's official web site and the official database of the ARCI or other record keeping entity.

(1) If an appeal is pending, that fact shall be noted in the ruling.

(2) No enhancement points shall be applied until a final adjudication of the enforcement of any violation.

(c) A trainer's cumulative points for violations in all racing jurisdictions shall be maintained by the Commission, ARCI or other recordkeeping entities. Once all appeals are waived or exhausted, the points shall immediately become part of the trainer's official Commission records, ARCI or other recordkeeping entity's records and shall be considered by the Commission in its determination to subject the trainer to the mandatory enhanced penalties by the Judges or Stewards as provided in this regulation.

(d) 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 Judges or 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.

(e) The official database shall be used to advise the Judges, Stewards or Commission of the trainer's record of past violations and the cumulative MMV points. Nothing in this administrative regulation 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.

(f) The Judges or Stewards shall consider all points for violations in all racing jurisdictions as contained in the trainer's official record when determining whether the mandatory enhancements provided in this regulation shall be imposed.

**§ 401.52. Enhancement points.**

(a) 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/her official ARCI record:

<i>Points</i>	<i>Suspension in days</i>
5—5.5	15 to 30
6—8.5	30 to 60
9—10.5	90 to 180
11 or more	180 to 360

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

- (i) Has had more than one medication violation for the relevant time period; and
- (ii) Exceeds the permissible number of points.

(c) 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 MMV point system is intended to be a separate and additional penalty for a pattern of violations.

(d) The suspension periods as provided in subsection (a) shall run consecutively to any suspension imposed by the Judges or Stewards for the underlying offense.

(e) The Judges' or Stewards' ruling shall distinguish between the penalty for the underlying offense and any enhancement penalty based upon the Judges' or Stewards' review of the trainer's cumulative points and regulatory record, which may be considered an aggravating factor in a case.

#### § 401.53. Expiration of points.

(a) Points shall expire as follows:

<i>Penalty Classification</i>	<i>Time to Expire</i>
A	3 years
B	2 years
C	1 year

(b) 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.

### OTHER PROHIBITED CONDUCT

#### § 401.61. Possession of hypodermic needles, syringes and injectable substances.

No person, except a Commission Veterinarian, racetrack veterinarian or veterinarian licensed by the Commission, may possess or use a hypodermic needle, hypodermic syringe capable of accepting a needle and injectable substances of any kind, type or description on the licensed racetrack grounds, in that person's custody, control or possession. If a person has a medical condition which makes it necessary to have a syringe while on the grounds of a racetrack, that person must request permission of the Judges or Stewards in writing, furnish a letter from a licensed physician explaining the necessity of the syringe and must comply with any conditions or restrictions set by the Judges or Stewards. Violations of this rule will subject the violator to a fine, suspension or both.

**§ 401.62. Mistreatment of horses.**

A licensee or other person under the jurisdiction of the Commission may not alone or in concert with another person permit an animal under his control to be subjected to a form of cruelty, mistreatment, neglect or abuse or abandon, or to injure, maim or kill or administer a noxious or harmful substance to or deprive an animal of necessary care, sustenance, shelter or veterinary care.

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