

Explanatory paragraph: This is an amendment to 15.2.6 NMAC, Section 9, effective 03/14/2018.

15.2.6.9 MEDICATIONS AND PROHIBITED SUBSTANCES: The classification guidelines contained within the "uniform classification guidelines for foreign substances and recommended penalties and model rule", [\[April 20, 2017, version 13.02\]](#) [July 29, 2017, version 13.3](#) and “association of racing commissioners international inc. controlled therapeutic medication schedule for horses”, version 4.0, revised April 20, 2017 by the association of racing commissioners international, are incorporated by reference. Any threshold herein incorporated by reference by inclusion in one of the documents above shall not supersede any threshold or restriction adopted by the commission as specified by this section.

B. Penalty recommendations:

(1) Category A penalties will be assessed for violations due to the presence of a drug carrying a category A penalty. Recommended penalties for category A violations are as follows:
Licensed trainer:
1st offense:
A minimum one-year suspension absent mitigating circumstances or the presence of aggravating factors could be used to impose a maximum three-year suspension. A minimum fine of \$10,000 or ten percent of the total purse (greater of the two) absent mitigating circumstances or the presence of aggravating factors could be used to impose a maximum fine of \$25,000 or twenty-five percent of the total purse (greater of the two) and may be referred to the commission for any further action deemed necessary by the commission.
2nd Lifetime offense in any jurisdiction:
A minimum three-year suspension absent mitigating circumstances or the presence of aggravating factors could be used to impose a maximum of license revocation with no reapplication for a three-year period. A minimum fine of \$25,000 or twenty-five percent of the total purse (greater of the two) absent mitigating circumstances or the presence of aggravating factors could be used to impose a maximum fine of \$50,000 or fifty percent of the total purse (greater of the two), and may be referred to the commission for further action deemed necessary by the commission.
3rd Lifetime offense in any jurisdiction:
A minimum five-year suspension absent mitigating circumstances or the presence of aggravating factors could be used to impose a maximum of license revocation with no reapplication for a five-year period. A minimum fine of \$50,000 or fifty percent of the total purse (greater of the two) absent mitigating circumstances or the presence of aggravating factors could be used to impose a maximum fine of \$100,000 or one hundred percent of the total purse (greater of the two), and may be referred to the commission for any further action deemed necessary by the commission.
Licensed owner:
1st offense:
Disqualification and loss of purse. Horse shall be placed on the veterinarian’s list for 180 days and must pass a commission-approved examination before becoming eligible to be entered.
2nd Lifetime offense in <u>owner’s</u> stable in any jurisdiction:
Disqualification and loss of purse. Horse shall be placed on the veterinarian’s list for 180 days and must pass a commission-approved examination before becoming eligible to be entered.
3rd Lifetime offense in <u>owner’s</u> stable in any jurisdiction:
Disqualification, loss of purse, \$50,000 fine. Horse shall be placed on the veterinarian’s list for 180 days and must pass a commission-approved examination before becoming eligible to be entered and referral to the commission with a recommendation of a suspension for a minimum of 90 days.

(2) Category B penalties will be assessed for violations due to the presence of a drug carrying a category B penalty and for the presence of more than one NSAID in a plasma or serum sample in accordance with Paragraphs (3) and (4) of Subsection N of 15.2.6.9 NMAC. Recommended penalties for
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category B violations are as follows:
Licensed trainer:
1st offense:
A minimum 15-day suspension absent mitigating circumstances or the presence of aggravating factors could be used to impose a maximum 60-day suspension. A minimum fine of \$500 absent mitigating circumstances or the presence of aggravating factors could be used to impose a \$1,000 fine.
2nd [Lifetime] offense (365-day period) in any jurisdiction:
A minimum 30-day suspension absent mitigating circumstances or the presence of aggravating factors could be used to impose a maximum 180-day suspension. A minimum fine of \$1,000 absent mitigating circumstances or the presence of aggravating factors could be used to impose a maximum fine of \$2,500.
3rd [Lifetime] offense (365-day period) in any jurisdiction:
A <u>minimum</u> 60-day suspension absent mitigating circumstances or the presence of aggravating factors could be used to impose a maximum of a one year suspension. A minimum fine of \$2,500 absent mitigating circumstances or the presence of aggravating factors could be used to impose a maximum \$5,000 fine or five percent of the total purse (greater of the two) and may be referred to the commission for any further action deemed necessary by the commission.
Licensed owner:
1st offense:
Disqualification, loss of purse (in the absence of mitigating circumstances)* and horse must pass a commission-approved examination before becoming eligible to be entered.
2nd [Lifetime] offense (365-day period) in owner's stable in any jurisdiction:
Disqualification, loss of purse (in the absence of mitigating circumstances)* and horse must pass a commission-approved examination before becoming eligible to be entered.
3rd [Lifetime] offense (365-day period) in owner's stable in any jurisdiction:
Disqualification, loss of purse, and in the absence of mitigating circumstances a \$5,000 fine* and horse shall be placed on the veterinarian's list for 45 days and must pass a commission-approved examination before becoming eligible to be entered.
{(2) — Category B penalties will be assessed for violations due to the presence of a drug carrying a category B penalty and for the presence of more than one NSAID in a plasma or serum sample in accordance with Paragraphs (3) and (4) of Subsection P of 15.2.6.9 NMAC. Recommended penalties for category B violations are as follows:
Licensed trainer:
1st offense:
A minimum 15 day suspension absent mitigating circumstances or the presence of aggravating factors could be used to impose a maximum 60 day suspension. A minimum fine of \$500 absent mitigating circumstances or the presence of aggravating factors could be used to impose a \$1,000 fine.
2nd Lifetime offense in any jurisdiction:
A minimum 30 day suspension absent mitigating circumstances or the presence of aggravating factors could be used to impose a maximum 180 day suspension. A minimum fine of \$1,000 absent mitigating circumstances or the presence of aggravating factors could be used to impose a maximum fine of \$2,500.
3rd Lifetime offense in any jurisdiction:
A 60 day suspension absent mitigating circumstances or the presence of aggravating factors could be used to impose a maximum of a one year suspension. A minimum fine of \$2,500 absent mitigating circumstances or the presence of aggravating factors could be used to impose a maximum \$5,000 fine or five percent of the total purse (greater of the two) and may be referred to the commission for any further action deemed necessary by the commission.
Licensed owner:
1st offense:
Disqualification, loss of purse (in the absence of mitigating circumstances)* and horse must pass a commission-approved examination before becoming eligible to be entered.
2nd Lifetime offense in stable in any jurisdiction:
Disqualification, loss of purse (in the absence of mitigating circumstances)* and horse must pass a commission-approved examination before becoming eligible to be entered.
3rd Lifetime offense in stable in any jurisdiction:
Disqualification, loss of purse, and in the absence of mitigating circumstances a \$5,000 fine* and horse must pass

~~a commission approved examination before becoming eligible to be entered.]~~

(3) Category C (**minor**) penalties will be assessed for violations due to the presence of more than one NSAID in a plasma or serum sample in accordance with Paragraph (6) of Subsection N of 15.2.6.9 NMAC and overages for NSAIDs or for furosemide violations utilizing the following concentrations in serum or plasma:

- (a) phenylbutazone >2.0 mcg/ml and up to 5.0 mcg/ml; or
- (b) flunixin > 20 ng/ml and up to 100 ng/ml; or
- (c) ketoprofen > 2 ng/ml and up to 50 ng/ml; or
- (d) furosemide >100 ng/ml; or
- (e) no detectable furosemide concentration when identified as administered.

Recommended penalties for category C (**minor**) violations are as follows:

Licensed trainer:

1st offense (365-day period) in any jurisdiction, the penalty is a minimum of a written warning to maximum fine of \$500.

2nd offense (365-day period) in any jurisdiction, the penalty is a minimum of a written warning to maximum fine of \$750.

3rd offense (365-day period) in any jurisdiction, the penalty is a minimum fine of \$500 to a maximum fine of \$1,000.

Licensed owner:

1st offense (365-day period) in any jurisdiction, the penalty is the horse may be required to pass a commission-approved examination before being eligible to run.

2nd offense (365-day period) in any jurisdiction, the penalty is the horse may be required to pass a commission-approved examination before being eligible to run.

3rd offense (365-day period) in any jurisdiction, the penalty is disqualification, loss of purse and horse must pass a commission-approved examination before being eligible to run.

(4) Category C (**major**) penalties will be assessed for violations due to the presence of a drug carrying a category C penalty.

- (a) phenylbutazone [~~>5.1 mcg/ml;~~] >5.0 mcg/ml or
- (b) flunixin [~~>101 ng/ml;~~] > 100 ng/ml or
- (c) ketoprofen [~~>51 ng/ml;~~] > 50 ng/ml or
- (d) the presence of more than one NSAID in a plasma or serum sample in accordance with Paragraph (5) of Subsection N of 15.2.6.9 NMAC; or
- (e) penalty class C drugs.

Recommended penalties for category C (**major**) violations are as follows:

Licensed trainer:

1st offense (365-day period) in any jurisdiction, the penalty is a minimum fine of \$1,000 absent mitigating circumstances.

2nd offense (365-day period) in any jurisdiction, the penalty is a minimum fine of \$1,500 and 15 day suspension absent mitigating circumstances.

3rd offense (365-day period) in any jurisdiction, the penalty is a minimum fine of \$2,500 and a 30 day suspension absent mitigating circumstances.

Licensed owner:

1st offense (365-day period) in any jurisdiction, the penalty is disqualification and loss of purse in the absence of mitigating circumstances. The horse [~~may be required to~~] must pass a commission-approved examination before being eligible to run.

2nd offense (365-day period) in any jurisdiction, the penalty is disqualification and loss of purse in the absence of mitigating circumstances. [~~and~~] If same horse, that horse shall be placed on veterinarian's list for 45 days and must pass a commission-approved examination before being eligible to run.

3rd offense (365-day period) in any jurisdiction, the penalty is disqualification, loss of purse, and in the absence of mitigating circumstances a [minimum] \$5,000 fine and if same horse that horse shall be placed on veterinarian's list for 60 days and must pass a commission-approved examination before being eligible

to run.

(5) Any violation subsequent to a third violation will carry the same terms as imposed for a third violation. Penalties will run consecutively for a trainer or owner.

(6) If the trainer has not had more than one violation involving a drug that carries a category C penalty within the previous two years, the stewards are ~~eneourage~~ encouraged to issue a warning in lieu of a fine provided the reported level in phenylbutazone is below 3.0 micrograms per milliliter absent of aggravating factors.

(7) After a two-year period, if a licensee has had no further violations involving a drug that carries a category C penalty, any penalty due to an overage in the 2.0-5.0 micrograms per milliliter range for phenylbutazone will be expunged from the licensee's record for penalty purposes.

Explanatory paragraph: This is an amendment to 15.2.6 NMAC, Section 10, effective 03/14/2018.

15.2.6.10 TESTING:

D. Storage and shipment of split samples:

(1) Split samples obtained in accordance with Paragraphs (3) and (4) Subsection B, of 15.2.6.10 NMAC above shall be secured and made available for further testing. A split sample shall be secured in the test barn under the same manner as the portion of the specimen acquired for shipment to a primary laboratory until such time as specimens are packed and secured for shipment to the primary laboratory. Split samples shall then be transferred to a freezer or other secured mechanism at a secure location as provided by state statute or approved by the commission.