

Chapter 11: MEDICATION AND TESTING

SUMMARY: This chapter contains rules for equine medication including, but not limited to: prohibited substances, types of tests, methods of testing, responsibilities of race track personnel, purse redistribution and penalties.

Section 1. GENERAL PROVISIONS

1. Interpretation of this chapter

This chapter is promulgated to protect the integrity of live harness horse racing, to guard the health of the horse, and to safeguard the interest of the public and the racing participants through the prohibition or control of all prohibited substances. This chapter shall be interpreted to accomplish that purpose.

2. General medication rule

No horse participating in a race or programmed to participate in a race shall carry in its body any prohibited substance, except as provided in this chapter.

3. Tests

The winning horse in every race or performance against time shall have a test sample taken for the purpose of determining the presence of any prohibited substance. The Presiding Judge or the State Steward, at any race meeting, may order any other horse which has raced or which has been "declared in" to any race to have a test sample taken for the purpose of determining the presence of any prohibited substance.

Pre-race testing may be conducted anytime after the horse enters the paddock.

The Commission Department Veterinarian, the Presiding Judge or State Steward may order any horse designated for testing to be offered water in order to encourage a successful urine collection. Horses will be watered under supervision of the trainer and Commission Department Veterinarian utilizing watering containers supplied by the trainer.

4. State Testing Area

The following rules shall apply to a state testing area.

- A. Every owner, trainer, or authorized agent of any horse or horses programmed to race shall immediately, whenever provided for in the Rules, submit the horse or horses to any veterinarian designated by the Department for such examination or tests as that veterinarian may deem advisable.
- B. The state testing area will be operated in accordance with the Commission Rules and supervised by the Department representatives.
- C. The winner of each race and any other horse specified by the Presiding Judge or State Steward shall be taken by the trainer or the trainer's authorized agent to the state testing area immediately following the race. Horses may be held in the State testing area for up to one and one-half hours in order to obtain a test sample. Compliance with this paragraph shall be the responsibility of the trainer. Failure to comply is a Level One violation of these rules.
- D. In the case of a claimed winner of a race, or any other claimed horse specified for examination, the successful claimant must receive the horse in the State testing area. The former trainer or that trainer's authorized agent shall accompany the claimed winner, or any other claimed horse specified for examination, to the State testing area and be present to observe the procedures and to sign for the test sample or samples when taken from the horse. The responsibility for the results of the chemical analysis of specimens taken from the claimed horse, does not follow the claim for this particular race, but remains with the trainer of the horse at the time raced.
- E. The horse shall remain in the State testing area until released by an authorized Department representative.
- F. No stable equipment other than that necessary for washing off and cooling out will be permitted in the State testing area. The trainer or the trainer's authorized agent may perform the duties of bathing, cooling out and watering the horse.
- G. The trainer or authorized agent from the stable of a horse in the State testing area may enter for the purpose of inspecting the horse after making it known to the person in charge of the testing area. If the service of a veterinarian is required, that service must be performed in the presence of the Department Veterinarian. No medications, topical, oral, or injectable shall be administered in the state testing area, except as administered by the Department Veterinarian.

- H. The owner, trainer or authorized agent of the trainer of any horse being tested must remain with the horse while the test sample is drawn and witness the sealing of the test sample and any split sample. Failure to do so is prima facie evidence that the trainer accepts the validity of the procedure and samples.

5. How Taken

Urine test samples shall be taken in accordance with the Commission's Rules and following the established protocol.

- A. The Department Veterinarian shall make every reasonable attempt to collect the minimum sample requirement established by the Executive Director.
 - B. All samples obtained shall immediately be sealed in a suitable container and witnessed by the trainer or trainer's authorized agent and certified to by their signature.
 - C. If the specimen collected is less than the minimum sample requirement the entire sample shall be sent to the primary testing laboratory designated by the Department.
 - D. If the specimen collected is greater than the minimum sample requirement but less than twice that amount, the minimum sample amount will be sent to the primary testing laboratory and the remaining amount will be held as a split sample.
 - E. If the specimen collected is greater than twice the minimum sample requirement, the sample will be split equally with one-half sent to the primary testing laboratory and one-half retained as a split sample.
 - F. Samples designated for the primary testing laboratory shall be sent with dispatch thereto for chemical analysis by methods established by the Department.
 - G. Split samples shall be retained in accordance with procedures established by the Department so as to maintain the efficacy of the sample and chain of custody.
6. Failure to Allow Tests. A refusal to allow the taking of any such specimen, or any act or threat to impede or prevent or otherwise interfere with the taking of a test sample is a Level One violation of these Rules. The matter shall be referred to the Commission for further review.

7. Presence of Prohibited Substance

Whenever there is a test sample indicating the presence of a prohibited substance in violation of these rules:

- A. In the case of a pre-race test, the horse shall be scratched from the race and a report sent to the Department. The Department will initiate a Hearing before the Commission at the earliest possible date.
- B. In the case of a post-race test, the Commission Chemist shall immediately notify the Department. Upon notification the Department shall:
 - (1) Notify the trainer of the laboratory findings.
 - (2) Advise the trainer of their right to have a split sample, if any, shipped and tested, at their expense, to a laboratory approved by the Department . The trainer must make such a written request to the Department within seventy-two hours of receiving notification of the primary testing laboratory's findings.
 - (3) Ship the split sample in accordance with procedures developed by the Department to maintain the efficacy of the sample and chain of custody to the designated approved laboratory within seventy-two hours of receiving the request.
 - (4) Bring this matter before the Commission for hearing at the earliest possible date.

8. Trainer Responsibility

The trainer is responsible for, and is the absolute insurer of the condition of the horses that trainer enters regardless of the acts of third parties. A trainer may not start a horse or permit a horse in the trainer's custody to be started if the trainer knows, or if by the exercise of reasonable care the trainer has cause to believe, that the horse has received a prohibited substance that could result in a violation of this chapter. Every trainer shall guard or cause to be guarded each horse trained by that trainer in such a manner that prevents any person from administering a prohibited substance in violation of this chapter.

9. Prohibited Substances

Any person or persons who shall administer or influence or conspire with any other person or persons to administer any prohibited substance to a horse in a manner not permitted by this chapter shall be guilty of a Level One violation of the rules.

10. Purses Redistributed

All winnings of a horse in a race found to be in violation of this chapter shall be forfeited and redistributed among the remaining horses in the race entitled to the winnings. No forfeiture and redistribution of winnings under this section shall affect the distribution of the pari-mutuel pools, when that distribution of pools is made upon the official placing at the conclusion of the race.

11. Penalties

Any person who violates any provision of this chapter is subject to the following penalties:

- A. suspension of all or less than all of the licenses held by that person for a period of time to be determined by the Commission. The licenses shall be immediately suspended, when applicable, in accordance with the provisions of 5 M.R.S.A. §10004(6);
- B. fine not to exceed the maximum amount allowed by law;
- C. in addition to the penalties in subsections A and B and the purse redistribution provisions of Section 10, the Commission shall prohibit a horse which had a test sample in violation of this chapter from competing in any race for a period not to exceed 30 days. The horse shall be prohibited from racing regardless of the status of the trainer. No Association shall permit a suspended horse to compete after having received notice of a suspension order from the Commission.

12. Right to Inspect and Seize

The State shall have the right to enter into or upon the buildings, stables, rooms or other places within the grounds of a licensed Association and to examine same and to inspect and examine the personal property and effects of any person within such place. Except as provided in Section 2 of this Chapter, a judge or State Steward may seize any hypodermic syringe, hypodermic needle, or other device that could be used for the injection or other infusion into a horse of a prohibited substance.

13. Possession of hypodermic apparatus

- A. Except as provided in this subsection, it is a violation of this chapter for a licensee to have in his or her possession or bring on the grounds of an Association during a licensed race meet any equipment for hypodermic injections.
 - (1) A licensed veterinarian may possess equipment for hypodermic injections.

- (2) A licensee may possess equipment for hypodermic injections to humans if:
 - (a) the equipment is solely for the purpose of administering chemical or biological substances to the licensee who possesses that equipment or to a minor child of the licensee;
 - (b) the licensee has notified the Presiding Judge clearly identifying to the Judge the type and size of the equipment and the chemical or biological substances to be administered by that equipment; and
 - (c) the Presiding Judge has given written permission for the possession and use of that equipment.

14. Possession of drug paraphernalia

It is a violation of this chapter for a licensee to have in his or her possession on the grounds of an Association during a licensed race meet or be responsible for bringing on to the grounds of an Association during a licensed race meet any drug paraphernalia.

- A. As used in this section the term "drug paraphernalia" means all equipment, products and materials of any kind which are used or intended for use in injecting, ingesting, inhaling, applying or otherwise introducing into or onto the body of a horse a prohibited substance in violation of this chapter.
- B. For purposes of this section, drug paraphernalia does not include hypodermic apparatus. Possession of hypodermic apparatus constitutes a separate offense under section 15.
- C. In determining whether an object is drug paraphernalia, the commission, the court, or other authority should consider, in addition to all other logically relevant factors, the following:
 - (1) statements by an owner of the object or by anyone in control of the object concerning its use;
 - (2) prior violations of this section, if any, of an owner of the object or of anyone in control of the object,
 - (3) the proximity of the object, in time and space, to a direct violation of this section;
 - (4) the proximity of the object to a prohibited substance;

- (5) the existence of any residue of prohibited substance on the object;
- (6) the existence and scope of legitimate uses of the object on the grounds; and
- (7) expert testimony concerning its use.

D. Any drug paraphernalia possessed in violation of this section is declared to be contraband and may be seized and confiscated by the Commission.

15. Possession of drug or prescription medication

Except as provided in this section, it is a violation of this chapter for a licensee to have in his or her possession on the grounds of an Association during a licensed race meet or be responsible for bringing on to the grounds of an Association any drug or prescription medication.

- A. A licensed veterinarian may possess a drug or prescription medication.
- B. A licensee may possess a drug or prescription medication for a horse if it is for an existing condition and is prescribed by a veterinarian. The supply of the drug or prescription medication permitted shall be limited by ethical practice consistent with the purposes of this chapter.
- C. A licensee may possess a chemical or biological substance for humans if:
 - (1) the substance is solely for the use of the licensee who possesses that substance or to a minor child of the licensee;
 - (2) the licensee has submitted a sworn statement to the Presiding Judge clearly identifying to the Judge the chemical or biological substance and the intended use of that substance;
 - (3) the licensee has in his or her possession documentary evidence of a valid prescription for that substance, if a prescription is required by state or federal law for that substance to be dispensed; and
 - (4) the Presiding Judge has given written permission for the possession of that substance.

16. Exercise Induced Pulmonary Hemorrhage (EIPH)

- A. First time. Any horse known to have bled externally from its nostrils or observed via endoscopic examination to have bled internally during a race or workout shall be subject to the following: The first time EIPH occurs

the horse may not race for a period of eight days without prior written approval of the Department Veterinarian.

- B. If a horse bleeds a second time, within 365 days of the first time, that horse shall be placed on the Steward's List and prohibited from racing for a period of 30 days and must race for the remainder of that racing year on the furosemide program.
- C. If a horse bleeds a third time, within 365 days of when the horse bled the first time, that horse shall be placed on the Steward's List and prohibited from racing for a minimum of 90 days. The horse may thereafter be removed from the Steward's List by the Department Veterinarian after a satisfactory workout witnessed by the Department Veterinarian. The horse must race on the furosemide program, for the remainder of the racing year.
- D. In the event a horse bleeds a fourth time, within 365 days of the first time, that horse shall be permanently prohibited from racing in this state.
- E. List. The Judges shall maintain a current list of all horses which they know to have experienced EIPH during a race.

Section 2. CONTROLLED MEDICATION PROGRAM

- 1. Horses ineligible to participate in the Phenylbutazone or Furosemide Program.
 - A. Two year olds are not allowed on the phenylbutazone or furosemide program.
 - B. Horses registered to participate in the Maine Sire Stakes Program are not allowed on the phenylbutazone or furosemide program.
- 2. Phenylbutazone
 - A. Eligibility. In order to be eligible for the use of phenylbutazone on race day, a horse must be certified as "Phenylbutazone Eligible" by the Department Veterinarian on a form approved by the Department. A copy of that certification must be on file in the Department. The Department Veterinarian may certify a horse as phenylbutazone eligible based on:
 - (1) a written statement by a veterinarian attesting to the medical need for the therapeutic administration of phenylbutazone based on personal observation and evaluation of the horse's medical condition by that veterinarian; or

- (2) written documentation that the horse has been racing on phenylbutazone in another racing jurisdiction.
- B. Declaration. The trainer of a horse certified as "Phenylbutazone Eligible" shall indicate that the horse is "Phenylbutazone Eligible" on the declaration form each time the horse is entered to race. Before the draw, the racing association shall verify the eligibility of a horse so entered with a list of "Phenylbutazone Eligible" horses submitted by the commission to the racing office of each association. The association must post this list in the office of the Race Secretary. A trainer who violates this subsection shall be subject to a fine or suspension of the license, or both. Each Association shall ensure that the race program correctly identifies all horses racing on the Phenylbutazone program. Failure to do so shall be a Level Three violation of these rules.
- C. Permitted test level and administration of Phenylbutazone.
 - (1) Minimum and maximum test levels. No horse participating in the program may race with a test level of less than 0.3 micrograms of phenylbutazone per milliliter of blood or in excess of 5 micrograms of phenylbutazone per milliliter of blood.
 - (2) Administration of Phenylbutazone. Horses racing as Phenylbutazone Eligible may not be given phenylbutazone within 24 hours of the published post time. A veterinarian may administer phenylbutazone orally or by injection. A trainer may only administer Phenylbutazone orally, under the direction and upon the prescription of a veterinarian.
- D. Racing requirements. Any horse that races on phenylbutazone must comply with the following requirements.
 - (1) Any horse that races on phenylbutazone must continue to race on phenylbutazone for a period of not less than 30 consecutive days.
 - (2) Any horse that has raced on phenylbutazone for a period of at least 30 consecutive days may race without phenylbutazone upon written notice to the Commission on a form approved by the Commission and signed by the trainer indicating that the horse no longer needs to race on phenylbutazone. That horse may not race on phenylbutazone for a period of 30 consecutive days after the date the form was received.
- G. Change of ownership. If any horse on the phenylbutazone program changes ownership either by sale, claim or otherwise, that horse shall not be allowed to race until the certification and/or removal forms have been

appropriately completed by the new trainer and received at the Department office on the grounds of the race track.

3. Furosemide

- A. Eligibility. In order to be eligible for the use of furosemide on race day, a horse must be certified as "Furosemide Eligible" by the Department Veterinarian on a form approved by the Department. A copy of that certification must be on file in the Department office. The Department Veterinarian may certify a horse as furosemide eligible based on a finding of a "good cause showing" of the need for the use of furosemide to treat the horse for exercised induced pulmonary hemorrhage. A good cause showing may be determined by:
- (1) the Department Veterinarian attesting to the medical need for the therapeutic administration of furosemide to treat exercised induced pulmonary hemorrhage based on personal observation, an endoscopic examination of the horse, and evaluation of the horse's medical condition by the Department Veterinarian;
 - (2) a written statement by a veterinarian attesting to the medical need for the therapeutic administration of furosemide to treat exercised induced pulmonary hemorrhage based on personal observation, an endoscopic examination of the horse, and evaluation of the horse's medical condition by that veterinarian; or
 - (3) written documentation that the horse has been racing on furosemide in another racing jurisdiction.
 - (4) In the absence of written documentation from another jurisdiction as required by paragraph 3, the trainer may be allowed to file an affidavit with the State Steward that the horse has raced on furosemide in submit the written documentation required by paragraph 3 to the commission office within 14 days of the date the affidavit is signed. Any purse earned by that horse shall be held until the 14 day period has expired or the documentation has been received by the commission, whichever occurs first. If the documentation to substantiate the affidavit is not received within the 14 day period, that purse is forfeited.
- B. Declaration. The trainer of a horse certified as "Furosemide Eligible" shall indicate that the horse is "Furosemide Eligible" on the declaration form each time the horse is entered to race. If the horse is racing with furosemide for the first time, the trainer shall indicate that on the declaration form. Before the draw, the racing association shall verify the eligibility of a horse so entered with a list of "Furosemide Eligible" horses

submitted by the Department to the racing office of each association. The association must post this list in the office of the Race Secretary. A trainer who violates this subsection shall be subject to a fine or suspension of the license, or both. Each Association shall ensure that the race program correctly identifies all horses racing on the Furosemide program. Failure to do so shall be a Level Three violation of these rules.

C. Administration of Furosemide

- (1) Schedule. All horses entered to race on furosemide must report to the area within the paddock designated by the paddock judge for the administration of furosemide not less than three hours prior to the published post time for that horse's race and remain in the paddock until post time except for pre-race warm up. The Department Veterinarian shall establish a schedule for the administration of the furosemide.
- (2) Procedures. Horses may be administered furosemide only by hypodermic injection by the Department Veterinarian.
- (3) Permitted dosage. A horse eligible to use furosemide will be permitted a dosage equal to a minimum of 100 milligrams (2 cc.) and a maximum of 250 milligrams (5 cc.). The dosage must be given between 2 1/2 and 4 hours prior to the published post time for that horse's race.
- (4) The Department Veterinarian shall keep a log of the name of each horse given furosemide, the name of the trainer, and the time the furosemide was given.
- (5) Effect of noncompliance. Horses not in compliance with this subsection may be scratched from the race. Any horse that reports to the paddock area late but in time for the furosemide to be administered at least within 2 1/2 hours prior to the published post time for that horse's race, as required by paragraph 3, will not be scratched. A trainer who fails to ensure that his or her horse arrives at the paddock at least 3 hours prior to the published post time, as required by paragraph 3, will be fined \$50, regardless of whether the horse is scratched or not.

D. Racing requirements

A horse that races on furosemide must comply with the following requirements.

- (1) Any horse that races on furosemide must continue to race on furosemide for a period of not less than 30 consecutive days.

- (2) Any horse that has raced on furosemide for a period of at least 30 consecutive days may race without furosemide upon written notice to the Department on a form approved by the Department and signed by the trainer indicating that the horse no longer needs to race on furosemide. That horse may not race on furosemide for a period of 30 consecutive days after the judges have been notified.
 - (3) The Department Veterinarian may remove a horse from the furosemide program at any time based on a medical determination that the horse is no longer required to be on the furosemide program or that the horse should not have been placed on the furosemide program.
- E. User fee. A user fee shall be paid by the trainer for each horse which races on furosemide. The fee shall be determined by the Department and shall be paid prior to the administration of the furosemide to offset the cost of the furosemide program. All funds collected shall be dedicated to the administration of the furosemide program. The Department shall consider the following criteria when establishing the fee for this program:
 - (1) compensation of the veterinarian administering the furosemide;
 - (2) cost of medication and medical supplies;
 - (3) compensation of additional paddock personnel, and
 - (4) other reasonable administrative costs of the furosemide program.
- F. Additional security required. Each association shall provide one additional Paddock Security Officer for additional security for the furosemide area.
- G. Change of ownership. If any horse racing with furosemide changes ownership either by sale, claim or otherwise, that horse shall not be allowed to race until the certification and/or removal forms have been appropriately completed by the new trainer and received at the Commission office on the grounds of the race track.

Section 3. ALKALINIZING AGENTS

- 1. Testing will be conducted post-race at the Commission's designated laboratory. Positive test results will be reported immediately by the Commission's Chemist to the Department, as with any Prohibited Substance.
- 2. Maximum Acceptable Test Levels

- A. Maximum acceptable test levels of Total Carbon Dioxide (TCO₂) shall be 37.0 mmol/l for horses not racing on furosemide.
 - B. Maximum acceptable test levels of Total Carbon Dioxide (TCO₂) shall be 39.0 mmol/l for horses racing on furosemide.
 - C. When test levels of Total Carbon Dioxide (TCO₂) exceed the acceptable level, it is demonstrative that the horse has been administered an alkalinizing agent and constitutes a violation of the rules.
3. Naturally High Levels of Total Carbon Dioxide (TCO₂)

If a horse has a test sample in excess of the maximum acceptable test levels of TCO₂ established in Section 3, subsection 2, the owner or trainer may request that the horse be taken to a secure detention facility approved by the Commission. The horse shall be monitored and repeatedly tested to determine the normal level of TCO₂ for that horse. The samples must be drawn a minimum of four times a day for three consecutive days, at intervals, no closer than three (3) hours. These samples will then be transported to the Commission's designated laboratory for testing.

If the Department determines that the normal TCO₂ levels of the horse are in excess of the maximum acceptable test levels established in Section 3, subsection 2, no violation shall have occurred. The Commission may establish new acceptable levels of TCO₂ for that horse.

If the normal TCO₂ levels of the horse are determined to be at or below the maximum acceptable test levels, then a violation shall have occurred.

All expenses of the detention and additional testing shall be the responsibility of the person requesting the detention and testing.

In lieu of testing at a secure detention facility, the Commission may accept evidence from another racing jurisdiction that a horse has a normal TCO₂ level that is in excess of the maximum acceptable test levels.

Section 4. PROHIBITED SUBSTANCES

- 1. Classification of Prohibited Substances
 - A. Classification Guidelines. Prohibited substances are classified to evaluate the seriousness of violations of the general medication rule. The ranking of drugs is based on their pharmacology, their ability to influence the outcome of a race and whether or not they have legitimate therapeutic uses in the racing horse. The classes of drugs are intended to be used as

guidelines to assist the commission in adjudicating the seriousness of violations of the general medication rule. The list of drugs in paragraph B is not intended to be inclusive and may be used to represent a chemical class of drugs. Any prohibited substance or drug not listed in paragraph B may be categorized by the Commission based on the guidelines in this section or the examples of representative drugs listed in paragraph B. The drug classification program will be reviewed frequently and drugs will be added or reclassified as appropriate.

The drug classification scheme is based on the pharmacology, drug use patterns and the appropriateness of a drug for use in the racing horse as follows:

- (1) Pharmacology. Drugs which are known to be potent stimulants or depressants are placed in more serious (i.e. one and two) classes, while those which have or would be expected to have little effect on the outcome of a race are placed in less serious (i.e. Four and five) classes.
- (2) Drug Use Patterns. Some consideration is given to placement of drugs based on practical experience with their use and the nature of positive tests. For example, procaine positives have 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.
- (3) Appropriateness of Drug Use. Drugs which are intended for use in equine therapeutics are placed in lower classes. Drugs which are recognized as legitimately useful in equine therapeutics but could affect the outcome of a race are placed in the middle or higher classes. Drugs which are not intended for therapeutic use in the horse are placed in higher classes, particularly if they might affect the outcome of the race.

B. List of drug classes. The following describes the types of drugs placed in each category.

- (1) Class 1: Stimulant and depressant drugs which have the highest potential to affect performance and/or which have no generally accepted medical use in the racing horse. Many of these agents are Drug Enforcement Agency schedule I and II substances. Class 1 drugs include the following drugs and their metabolites; Opiates, opium derivatives, synthetic opioids and psychoactive drugs, amphetamines and amphetamine-like drugs as well as related drugs. Class I drugs shall also include Erythropoietin (EPO), Darbepoietin, Oxyglobin, and Hemopure and any other similar blood doping substances.

- (2) Class 2: Drugs which have a high potential to affect performance, but less of a potential than Class 1. These drugs are (a) generally not accepted as therapeutic agents in racing horses, or (b) they are therapeutic agents that have a high potential for abuse. Class 2 drugs include psychotropic drugs, certain nervous system and cardiovascular system stimulants and depressants and neuromuscular blocking agents. Injectable local anesthetics are included in this class because of their high potential for abuse as nerve blocking agents.
- (3) Class 3: Drugs which may or may not have generally accepted medical use in the racing horse, but the pharmacology of which suggests less potential to affect performance than drugs in Class 2, Class 3 drugs include bronchodilators and other drugs with primary effects on the autonomic nervous system, procaine, antihistamines with sedative properties and the high ceiling diuretics.
- (4) Class 4: This class includes therapeutic medication which would be expected to have less potential to affect performance than those in Class 3. Class 4 drugs include less potent diuretics, anabolic steroids, corticosteroids, antihistamines and skeletal muscle relaxants without prominent Central Nervous System effects, expectorants and mucolytics, hemostatics, cardiac glycosides and antiarrhythmics, topical anesthetics, antidiarrheals and mild analgesics. The class also includes the non-steroidal anti-inflammatory drugs at concentrations greater than established limits.
- (5) Class 5: This class includes those therapeutic medications and miscellaneous agents such as Dimethylsulfoxide which would be expected to have less potential to affect performance than those in Class 4.

Section 5. PROHIBITED PRACTICES

- 1. The practice, administration, or application of a treatment, procedure, therapy of method identified below, which is performed on the premises of a facility under jurisdiction of a regulatory body and which may endanger the health and welfare of the horse or endanger the safety of the driver, or the use of which may adversely affect the integrity of racing:
 - A. Intermittent Hypoxic Treatment by External Device
 - B. Shock Wave Therapy/Instruments

Only a licensed veterinarian may possess an instrument used for shock wave therapy.

No horse shall be treated with any form of shock wave therapy within seven (7) days of racing (the day of the treatment shall be considered the first day in counting the number of days).

A licensed veterinarian shall only perform the administration of shock wave therapy. A veterinarian using shock wave therapy shall document and report each treatment to the State Racing Commission and /or the State Racing Veterinarian.

A violation of this section of the Rules shall be considered a Level 3 violation.

Section 6. *(Not in use)*

Section 7. OUT-OF-COMPETITION TESTING

1. Any horse on the grounds at a racetrack under the jurisdiction of the commission, or stabled off association grounds while under the care or control of trainer or owner licensed by the commission, is subject to testing without advance notice.
2. Horses to be tested shall be selected at the discretion of the Commission, executive director or judges.
3. Trainers shall fully comply with the instructions of the Commission, which may include but not limited to the following: trainers shall present their horse(s) for testing at the specified time and place mandated by the Commission; testing procedures may be performed on the grounds of any Commission licensed association, trainer's training facility or any other location under commission jurisdiction. Failure to comply shall result in the horse(s) being ineligible to race, and shall be considered a violation equivalent to a Class 1 positive. It is a defense to any action brought against an owner and/or trainer that good cause existed that prohibited the owner and/or trainer from complying with the time limits set forth in this subsection. The owner and/or trainer has the burden of proving that good cause existed by a preponderance of the evidence.
4. The Commission may require a licensed trainer to allow, at any time, a veterinarian employed by the commission or the department, or a veterinarian designated by the commission and accompanied by a state racing steward, access to a premises where the horse is kept for the purpose of obtaining a blood sample from a horse for out-of-competition testing. All samples obtained shall

immediately be sealed in a suitable container and witnessed by the trainer or trainer's authorized agent and certified to by their signature.

5. Prohibited substances, practices, and procedures are defined as:
 - A. Blood doping agents including, but not limited to, erythropoietin (EPO), Darbepoetin, Oxyglobin, Hemopure, Aranesp, or any substance that abnormally enhances the oxygenation of body tissues;
 - B. Gene doping agents or the non-therapeutic use of genes, genetic elements, and/or cells that have the capacity to enhance athletic performance or produce analgesia;
 - C. The presence of any substance described in Paragraph A or B is prohibited and is a violation of this rule; and
 - D. The following conduct by a licensee shall be considered a violation of this rule:
 - (1) Possession of any substance as described in Paragraph A and/or B, the use of which may endanger the health and welfare of the horse, or endanger the safety of the driver, or which may adversely affect the integrity of racing;
 - (2) Possession and/or use of a drug, substance or medication that has not been approved by the United States Food and Drug Administration (FDA) for use in a horse in the United States; or,
 - (3) Possession and/or use of any product not clearly labeled, listing ingredients.
6. The trainer shall cooperate with a veterinarian employed by the commission or the department, or a veterinarian designated by the commission and accompanied by a state racing steward, by:
 - A. Assisting in the immediate location and identification of the horse(s) selected for out-of-competition testing;
 - B. Providing a stall or safe location to collect the samples;
 - C. Assisting in properly procuring the samples; and
 - D. Obeying any instruction necessary to accomplish the provision of this rule.

Refusal to comply with the commission's directives for obtaining a sample under this rule is a basis for suspension of a trainer's license.

7. The collection of blood, urine or hair samples under this rule shall be divided in three (3) parts to be analyzed as follows:
 - A. Approved primary laboratory for screening;
 - B. Approved primary laboratory for confirmation; and,
 - C. Approved laboratory for split sample testing. The commission shall approve the laboratories for screening, confirmation, and split sample testing.
 - D. In the event of an initial finding of a prohibited substance in violation of Commission Rules, the laboratory shall notify the Commission, both orally and in writing, and an oral and written notice shall be issued by the Commission to the owner and trainer or other responsible person no more than seventy-two (72) hours after receipt of the initial finding.
 - E. If a confirmatory test is desired of the third sample, the owner, trainer or other responsible person shall so notify the Commission in writing within seventy-two (72) after receipt of the written notification of the initial positive test.
8. In the absence of mitigating circumstances, a minimum penalty of a ten (10) year suspension and a ten thousand dollar fine (\$10,000.00) will be assessed for any violation of sub-section 5.
9. Unless otherwise noted, the other provisions of this section apply to out-of-competition testing.

STATUTORY AUTHORITY: 8 M.R.S.A. §§ 263-A, 268, 275-C, 279-A, 279-B, 281

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