



Ohio Administrative Code Rule 3769-8-01 Medication and testing.

Effective: January 8, 2024

(A) It is the intent of this rule to protect the integrity of horse racing, guard the health of the horse, and safeguard the interest of the public and racing participants through the prohibition or control of drugs, medications and substances foreign to the natural horse. In this context:

(1) Except for regulatory thresholds of such non-steroidal anti-inflammatory drugs and therapeutic substances authorized for use by order of the commission, and except for those horses eligible for the use of furosemide as permitted by paragraph (A)(1)(b) of this rule, no horse entered to race can carry in its body on race day any prohibited foreign substance.

(a) The presence of any one of the non-steroidal anti-inflammatory drugs approved for use by the commission will be permitted at a concentration not to exceed the respective regulatory threshold established by the commission. Administration of any non-steroidal anti-inflammatory drug is prohibited within the twenty-four hours before post time for the race in which the horse is entered. The presence of more than one of the approved non-steroidal anti-inflammatory drug in serum or plasma is prohibited. The presence of any unapproved non-steroidal anti-inflammatory drug in the post-race serum, plasma, or urine sample is also prohibited. The use of all but one of the approved non-steroidal anti-inflammatory drugs has to be discontinued at least forty-eight hours before the post time for the race in which the horse is entered;

(b) In order to be eligible for furosemide on a raceday, a horse has to be certified as "furosemide eligible" by the state veterinarian, another veterinarian or by the stewards based upon either:

(i) A good cause showing of need for furosemide for said horse by the owner, trainer, veterinarian or authorized agent. For purposes of this rule, prima facie evidence of a "good cause showing" includes but is not limited to the personal observation of the state veterinarian by scope or otherwise, of exercise-induced pulmonary hemorrhage (E.I.P.H.) in the horse; or

(ii) A statement issued in writing by a veterinarian attesting to his personal observation, by scope or



otherwise, of E.I.P.H. in the horse; or

(iii) Based upon evidence the horse raced on furosemide in its preceding start, a horse is deemed "furosemide eligible" in writing by the stewards.

(c) A horse eligible for furosemide will be permitted a dose equal to a minimum of one hundred milligrams and a maximum of five hundred milligrams. Horses can only be administered furosemide intravenously four hours or more prior to the post time of its race by a veterinarian who is employed by the owner, authorized agent, or trainer of the horse. Furosemide will only be administered on the grounds of that permit holder. Furosemide may only be administered when an attendant is present. The attendant has to sign documentation indicating they were present during the administration of furosemide.

(2) A written certificate issued by the stewards or a written sworn statement of certification executed by the state veterinarian or another veterinarian declaring that a horse is "furosemide eligible" has to be deposited with the stewards at commercial tracks at least forty-eight hours prior to post time when a horse first races using furosemide. At county or independent fairs, the written certificate has to be deposited with the racing secretary prior to post time of the first race on the day that horse first races using furosemide.

(3) Any horse racing with furosemide is governed by the following conditions in addition to those set forth in paragraph (A)(1) of this rule:

(a) Once a horse has raced with furosemide, that horse has to be administered furosemide every time it races for the next ninety days. This paragraph does not apply when furosemide is prohibited by jurisdiction or race condition.

(b) After a horse races with furosemide for at least ninety days and the owner or trainer decides the horse no longer needs furosemide, the owner or trainer may, upon written notice to the stewards, cease the use of furosemide. That horse will not race with furosemide for at least thirty days. This paragraph does not apply when furosemide is prohibited by jurisdiction or race condition.

(c) Any time a veterinarian administers furosemide to a horse scheduled to race, said veterinarian



shall confirm that horse is entered to race on furosemide, according to the overnight entries published by the racing secretary, and fill out and sign a form approved by the commission. Said form shall be delivered to the stewards.

(d) Other than furosemide as permitted in this rule or except in the case of emergency, no foreign substance may be administered to a horse on a race day before the conclusion of the race that horse has been entered in or until the horse has been released by the state veterinarian from the state testing barn or the retention area at a county or independent fair.

(4) It shall be deemed a violation of this rule:

(a) Should a test sample taken from a horse not reported to the racing secretary as racing on furosemide and listed as such in the daily program test positive for furosemide; or

(b) Should a test sample of urine taken from a horse show a urine specific gravity less than 1.010 and a test sample of blood taken from a horse show a level of furosemide greater than one hundred nanograms per milliliter of plasma; or, in the event no urine sample is collected from a horse, should a test sample of blood taken from a horse show a level of furosemide greater than one hundred nanograms per milliliter of plasma; or,

(c) Should a test sample taken from a horse reported to the racing secretary as racing on furosemide and listed as such in the daily program test negative for furosemide; or

(d) Should a test sample of blood taken from a horse show a concentration of total carbon dioxide in the plasma and/or serum in excess of thirty-seven millimoles per liter; or

(e) Should a test sample show a concentration of any non-steroidal anti-inflammatory drug in excess of the regulatory threshold established by the commission; or

(f) Should any licensee fail to comply with any part of the provisions within paragraph (A)(3).

(5) On premises under the jurisdiction of the commission, no licensees other than veterinarians can possess a nasogastric tube, equipment, including bottles designed for hypodermic administration, any



foreign substance considered a prescription drug unless it is for an existing condition and is prescribed by a veterinarian, any quantity of sodium bicarbonate (baking soda) or any preparation containing more than thirty grams (one ounce) of sodium bicarbonate. When prescribed by a veterinarian, the supply of any foreign substance is limited by ethical practice consistent with the purposes of this rule. This rule does not affect any prohibition of drugs, narcotics, stimulants, substances and other items listed in rules 3769-8-06, 3769-8-07 and 3769-8-09 of the Administrative Code.

(6) Notwithstanding the provisions of paragraph (A)(5) of this rule, any licensee may possess within a race track enclosure any chemical substance for personal use provided that, if the chemical substance is prohibited from being dispensed by any federal or state law without a prescription, the person is in possession of documentary evidence that a valid prescription for the chemical substance has been issued to the person and a sworn statement clearly describing the chemical substance and its intended use has been filed with the state steward. Under no circumstances is this rule deemed to authorize the possession on the premises of any permit holder of any substance prohibited by rule 3769-8-06 of the Administrative Code.

(7) Notwithstanding the provisions of paragraph (A)(5) of this rule, any licensee may possess within any race track enclosure a hypodermic syringe or needle for the purpose of self-administering a medically-prescribed chemical substance provided the licensee has notified the state steward of possession, size of the hypodermic syringe or needle and the chemical substance to be administered.

(8) Following each pari-mutuel race at a commercial track, a test sample will be taken for the purpose of analysis from at least one participating horse designated by the stewards. In addition, stewards may designate by lot or otherwise one or more horses from which a test sample will be taken for the purpose of analysis. The state veterinarian, the executive director or any commission member may also order the collection of a test sample from any horse for the purpose of analysis

At all county and independent fairs, stewards may order test samples be taken from horses for the purpose of analysis. Stewards may select horses by lot or otherwise.

(9) The commission will appoint, at its cost, a veterinarian or veterinary technician to take test samples or supervise the collection of them, approve a laboratory for test sample analysis and require



the analysis of all test samples collected. The cost of analysis of the blood and urine samples taken from one horse in each race will be deducted from the purse for that race and forwarded to the commission. The cost of analysis of all other samples will be paid by the commission.

At each commercial race track the permit holder provides at its cost and subject to the approval of the state veterinarian or commission, an adequate number of assistants as determined by the commission, to aid in securing test samples. Under the supervision of the state veterinarian or veterinary technician, assistants have free access to the state testing barn. The commission may also appoint, at its cost, veterinarians or other persons to supervise the practice of veterinary medicine at all premises under the jurisdiction of the commission and all activities involving the securing, handling and analysis of test samples.

No veterinarian appointed by the commission or employed by a permit holder is permitted to treat or prescribe for any horse on the grounds, except in case of emergency, when a full and complete report will be made to the stewards. No licensee can employ or compensate a veterinarian or the assistants of a veterinarian appointed by the commission or hired by a permit holder.

(10) A finding by the chemist that a foreign substance, other than a permitted level of furosemide, any non-steroidal anti-inflammatory drug, or therapeutic substance authorized for use by order of the commission, as permitted in paragraph (A)(1)(a) of this rule, is present in the urine or blood sample is considered a positive test and a violation of this rule. Also, it is prima facie evidence that such foreign substance was administered and carried in the body of the horse while participating in a race and that the trainer and his agents responsible for the care and custody of the horse have been negligent in the handling or care of the horse.

(11) Every horse which suffers a breakdown while training or racing and is destroyed and every horse which expires under suspicious or unusual circumstances while under the jurisdiction of the commission may be required by the state veterinarian to undergo a post-mortem examination at a time and place determined by the state veterinarian in an attempt to ascertain the injury or disease which resulted in euthanasia or caused death.

(a) The commission pays all costs involved in a post-mortem examination conducted by a veterinarian approved by the commission.



(b) A written record of all information normally contained in a post-mortem report, and other information specifically requested, will be provided to the state veterinarian.

(c) Test samples specified by the state veterinarian will be obtained from the carcass upon which the post-mortem examination is conducted, sent to a laboratory approved by the commission and analyzed for foreign substances, natural substances at abnormal levels, etiological agents and pathological lesions. Test samples may be procured prior to euthanasia.

(12) The commission has the authority to direct the approved laboratory to retain and preserve, by freezing, any samples for future analysis.

(13) Should test sample analysis result in a violation of any provision within paragraph (A)(1) of this rule other than a substance that has an ARCI recommended 'D' penalty, the horse is disqualified in accordance with rule 3769-7-45 of the Administrative Code and any licensee found in violation is subject to penalties contained in paragraph (A)(15) of this rule.

In situations where penalties include a forfeiture of the purse and any trophy or award, until the purse, as well as any trophy or award, is returned, the owner and trainer of the horse may be suspended. The fact that purse money has been distributed prior to the issuance of a laboratory report is not a finding that no foreign substance has been administered to the horse earning the purse money.

No redistribution of such purse is required until a permit holder is refunded the purse money. The horse designated the winner will be awarded any purse money following the disqualification if there are not enough non-offending horses to share such purse.

When required by the penalty section of this rule, stewards will disqualify the horse from which the positive test sample was obtained, and advance finish positions of the remaining horses accordingly. The commission may continue any suspension made pursuant to the provision listed in this paragraph for such period of time as it may determine.

(14) It is the responsibility of the trainer of the winning horse or any other horse from which the



stewards order a test sample to be taken, to see that horse is taken directly after the race to the state testing barn at a commercial track or to the retention area at a county and independent fair.

(15) The stewards may fine any licensee who violates any provision within paragraphs (A)(1) to (A)(5) of this rule an amount not in excess of one thousand dollars, suspend such licensee for a period not to exceed one year and refer the matter to the commission for its consideration. The penalties for the violation of any provision within paragraphs (A)(1) and/or (A)(4) of this rule are to be determined in accordance with the provisions of paragraph (A)(16) of this rule. Stewards may fine any licensee who violates any other requirements in paragraph (A) of this rule an amount not in excess of one thousand dollars, suspend such licensee for a period not to exceed one year and refer the matter to the commission for further consideration.

(16) Upon finding a violation of any provisions within paragraphs (A)(1) to (A)(14) of this rule, and subject to the provisions of rule 3769-7-45 of the Administrative Code, the horse will be disqualified. Stewards will consider the classification level of the violation as established by the system of classification of prohibited foreign substances adopted by the commission and impose penalties and disciplinary measures consistent with the recommendations contained therein. If a majority of stewards determine that mitigating circumstances require imposition of a lesser penalty, they may impose the lesser penalty. If a majority of stewards wish to impose a penalty in excess of the authority granted them, they can impose the maximum penalty authorized and refer the matter to the commission with a specific recommendation for further action.

(17) When imposing penalties for violations of any provision(s) within paragraphs (A)(1) to (A)(14) of this rule, stewards and the commission may consider, in addition to the considerations outlined in paragraph (A)(16) of this rule, the following factors:

- (a) The accessibility of the drug, considering whether it can be purchased over the counter, only with a prescription, only with a license for controlled substances, or cannot be purchased in this country;
- (b) The experience of the violator;
- (c) Whether the violator has ever been the subject of a medication ruling in any racing jurisdiction;



(d) What action, if any, was taken by the licensee to avoid the violation.

Stewards and the commission are not required to articulate any of the foregoing in any ruling issued. Ignorance of the rules is not a mitigating factor.

(18) Total carbon dioxide

(a) If a test sample of blood from a horse shows a concentration of total carbon dioxide in excess of the level authorized in paragraph (A)(4)(d) of this rule, the owner or trainer of that horse contending that such level is physiologically normal for that specific horse may request the horse be held in approved quarantine at a location designated by the commission. This quarantine will be in accordance with policies and procedures adopted by the commission and will be for a period determined by the executive director or the stewards, but not greater than five days, and is at the sole expense of the owner or trainer requesting the quarantine. During the quarantine the horse will be retested periodically. Removal of a horse from quarantine constitutes a waiver of any claim of normally high levels for that specific horse. A request for quarantine has to be made within seventy-two hours of notification of violation of this rule.

(b) Subsequent to the horse being quarantined and retested, if the commission is satisfied on the basis of clear and convincing evidence derived from the testing of the horse's blood that such horse has physiologically normal levels in excess of the level authorized in paragraph (A)(4)(d) of this rule then no disciplinary action will be taken against the owner or trainer of that horse. In addition, notwithstanding the provisions of paragraph (A)(18)(a) of this rule, the commission will bear the expense of quarantine in such cases.

(19) The commission, on its own motion or in addition to any penalty assessed by the stewards, may revoke, suspend or refuse to grant any commission license held or applied for by any person who violates this rule.

(B) Notice of the use of medication:

(1) In order to inform the public of those horses racing with permitted medication, it is the responsibility of the permit holders to indicate in daily programs any horse racing with furosemide



and if a horse is racing with furosemide for the first time.

(2) When entering a horse, it is the responsibility of the trainer to indicate on the entry form that they intend to race the horse with furosemide and to indicate if the horse is racing with furosemide for the first time as defined in this rule. It is the responsibility of the racing secretary to check each daily program to make sure the use of furosemide reported to their office for each horse is correctly shown.

(3) When an entry is made by telephone the trainer has to provide the information otherwise required on a written entry and obtain the name of the person who accepts the entry. The person who accepts a telephone entry has to obtain the name of the person making the entry.

(4) Stewards may fine any licensee who violates paragraph (B) of this rule an amount not in excess of one thousand dollars, suspend the licensee for a period not to exceed one year and refer the matter to the commission for further consideration.

(C) Any horse known to have bled externally the first time from its nostrils during a race or workout may not be entered or raced for a period of ten days without prior approval by the state veterinarian. In the event a horse bleeds a second time within one year of when the horse bled the first time, such horse will be placed on the veterinarian's list and prohibited from racing for a period of thirty days. In the event a horse bleeds a third time within one year of when the horse bled the first time, such horse will be placed on the veterinarian's list and prohibited from racing a minimum of ninety days. The horse may thereafter be removed from the veterinarian's list by the state veterinarian after a satisfactory workout witnessed by the state veterinarian. In the event a horse bleeds a fourth time within one year of when the horse bled the first time, such horse is prohibited from racing in this state. Stewards will maintain a list of all horses they know have bled from their nostrils.

(D) Veterinarians' report

(1) Any veterinarian who treats a racing horse or administers, prescribes, provides or sells any medication or foreign substance for use by a racing horse shall keep a complete written record of this event.



(2) Each record shall contain the name of the horse, its owner or trainer, dates and times of treatments, any tentative diagnosis, and the name, doses and method of administration of the medications or foreign substances administered or prescribed.

(3) Each record shall remain confidential and be retained by the veterinarian unless a disclosure of its content is requested by the commission or its state steward for use in a proceeding resulting from a positive test sample. Upon request, the veterinarian shall provide each record to the commission or state steward within twenty-four hours.

(4) Veterinarians may use standard abbreviations for any medications administered or prescribed.

(5) Except in an emergency, it shall be the duty of a veterinarian to inquire of the owner, trainer or their representative, prior to treating any horse, whether the horse is or will be entered to race during the period of time any medication administered by the veterinarian may affect any test sample and result in a positive finding. If such shall be the case, it is the veterinarian's duty to advise the owner, trainer or their representative of this.

If the owner or trainer certifies in writing to the veterinarian that the horse to be treated will not race within fifteen days of the time of treatment, then said veterinarian shall not be required to complete the report pursuant to paragraph (D)(1) of this rule.

A veterinarian may be held wholly or partially responsible for such positive finding if the veterinarian failed to perform the duties of inquiry and advice as set forth in this rule.

(6) The stewards may fine any licensee who violates paragraph (D) of this rule an amount not in excess of one thousand dollars, suspend the licensee for a period not to exceed one year and refer the matter to the commission for further consideration.