

## **2015 / 2016 COLORADO RACING COMMISSION RULE MAKING WORKSHOP**

### **DEFINITIONS**

Designated Race – shall mean any stakes, futurity or futurity trial in any state.

Race Week – The Race Week begins on Wednesday of any given week and runs through the end of business on Tuesday.

### **CHAPTER 3**

#### **Rule 3.402** – Recommended Safety Upgrade

##### Original

Any person mounted on a horse or stable pony on association grounds, must wear a properly secured safety helmet at all times. Additionally, all members of the starting gate crew must adhere to this regulation at all times while performing their duties or handling a horse. For the purpose of this regulation, a member of the starting gate crew means any person licensed as an assistant starter or any person who handles a horse at the starting gate. The helmet must comply with one of the following minimum safety standards:

- (a) American Society for Testing and Materials (ASTM 1163);
- (b) UK Standards (EN-1384 and PAS-015); or,
- (c) Australian/New Zealand Standard (AS/NZ 3838).

Any person mounted on a horse or stable pony on the association grounds must wear a safety vest at all times. Additionally, all members of the starting gate crew must also adhere to this regulation at all times while performing their duties or handling a horse. For the purpose of this regulation, a member of the starting gate crew means any person licensed as an assistant starter or any person who handles a horse at the starting gate. The safety vest must comply with one of the following minimum standards:

- (a) British Equestrian Trade Association (BETA):2000 Level 1;
- (b) Euro Norm (EN) 13158:2000 Level 1;
- (c) American Society for Testing and Materials (ASTM) F2681-08 OR F1937;
- (d) Shoe and Allied Trade Research Association (SATRA) Jockey Vest Document M6 Issue 3; or,
- (e) Australian Racing Board (ARB) Standard 1.1998.

And all jockeys shall wear a safety vest of the type approved by the Commission, when they are performing their duties on a horse racetrack.

A safety helmet or a safety vest shall not be altered in any manner nor shall the product marking be removed or defaced.

The Commission adopts as part of Rule 3.402 of the Colorado Racing Commission rules certain industry standards referred to in this Rule 3.402. Such industry standards are published by the American Society for Testing and Materials, British Equestrian Trade Association, Shoe and Allied Trade Research Association (SATRA), or Australian Racing Board (ARB) Standard. These industry standards were promulgated pursuant to the bodies, boards or committees or sub-committees with body protection expertise. This rule incorporates these industry standards as they existed on March 15, 2010. This rule does not include amendments to or later editions of the incorporated industry standards.

Certified copies of the complete text of the material incorporated are maintained at the Colorado Department of Revenue Division of Racings Events, 1881 Pierce Street, Room 108, Lakewood, Colorado 80214-1494, and may be inspected by contacting the Rule Coordinator at that address during normal business hours. The incorporated material may also be examined at any state publications depository library. Certified copies shall be provided at cost upon request.

#### Proposed Modification

Any person mounted on a horse or stable pony on association grounds, must wear a properly secured safety helmet at all times. Additionally, all members of the starting gate crew **AND ASSOCIATION VALETS** must adhere to this regulation at all times while performing their duties or handling a horse. For the purpose of this regulation, a member of the starting gate crew means any person licensed as an assistant starter or any person who handles a horse at the starting gate. The helmet must comply with one of the following minimum safety standards:

- (a) American Society for Testing and Materials (ASTM 1163);
- (b) UK Standards (EN-1384 and PAS-015); or,
- (c) Australian/New Zealand Standard (AS/NZ 3838).

Any person mounted on a horse or stable pony on the association grounds must wear a safety vest at all times. Additionally, all members of the starting gate crew **AND ASSOCIATION VALETS** must also adhere to this regulation at all times while performing their duties or handling a horse. For the purpose of this regulation, a member of the starting gate crew means any person licensed as an assistant starter or any person who handles a horse at the starting gate. The safety vest must comply with one of the following minimum standards:

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- (c) American Society for Testing and Materials (ASTM) F2681-08 OR F1937;
- (d) Shoe and Allied Trade Research Association (SATRA) Jockey Vest Document M6 Issue 3; or,
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A safety helmet or a safety vest shall not be altered in any manner nor shall the product marking be removed or defaced.

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**Rule 3.502** – Current Practice Modifications – Trainer Responsibility Transfer

**Original**

The Board must be immediately notified by the owner or kennel operator if any trainer change is made and for horses a trainer transfer must be filed by the former trainer with the stewards.

**Proposed Change**

The Board must be immediately notified ~~by the owner or kennel operator if any~~ **WHEN A trainer TRANSFER** change is made and for horses a trainer transfer must be filed by the former trainer with the stewards. **BY THE FILING OF THE APPROPRIATE DIVISION APPROVED FORM WITH THE STEWARDS. EITHER THE OWNER OR FORMER TRAINER MAY FILE THE FORM, BUT THE TRANSFER MUST BE**

**ACKNOWLEDGED BY THE FORMER TRAINER BEFORE THE BOARD MAY APPROVE THE TRANSFER.**

**Rule 3.506** – Current Practice Modification – Trainer Licensing  
Original

An applicant for the occupations of trainer or assistant trainer, if not so previously licensed, or if previously licensed and said license has been expired for more than three years, shall be given an examination, oral or written, by a Division Representative, who will administer a test to determine the applicant's qualifications. This will include a practical component given by the Stewards, and/or a Division Representative.

(1) Eligibility for applicants for license as a trainer:

(A) Shall be at least 18 years of age, and;

(B) Shall, in the case of not being previously licensed, be qualified, as determined by the Stewards or other Commission designee, by reason of:

(i) At least 2 years of experience as a licensed assistant trainer, or comparable experience in other equine disciplines, or college-level education in equine science and/or horsemanship.

(ii) Submission of two written statements from trainers currently licensed in that jurisdiction as to character and qualifications of the applicant, and one written statement from a currently licensed owner stating intent to place one or more horses with the applicant, when licensed.

(iii) Shall be required to pass a written examination, oral interviews with the Stewards and regulatory Veterinarian; and demonstrate practical skills.

(2) A trainer licensed and in good standing in another jurisdiction, having been issued within a period as determined by the Commission, may be accepted if evidence of experience and qualifications are provided. Evidence of qualifications shall require passing one or more of the following:

(A) A written examination;

(B) A demonstration of practical skills; and

(C) An interview with the Stewards.

(3) An applicant may submit a request to the Stewards due to disability or other factors affecting the applicant's ability to effectively complete the trainer's test (such as illiteracy or language barriers), reasonable accommodations may be made for the applicant including, but not limited to oral administration of the examination, use of a pre-approved translator, and aid from pre-approved assistant where deemed appropriate by the Stewards administering the examination.

(4) In order to maintain a current license, trainers must complete at least four (4) hours per calendar year of continuing education courses approved by the Commission or the ARCI. However, the Commission may waive this requirement if no continuing education course is available that meets the approval of the Commission.

## Proposed Modification

An applicant for the occupations of trainer or assistant trainer, if not so previously licensed, or if previously licensed and said license has been expired for more than three years, shall be given an examination, oral or written, by a Division Representative, who will administer a test to determine the applicant's qualifications. This will include a practical component given by the Stewards, and/or a Division Representative.

(1) Eligibility for applicants for license as a trainer:

(A) Shall be at least 18 years of age, and;

(B) Shall, in the case of not being previously licensed, be qualified, as determined by the Stewards or other Commission designee, by reason of:

~~(i) At~~ at least 2 years of experience as a licensed assistant trainer, or comparable experience in **RACING OR** other equine disciplines, or college-level education in equine science and/or horsemanship.

~~(ii) Submission of two written statements from trainers currently licensed in that jurisdiction as to character and qualifications of the applicant, and one written statement from a currently licensed owner stating intent to place one or more horses with the applicant, when licensed.~~

(C) Shall be required to pass a written examination, oral interviews with the Stewards and regulatory Veterinarian; and demonstrate practical skills.

(2) A trainer licensed and in good standing in another jurisdiction, having been issued within a period as determined by the Commission, may be accepted if evidence of experience and qualifications are provided. Evidence of qualifications shall require passing one or more of the following:

(A) A written examination;

(B) A demonstration of practical skills; and

(C) An interview with the Stewards.

(3) An applicant may submit a request to the Stewards due to disability or other factors affecting the applicant's ability to effectively complete the trainer's test (such as illiteracy or language barriers), reasonable accommodations may be made for the applicant including, but not limited to oral administration of the examination, use of a pre-approved translator, and aid from pre-approved assistant where deemed appropriate by the Stewards administering the examination.

(4) In order to maintain a current license, trainers must complete at least four (4) hours per calendar year of continuing education courses approved by the Commission or the

ARCI. However, the Commission may waive this requirement if no continuing education course is available that meets the approval of the Commission.

**Rule 3.522** – Modification to remove greyhound references

Original

A trainer who is absent from his/her kennel or stable or the grounds where his/her animals are racing, and whose animals are entered or are to be entered, shall provide a licensed assistant trainer to assume the training duties for the animals which are entered or are to be entered or running. The trainer and the assistant trainer shall sign in the presence of the Board a form provided by the Division acknowledging that both the trainer and the assistant trainer may be held liable for the condition of the animals at all times. The program shall carry the name of the trainer and the horse program shall also carry the name of the assistant trainer.

Proposed Modification

A trainer who is absent from his/her ~~kennel or~~ stable or the grounds where his/her animals **HORSES** are racing, and whose animals **HORSES** are entered or are to be entered, shall provide a licensed assistant trainer to assume the training duties for the animals **HORSES** which are entered or are to be entered or running. The trainer and the assistant trainer shall sign in the presence of the Board a form provided by the Division acknowledging that both the trainer and the assistant trainer may be held liable for the condition of the animals **HORSES** at all times. The program shall carry the name of the trainer and the horse program shall also carry the name of the assistant trainer.

**Rule 3.524** – Modification to remove greyhound references

Original

An absentee trainer shall have a licensed assistant trainer conducting business for them. A trainer who has no assistant trainer and is absent from his/her kennel or stable or the grounds where his/her animals are racing for more than five consecutive days or on a day in which the trainer has an animal in a race, and whose animals are entered or are to be entered, shall assign a licensed trainer to assume complete responsibility for the animals being entered or running. Such licensed trainer shall sign in the presence of the Board a form furnished by the Racing Commission accepting complete responsibility for the animals being entered or running, including the training and conditioning of the animals.

Proposed Modification

An absentee trainer shall have a licensed assistant trainer conducting business for them. A trainer who has no assistant trainer and is absent from his/her ~~kennel or~~ stable or the grounds where his/her animals **HORSES** are racing for more than five consecutive days or on a day in which the trainer has an animal **HORSE** in a race, and whose animals **HORSES** are entered or are to be entered, shall assign a licensed trainer to assume complete responsibility for the animals **HORSES** being entered or running. Such licensed trainer shall sign in the presence of the Board a form furnished by the Racing Commission accepting complete responsibility for the animals **HORSES**

being entered or running, including the training and conditioning of the animals  
**HORSES.**

**Rule 3.606** – Designated Race Days

Original

A jockey who is under suspension for ten (10) calendar days or less for a riding infraction will not be permitted to fulfill any engagements except those stakes races noted by the Stewards to be included in designated race rule. Jockeys will be permitted to ride in this race only and must serve one extra race day for each designated race ridden during his/her suspension. A jockey suspended for a riding infraction may be permitted to exercise or gallop horses during workout hours and may retain all of the other backside privileges excluding race riding.

Proposed Modification

~~A jockey who is under suspension for ten (10) calendar days or less for a riding infraction will not be permitted to fulfill any engagements except those stakes races noted by the Stewards to be included in designated race rule.~~ **PRIOR TO THE COMMENCEMENT OF A MEETING, A LISTING OF RACES DESIGNATED BY THE STEWARDS SHALL BE SUBMITTED TO THE COLORADO RACING COMMISSION. A COPY OF SUCH RACES SHALL BE POSTED IN THE JOCKEY'S ROOM, AND ANY OTHER PLACE DEEMED IMPORTANT BY THE STEWARDS.** ~~Jockeys will be permitted to ride in this race only and must serve one extra race day for each designated race ridden during his/her suspension.~~ A jockey suspended for a riding infraction may be permitted to exercise or gallop horses during workout hours and may retain all of the other backside privileges excluding race riding. **OFFICIAL RULINGS FOR RIDDING INFRACTIONS OF TEN (10) DAYS OR LESS SHALL STATE: "THE TERM OF THIS SUSPENSION SHALL NOT PROHIBIT PARTICIPATION IN DESIGNATED RACE DAYS." A JOCKEY WHO IS SERVING SUSPENSION OF TEN (10) RACE DAYS OR LESS MAY RIDE IN DESIGNATED RACES DURING THE SUSPENSION IF:**

- A) THE JOCKEY IS NAMED NO LATER THAN THE TIME SET FOR THE CLOSE OF ENTRIES FOR THE DESIGNATED RACE; AND**
- B) THE JOCKEY AGREES THAT IF HE/SHE PARTICIPATES IN ONLY ONE DESIGNATED RACE IN COLORADO, THE DAY WILL STILL BE RECOGNIZED AS A SUSPENSION DAY; AND**
- C) THE JOCKEY AGREES THAT HE/SHE PARTICIPATES IN MORE THAN ONE DESIGNATED RACE IN COLORADO, THE DAY STILL WILL NOT BE RECOGNIZED AS A SUSPENSION DAY AND HE/SHE WILL SERVE AN ADDITIONAL RACE DAY OF SUSPENSION IN PLACE OF THE RACE DAY ON WHICH THE JOCKEY RIDES IN A DESIGNATED RACE TO BE SERVED ON THE NEXT RACE DAY; OR**
- D) THE JOCKEY AGREES THAT IF HE/SHE PARTICIPATES IN ONE OR MORE DESIGNATED RACES IN ANY OTHER JURISDICTION WHILE UNDER SUSPENSION IN THE STATE OF COLORADO, THE DAY WILL STILL NOT BE RECOGNIZED AS A SUSPENSION DAY THE JOCKEY**

**WILL SERVE AN ADDITIONAL RACE DAY OF SUSPENSION IN PLACE OF THE RACE DAY ON WHICH THE RIDES IN A DESIGNATED TO BE SERVED ON THE NEXT RACE DAY.**

**A JOCKEY MAY RIDE ALL RACES FOR THE DAY HE IS RIDING A DESIGNATED RACE; HOWEVER, HE IS TO CONTINUE TO TAKE THE NEXT AVAILABLE DAY UNTIL HIS SUSPENSION IS COMPLETED. RECIPROCITY OF THIS RULE APPLIES ONLY TO THOSE STATES WHICH HAVE ADOPTED THE DESIGNATED RACE RULE.**

#### CHAPTER 4

**Rule 4.214** – Deletion for Obsolescence

Current Rule

The judges shall closely observe the operation of the lure and hold the lure operator to strict accountability for any inconsistency of operation.

Proposed Deletion

~~The judges shall closely observe the operation of the lure and hold the lure operator to strict accountability for any inconsistency of operation.~~

**Rule 4.240** – Current Practice Modification

Current Rule

The Board shall promptly display the number of the first three (3) animals in each race in order of their finish. Whenever it is considered advisable to consult a picture from the photo finish camera, the Board may post without waiting for a picture the placements as are in their opinion unquestionable and after consulting the picture make the other placements. If the Board differs in its placement, the majority shall prevail.

Proposed Change

The Board shall promptly display the number of the first ~~three (3)~~ **FOUR (4)** animals in each race in order of their finish. Whenever it is considered advisable to consult a picture from the photo finish camera, the Board may post without waiting for a picture the placements as are in their opinion unquestionable and after consulting the picture make the other placements. If the Board differs in its placement, the majority shall prevail.

**Rule 4.495** – Relocation of rule to applicable section

Current Rule

The Racing Secretary shall use his/her best efforts to ensure that each registration paper received carries a current vaccination certificate verified by a Division Veterinarian, and if leased, a lease agreement.

Proposed Change

Relocation to 4.700 section.

Delete Rule 4.495

The Racing Secretary shall use his/her best efforts to ensure that each registration paper received carries a current vaccination certificate verified by a Division Veterinarian, and if leased, a lease agreement

**Rule 4.630** – Horsemen’s Bookkeeper

Original

Monies may not be deducted from a horseman’s account by any person other than the owner, the owner’s authorized agent or other duly authorized person with a notarized document setting forth the amount to be withdrawn, except an association may withhold any amount due the association for jockey fees, pony fees, starting fees, nomination fees or monies due the association or the State or as otherwise provided by Law.

Proposed

Monies may not be deducted from a horseman’s account by any person other than the owner, the owner’s authorized agent or other duly authorized person with a notarized document setting forth the amount to be withdrawn, except an association may withhold any amount due the association for jockey fees, pony fees, starting fees, nomination fees or monies due the association or the State or as otherwise provided by Law. **ALL TRANSACTIONS ASSOCIATED WITH A HORSEMAN’S ACCOUNT SHALL BE RECORDED. ANY SUSPICIOUS ACCOUNT ACTIVITY MUST BE REPORTED TO THE DIVISION.**

**Chapter 4, 630’s series (Rule 4.632?)** – New rule – Horsemen’s Bookkeeper

**ALL MONIES REMAINING IN THE BOOKKEEPER ACCOUNT, EXCEPT THOSE HELD FOR ADMINISTRATIVE PURPOSES BY THE COMMISSION, SHALL REVERT TO THE PURSE ACCOUNT ON DECEMBER 31 OF THAT SAME YEAR.**

**Rule 4.716** – Entry on Vets List

Original

The racing secretary shall not accept the entry of a horse that has been placed on the veterinarian’s, steward’s or starter’s list.

Proposed

The racing secretary shall not accept the entry of a horse that has been placed on the veterinarian’s, steward’s or starter’s list. **NEITHER THE RACING SECRETARY NOR THE RACING CLERK SHALL HAVE THE POWER TO OVERRIDE THE LISTS INDICATED UNTIL THAT ENTRY HAS BEEN CONFIRMED AS CLEARED FROM THE APPLICABLE LIST.**

**CHAPTER 5**

**Rule 5.433** – Additional language – Withdrawal Times

Original

The Commission may adopt, as part of the animal welfare and medication policy, a therapeutic medication list that contains medications deemed to have therapeutic properties on racehorses. Such published list shall give acceptable withdrawal times that should be allowed under normal circumstances. This rule shall only pertain to drugs

that are mass-produced in a regulated drug manufacturing facility and does not pertain to compounded drugs which are individually prepared and tailored to the needs of a specific patient. During the course of a race meet, the Division Director, given good cause and in consultation with the State's primary testing laboratory, and/or the Division veterinarian and the Colorado Racing Commission veterinarian, may change the recommended detection time in order to better inform the owners, trainers and veterinarians to avoid violations.

#### Suggested Change

The Commission may adopt, as part of the animal welfare and medication policy, a therapeutic medication list that contains medications deemed to have therapeutic properties on racehorses. Such published list shall give acceptable withdrawal times that should be allowed under normal circumstances. **ADDITIONALLY, SUCH LIST MAY CONTAIN DOSING SPECIFICATIONS AND REGULATORY LIMITS. THE COMMISSION MAY, IN COMPILING THIS LIST, USE CURRENT ACCEPTED INDUSTRY MEDICATION STANDARDS.** This rule shall only pertain to drugs that are mass-produced in a regulated drug manufacturing facility and does not pertain to compounded drugs which are individually prepared and tailored to the needs of a specific patient. During the course of a race meet, the Division Director, given good cause and in consultation with the State's primary testing laboratory, and/or the Division veterinarian and the Colorado Racing Commission veterinarian, may change the recommended detection time in order to better inform the owners, trainers and veterinarians to avoid violations.

#### **Rule 5.441** – Update to current version – ARCI Guidelines

##### Original Rule

- (1) In issuing penalties against individuals found guilty of medication and drug violations, a regulatory distinction shall be made between the detection of therapeutic medications used routinely to treat racehorses and those drugs that have no reason to be found at any concentration in the test sample on race day.
- (2) The Stewards, Hearing Officers, or the Commission shall use the *Penalty Guideline Listing* as a starting place in the penalty stage of the deliberations for a rule violation for any drug listed in the *Association of Racing Commissioners International Uniform Classification Guidelines for Foreign Substances*, available at 1881 Pierce Street, Room 108, Lakewood CO 80214-1494 during normal business hours.
- (3) If a licensed Veterinarian is administering or prescribing a drug not listed in the *RCI Uniform Classification Guide lines for Foreign Substance* or shown in the *Penalty Guideline Listing* (provided below), the identity of the drug shall be forwarded to the official Veterinarian to be forwarded to the Racing Medication and Testing Consortium for classification.
- (4) Any drug or metabolite thereof found to be presenting a pre- or post-race sample which is not classified in the most current *RCI Uniform Classification Guidelines for Foreign Substances* shall be assumed to be a RCI Class 1 Drug and the trainer and owner shall be subject to those penalties as set forth in schedule "A" unless

satisfactorily demonstrated otherwise by the Racing Medication and Testing Consortium, with a penalty category assigned.

- (5) The penalty categories and their related schedules, if applicable, shall be on the following criteria:
- (a) Whether the drug is approved by the U.S. Food and Drug Administration for use in the horse;
  - (b) Whether the drug is approved by the U.S. Food and Drug Administration for use in any species;
  - (c) Whether the drug has any legitimate therapeutic application in the equine athlete;
  - (d) Whether the drug was identified as “necessary” by the RMTC Veterinary Advisory Committee;
  - (e) Whether legitimate, recognized therapeutic alternatives exist,
  - (f) The current RCI Classification of the drug, and;
  - (g) Whether there are Multiple Medication Violations in accordance with the ARCI-011-0020 Medications and Prohibited Substances Penalties for Multiple Medication Violations (MMV), from the Association of Racing Commissioners International (provided below).

## PENALTY GUIDELINE LISTING

The penalty categories “A”, “B” and “C” and their related schedules for Trainers and Owners are shown in the following tables.

*The following are recommended penalties for violations due to the presence of a drug carrying a Category “A” penalty and for violations of ARCI-011-015: Prohibited Practices:*

<b>LICENSED TRAINER:</b>		
<b>1<sup>st</sup> offense</b>	<b>2<sup>nd</sup> LIFETIME offense in any jurisdiction</b>	<b>3<sup>rd</sup> LIFETIME offense in any jurisdiction</b>
<ul style="list-style-type: none"> <li>◦ Minimum one-year suspension absent mitigating Circumstances. The presence of aggravating factors could be used to impose a maximum of a three-year suspension.</li> </ul> <p style="text-align: center;"><b>and</b></p> <ul style="list-style-type: none"> <li>◦ Minimum fine of \$10,000 or 10% of total purse (greater of the two) absent mitigating circumstances. The presence of aggravating factors could be used to impose a maximum of \$25,000 or 25% of purse (greater of the two).</li> </ul> <p><b>and</b></p> <ul style="list-style-type: none"> <li>◦ May be referred to the Commission for any further action deemed necessary by the Commission.</li> </ul>	<ul style="list-style-type: none"> <li>◦ Minimum three-year suspension absent mitigating circumstances. The presence of aggravating factors could be used to impose a maximum of license revocation with no reapplication for a three-year period.</li> </ul> <p style="text-align: center;"><b>and</b></p> <ul style="list-style-type: none"> <li>◦ Minimum fine of \$25,000 or 25% of total purse (greater of the two) absent mitigating circumstances. The presence of aggravating factors could be used to impose a maximum of \$50,000 or 50% of purse (greater of the two).</li> </ul> <p style="text-align: center;"><b>and</b></p> <ul style="list-style-type: none"> <li>◦ May be referred to the Commission for any further action deemed necessary by the Commission.</li> </ul>	<ul style="list-style-type: none"> <li>◦ Minimum five-year suspension absent mitigating circumstances. The presence of aggravating factors could be used to impose a maximum of license revocation with no reapplication for a five-year period.</li> </ul> <p style="text-align: center;"><b>and</b></p> <ul style="list-style-type: none"> <li>◦ Minimum fine of \$50,000 or 50% of total purse (greater of the two) absent mitigating circumstances. The presence of aggravating factors could be used to impose a maximum of \$100,000 or 100% of purse (greater of the two).</li> </ul> <p style="text-align: center;"><b>and</b></p> <ul style="list-style-type: none"> <li>◦ May be referred to the Commission for any further action deemed necessary by the Commission.</li> </ul>
<b>LICENSED OWNER:</b>		
<b>1<sup>st</sup> offense</b>	<b>2<sup>nd</sup> LIFETIME offense in owner’s stable in any jurisdiction</b>	<b>3<sup>rd</sup> LIFETIME offense in owner’s stable in any jurisdiction</b>
<ul style="list-style-type: none"> <li>◦ Loss of purse.</li> </ul>	<ul style="list-style-type: none"> <li>◦ Loss of purse.</li> </ul>	<ul style="list-style-type: none"> <li>◦ Loss of purse and \$50,000 fine.</li> </ul> <p><b>AND</b></p> <ul style="list-style-type: none"> <li>◦ Referral to the</li> </ul>

		Commission with a recommendation of a suspension for a minimum of 90 days.
<b>horse</b>		
<b>1<sup>st</sup> offense</b>	<b>2<sup>nd</sup> LIFETIME offense in owner's stable in any jurisdiction</b>	<b>3<sup>rd</sup> LIFETIME offense in owner's stable in any jurisdiction</b>
<ul style="list-style-type: none"> <li>◦ Disqualification.</li> <li style="text-align: center;"><b>AND</b></li> <li>◦ In accordance with CRCR 5.612, Horse shall be placed on the Veterinarian's list for 90 days and must pass a Commission-approved examination before becoming eligible to be entered.</li> </ul>	<ul style="list-style-type: none"> <li>◦ Disqualification.</li> <li style="text-align: center;"><b>AND</b></li> <li>◦ In accordance with CRCR 5.612, Horse shall be placed on the Veterinarian's list for 120 days and must pass a Commission-approved examination before becoming eligible to be entered.</li> </ul>	<ul style="list-style-type: none"> <li>◦ Disqualification.</li> <li style="text-align: center;"><b>AND</b></li> <li>◦ In accordance with CRCR 5.612, 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.</li> </ul>

**PENALTY GUIDELINE LISTING**

*The following are recommended penalties for violations due to the presence of a drug carrying Category “B” penalty, for the presence of more than one NSAID in a plasma/serum sample, subject to the provisions set forth in ARCI-011-020 E.(1)(c) and for violations of the established levels for total carbon dioxide. Except for those violations specified in 5.441(2)(a)\*:*

<b>LICENSED TRAINER:</b>		
<b>1<sup>st</sup> offense</b>	<b>2<sup>nd</sup> offense (365-day period) in any jurisdiction</b>	<b>3<sup>rd</sup> offense (365-day period) in any jurisdiction</b>
<ul style="list-style-type: none"> <li>◦ Minimum 15-day suspension absent mitigating circumstances. The presence of aggravating factors could be used to impose a maximum of a 60-day suspension.</li> </ul> <p align="center"><b>AND</b></p> <ul style="list-style-type: none"> <li>◦ Minimum fine of \$500 absent mitigating circumstances. The presence of aggravating factors could be used to impose a maximum of \$1,000.</li> </ul> <p>Minimum fine of \$2,500 and a minimum 180 day suspension absent mitigating circumstances if the presence of a nerve blocking drug is detected.</p>	<ul style="list-style-type: none"> <li>◦ Minimum 30-day suspension absent mitigating circumstances. The presence of aggravating factors could be used to impose a maximum of a 180-day suspension.</li> </ul> <p align="center"><b>AND</b></p> <ul style="list-style-type: none"> <li>◦ Minimum fine of \$1,000 absent mitigating circumstances. The presence of aggravating factors could be used to impose a maximum of \$2,500.</li> </ul> <p>Minimum fine of \$2,500 and a minimum 180 day suspension absent mitigating circumstances if the presence of a nerve blocking drug is detected.</p>	<ul style="list-style-type: none"> <li>◦ Minimum 60-day suspension absent mitigating circumstances. The presence of aggravating factors could be used to impose a maximum of a one-year suspension.</li> </ul> <p align="center"><b>AND</b></p> <ul style="list-style-type: none"> <li>◦ Minimum fine of \$2,500 absent mitigating circumstances. The presence of aggravating factors could be used to impose a maximum of \$5,000 or 5% of purse (greater of the two).</li> </ul> <p>Minimum fine of \$2,500 and a minimum 180 day suspension absent mitigating circumstances if the presence of a nerve blocking drug is detected.</p> <ul style="list-style-type: none"> <li>◦ May be referred to the Commission for any further action deemed necessary by the Commission.</li> </ul>
<b>LICENSED OWNER:</b>		
<b>1<sup>st</sup> offense</b>	<b>2<sup>nd</sup> offense in stable (365-day period) in any jurisdiction</b>	<b>3<sup>rd</sup> offense in stable (365-day period) in any jurisdiction</b>
<ul style="list-style-type: none"> <li>◦ Loss of purse.</li> </ul>	<ul style="list-style-type: none"> <li>◦ Loss of purse.</li> </ul>	<ul style="list-style-type: none"> <li>◦ Loss of purse, and in the absence of mitigating circumstances a \$5,000 fine.</li> </ul>

<b>HORSE:</b>		
<b>1<sup>st</sup> offense</b>	<b>2<sup>nd</sup> offense in stable (365-day period) in any jurisdiction</b>	<b>3<sup>rd</sup> offense in stable (365-day period) in any jurisdiction</b>
<ul style="list-style-type: none"> <li>◦ Disqualification.</li> <li style="text-align: center;"><b>AND</b></li> <li>◦ In accordance with CRCR 5.612, 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.</li> <li>*Prohibited use of Nerve blocking drugs, will require a horse to be placed on the Veterinarian's list for 180 days and must pass a Commission approved examination before becoming eligible to be entered.</li> </ul>	<ul style="list-style-type: none"> <li>◦ Disqualification.</li> <li style="text-align: center;"><b>AND</b></li> <li>◦ In accordance with CRCR 5.612, Horse shall be placed on the Veterinarian's list for 60 days and must pass a Commission-approved examination before becoming eligible to be entered.</li> <li>*Prohibited use of Nerve blocking drugs, will require a horse to be placed on the Veterinarian's list for 180 days and must pass a Commission approved examination before becoming eligible to be entered.</li> </ul>	<ul style="list-style-type: none"> <li>◦ Disqualification.</li> <li style="text-align: center;"><b>AND</b></li> <li>◦ In accordance with CRCR 5.612, Horse shall be placed on the Veterinarian's list for 90 days and must pass a Commission-approved examination before becoming eligible to be entered.</li> <li>*Prohibited use of Nerve blocking drugs, will require a horse to be placed on the Veterinarian's list for 180 days and must pass a Commission approved examination before becoming eligible to be entered.</li> </ul>

## PROPOSED AMENDMENT TO 5.441 CATEGORY C CHART

The following are recommended penalties for violations due to the presence of a drug carrying a Category "C" penalty and overages for permitted NSAIDs and furosemide: *(All concentrations are for measurements in serum or plasma.)*

<b>LICENSED TRAINER</b>	<b>Phenylbutazone (2.0- 5.0 mcg/ml) Flunixin (21-99 ng/ml) Ketoprofen (2.00- 50.0 ng/ml) Furosemide (&gt;100 ng/ml) and no furosemide when identified as administered*</b>	<b>Phenylbutazone (&gt;5.0 mcg/ml) Flunixin (&gt;100 ng/ml) Ketoprofen (&gt;50 ng/ml) and CLASS C Violations</b>
1 <sup>st</sup> Offense (365-day period) in any jurisdiction	Minimum fine of \$250 absent mitigating circumstances.	Minimum fine of \$1000 absent mitigating circumstances.
2 <sup>nd</sup> Offense (365-day period) in any jurisdiction	Minimum fine of \$500 absent mitigating circumstances.	Minimum fine of \$1,500 and 15-day suspension absent mitigating circumstances.
3 <sup>rd</sup> Offense (365-day period) in any jurisdiction	Minimum fine of \$1,000 and 15-day suspension absent mitigating circumstances.	Minimum fine of \$2,500 and 30-day suspension absent mitigating circumstances.
<b>LICENSED OWNER</b>	<b>Phenylbutazone (2.0- 5.0 mcg/ml) Flunixin (21-99 ng/ml) Ketoprofen (2.00- 50.0 ng/ml) Furosemide (&gt;100 ng/ml) and no furosemide when identified as administered*</b>	<b>Phenylbutazone (&gt;5.0 mcg/ml) Flunixin (&gt;100 ng/ml) Ketoprofen (&gt;50 ng/ml) and CLASS C Violations</b>
1 <sup>st</sup> Offense (365-day period) in any jurisdiction	Horse must pass commission-approved examination before being eligible to run.	Loss of purse. Horse must pass Commission-approved examination before being eligible to run.
2 <sup>nd</sup> Offense (365-day period) in any jurisdiction	Loss of purse. If same horse, placed on Veterinarian's list for 45 days, and then must pass Commission-approved examination before being eligible to run.	Loss of purse. If same horse, placed on Veterinarian's list for 45 days, must pass Commission-approved examination before being eligible to run.
3 <sup>rd</sup> Offense (365-day period) in any jurisdiction	Loss of purse. Minimum \$5,000 fine. If same horse, placed on Veterinarian's list for 60 days, and then must pass Commission-approved examination before being eligible to run.	Loss of purse. Minimum \$5,000 fine. If same horse, placed on Veterinarian's list for 60 days, must pass Commission-approved examination before being eligible to run.

<b>HORSE</b>	<b>Phenylbutazone (2.0- 5.0 mcg/ml) Flunixin (21-99 ng/ml) Ketoprofen (2.00- 50.0 ng/ml) Furosemide (&gt;100 ng/ml) and no furosemide when identified as administered*</b>	<b>Phenylbutazone (&gt;5.0 mcg/ml) Flunixin (&gt;100 ng/ml) Ketoprofen (&gt;50 ng/ml) and CLASS C Violations</b>
1st Offense (365-day period) in any jurisdiction	In accordance with CRCR 5.612, horse required to pass Commission-approved examination before being eligible to run.	Disqualification. <b>AND</b> In accordance with CRCR 5.612, horse will be placed on Veterinarian's list for 30 days, and then must pass Commission- approved examination before being
2nd Offense (365-day period) in any jurisdiction	Disqualification. <b>AND</b> In accordance with CRCR 5.612, If same horse, placed on Veterinarian's list for 45 days, must pass Commission-approved examination before being eligible to run.	Disqualification. <b>AND</b> In accordance with CRCR 5.612, If same horse, placed on Veterinarian's list for 45 days, must pass Commission-approved examination before being eligible to run.
3rd Offense (365-day period) in any jurisdiction	Disqualification. <b>AND</b> In accordance with CRCR 5.612, If same horse, placed on Veterinarian's list for 60 days, must pass Commission-approved examination before being eligible to run.	Disqualification. <b>AND</b> In accordance with CRCR 5.612, If same horse, placed on Veterinarian's list for 60 days, must pass Commission-approved examination before being eligible to run.

\*If the trainer has not had more than one violation within the previous two years, the Stewards/ Judges are encouraged to issue a warning in lieu of a fine provided the reported level is below 3.0 mcg/ml, absent of aggravating factors. After a two year period, if the licensee has had no further violations, any penalty due to an overage in the 2.0 – 5.0 category will be expunged from the licensee's record for penalty purposes.

## Penalties

### Multiple Medication Violations (MMV)

- (A) A trainer who receives a penalty for a medication violation based upon a horse testing positive for a Class 1-5 medication with Penalty Class A-D, as provided in the ARCI Uniform Classification for Foreign Substances shall be assigned points based upon the medication's penalty guideline as follows:

<b>Penalty Class</b>	<b>Points If Controlled Therapeutic Substance</b>	<b>Points If Non-Controlled Substance</b>
<b>Class A1</b>	N/A	6
<b>Class B</b>	2	4
<b>Class C</b>	1	2
<b>Class D</b>	½	1

- (b) The points assigned to a medication violation shall be included in the Stewards' or Commission Ruling. Such Ruling shall be included in the ARCI official database and the ARCI shall assign points consistent with section (A) for advisory purposes for medication violations where points have not been assigned by regulatory action. Points assigned by such regulatory ruling or by the ARCI shall reflect, in the case of multiple positive tests as described in paragraph (d), whether they shall thereafter constitute a single violation. Points will be assessed after a ruling is rendered, and penalty enhancement shall be applied to future violations. The Stewards' or Commission Ruling shall be posted on the official website of the Commission and within the official database of the Association of Racing Commissioners International. If an appeal is pending, that fact shall be noted in such Ruling. No points shall be applied until a final adjudication of the enforcement of any such violation.
- (c) A trainer's cumulative points for violations in all racing jurisdictions shall be maintained and certified by the Association of Racing Commissioners International. Once all appeals are waived or exhausted, the points shall immediately become part of the trainer's official ARCI record and shall be considered by the Commission in its determination to subject the trainer to the mandatory enhanced penalties by the Stewards or Commission as provided in 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.
- (e) The official ARCI record shall constitute prima facie evidence of a trainer's past record of violations and cumulative 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 Stewards or Commission shall include all points for violations in all racing jurisdictions as contained in the trainer’s official ARCI record when determining whether the mandatory enhancements provided in this regulation shall be imposed.
- (g) 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:

<b>Points</b>	<b>Suspension in days</b>
3-5.5	30
6-8.5	60
9-10.5	180
11 or more	360

MMV’s are not a substitute for the current penalty system and are intended to be an additional uniform penalty when the licensee:

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

(h) The suspension periods as provided above, shall run consecutive to any suspension imposed for the underlying offense.

(i) The Stewards’ or Commission Ruling shall distinguish between the penalty for the underlying offense and the enhancement based upon the trainer’s cumulative points.

(j) Any trainer who has received a medication violation may petition the ARCI to expunge the points received for the violation for the purpose of the MMV system only. The points shall be expunged as follows:

<b>Penalty Classification</b>	<b>Time to Expungement</b>
A	Permanent
B	3 years
C	2 years
D	1 year

- (6) 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 and/or suspensions.

- (7) On Multiple Medication Violation (MMV) offenses, the Division, Board of Stewards, and Hearing Officer shall consider points given in all other States, regardless of whether they have formally adopted the ARCI-001-020 Medications and Prohibited Substances Penalty Chart for Multiple Medication Violations (MMV). The Division shall consider all cumulative points, and such enhanced penalty shall run consecutive to the Colorado penalty assessment.
- (8) Any licensee of the Commission, including veterinarians, found to be responsible for the improper or intentional administration of any drug resulting in a positive test may, after proper notice and hearing, be subject to the same penalties set forth for the licensed trainer.
- (9) The licensed owner, veterinarian or any other licensed party involved in a positive laboratory finding shall be notified in writing of the hearing and any resulting action. In addition their presence may be required at any and all hearings relative to the case.
- (10) Any veterinarian found to be involved in the administration of any drug carrying the penalty category of "A" shall be referred to the State Licensing Board of Veterinary Medicine for consideration of further disciplinary action and/or license revocation. This is in addition to any penalties issued by the Stewards or the Commission.
- (11) Any person who the Stewards or the Commission believe may have committed acts in violation of criminal statutes may be referred to the appropriate law enforcement agency. Administrative action taken by the Stewards or the Commission in no way prohibits a prosecution for criminal acts committed.

A licensed trainer shall not benefit financially during the period for which the individual has been suspended. This includes, but is not limited to, ensuring that horses are not transferred to licensed family members.

The Commission hereby cites the following sources:

(1) Version 8.00 December 2014 of the Association of Racing Commissioners International Uniform Classification Guidelines for Foreign Substances; by the Association of Racing Commissioners International, 1510 Newtown Pike, Suite 210, Lexington, Kentucky, USA 40511. This rule does not include any later Amendments or Editions of the *ARCI Uniform Classification Guidelines for Foreign Substances*

Certified copies of the complete text of the referenced materials are maintained at the Colorado Department of Revenue Division of Racing Events, 1881 Pierce Street, Room 108, Lakewood Colorado 80214-1494, and may be inspected at that address during normal business hours. Certified copies shall be provided at requestors cost.

### Proposed Modification

- (1) In issuing penalties against individuals found guilty of medication and drug violations, a regulatory distinction shall be made between the detection of therapeutic medications used routinely to treat racehorses and those drugs that have no reason to be found at any concentration in the test sample on race day.
- (2) The Stewards, Hearing Officers, or the Commission shall use the *Penalty Guideline Listing* as a starting place in the penalty stage of the deliberations for a rule violation for any drug listed in the *Association of Racing Commissioners International Uniform Classification Guidelines for Foreign Substances*, available at 1881 Pierce Street, Room 108, Lakewood CO 80214-1494 during normal business hours.
- (3) If a licensed Veterinarian is administering or prescribing a drug not listed in the RCI *Uniform Classification Guide lines for Foreign Substance* or shown in the *Penalty Guideline Listing* (provided below), the identity of the drug shall be forwarded to the official Veterinarian to be forwarded to the Racing Medication and Testing Consortium for classification.
- (4) Any drug or metabolite thereof found to be presenting a pre- or post-race sample which is not classified in the most current RCI *Uniform Classification Guidelines for Foreign Substances* shall be assumed to be a RCI Class 1 Drug and the trainer and owner shall be subject to those penalties as set forth in schedule "A" unless satisfactorily demonstrated otherwise by the Racing Medication and Testing Consortium, with a penalty category assigned.
- (5) The penalty categories and their related schedules, if applicable, shall be on the following criteria:
  - (a) Whether the drug is approved by the U.S. Food and Drug Administration for use in the horse;
  - (b) Whether the drug is approved by the U.S. Food and Drug Administration for use in any species;
  - (c) Whether the drug has any legitimate therapeutic application in the equine athlete;
  - (d) Whether the drug was identified as "necessary" by the RMTTC Veterinary Advisory Committee;
  - (e) Whether legitimate, recognized therapeutic alternatives exist,
  - (f) The current RCI Classification of the drug, and;
  - (g) Whether there are Multiple Medication Violations in accordance with the ARCI-011-0020 Medications and Prohibited Substances Penalties for Multiple Medication Violations (MMV), from the Association of Racing Commissioners International (provided below).

## PENALTY GUIDELINE LISTING

The penalty categories “A”, “B” and “C” and their related schedules for Trainers and Owners are shown in the following tables.

*The following are recommended penalties for violations due to the presence of a drug carrying a Category “A” penalty and for violations of ARCI-011-015: Prohibited Practices:*

<b>LICENSED TRAINER:</b>		
<b>1<sup>st</sup> offense</b>	<b>2<sup>nd</sup> LIFETIME offense in any jurisdiction</b>	<b>3<sup>rd</sup> LIFETIME offense in any jurisdiction</b>
<ul style="list-style-type: none"> <li>◦ Minimum one-year suspension absent mitigating Circumstances. The presence of aggravating factors could be used to impose a maximum of a three-year suspension.</li> </ul> <p style="text-align: center;"><b>and</b></p> <ul style="list-style-type: none"> <li>◦ Minimum fine of \$10,000 or 10% of total purse (greater of the two) absent mitigating circumstances. The presence of aggravating factors could be used to impose a maximum of \$25,000 or 25% of purse (greater of the two).</li> </ul> <p><b>and</b></p> <ul style="list-style-type: none"> <li>◦ May be referred to the Commission for any further action deemed necessary by the Commission.</li> </ul>	<ul style="list-style-type: none"> <li>◦ Minimum three-year suspension absent mitigating circumstances. The presence of aggravating factors could be used to impose a maximum of license revocation with no reapplication for a three-year period.</li> </ul> <p style="text-align: center;"><b>and</b></p> <ul style="list-style-type: none"> <li>◦ Minimum fine of \$25,000 or 25% of total purse (greater of the two) absent mitigating circumstances. The presence of aggravating factors could be used to impose a maximum of \$50,000 or 50% of purse (greater of the two).</li> </ul> <p style="text-align: center;"><b>and</b></p> <ul style="list-style-type: none"> <li>◦ May be referred to the Commission for any further action deemed necessary by the Commission.</li> </ul>	<ul style="list-style-type: none"> <li>◦ Minimum five-year suspension absent mitigating circumstances. The presence of aggravating factors could be used to impose a maximum of license revocation with no reapplication for a five-year period.</li> </ul> <p style="text-align: center;"><b>and</b></p> <ul style="list-style-type: none"> <li>◦ Minimum fine of \$50,000 or 50% of total purse (greater of the two) absent mitigating circumstances. The presence of aggravating factors could be used to impose a maximum of \$100,000 or 100% of purse (greater of the two).</li> </ul> <p style="text-align: center;"><b>and</b></p> <ul style="list-style-type: none"> <li>◦ May be referred to the Commission for any further action deemed necessary by the Commission.</li> </ul>
<b>LICENSED OWNER:</b>		
<b>1<sup>st</sup> offense</b>	<b>2<sup>nd</sup> LIFETIME offense in owner’s stable in any jurisdiction</b>	<b>3<sup>rd</sup> LIFETIME offense in owner’s stable in any jurisdiction</b>
<ul style="list-style-type: none"> <li>◦ Loss of purse.</li> </ul>	<ul style="list-style-type: none"> <li>◦ Loss of purse.</li> </ul>	<ul style="list-style-type: none"> <li>◦ Loss of purse and \$50,000 fine.</li> </ul> <p><b>AND</b></p> <ul style="list-style-type: none"> <li>◦ Referral to the</li> </ul>

		Commission with a recommendation of a suspension for a minimum of 90 days.
<b>horse</b>		
<b>1<sup>st</sup> offense</b>	<b>2<sup>nd</sup> LIFETIME offense in owner's stable in any jurisdiction</b>	<b>3<sup>rd</sup> LIFETIME offense in owner's stable in any jurisdiction</b>
<ul style="list-style-type: none"> <li>◦ Disqualification.</li> <li style="text-align: center;"><b>AND</b></li> <li>◦ In accordance with CRCR 5.612, Horse shall be placed on the Veterinarian's list for 90 days and must pass a Commission-approved examination before becoming eligible to be entered.</li> </ul>	<ul style="list-style-type: none"> <li>◦ Disqualification.</li> <li style="text-align: center;"><b>AND</b></li> <li>◦ In accordance with CRCR 5.612, Horse shall be placed on the Veterinarian's list for 120 days and must pass a Commission-approved examination before becoming eligible to be entered.</li> </ul>	<ul style="list-style-type: none"> <li>◦ Disqualification.</li> <li style="text-align: center;"><b>AND</b></li> <li>◦ In accordance with CRCR 5.612, 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.</li> </ul>

**PENALTY GUIDELINE LISTING**

*The following are recommended penalties for violations due to the presence of a drug carrying Category “B” penalty, for the presence of more than one NSAID in a plasma/serum sample, subject to the provisions set forth in ARCI-011-020 E.(1)(c) and for violations of the established levels for total carbon dioxide. Except for those violations specified in 5.441(2)(a)\*:*

<b>LICENSED TRAINER:</b>		
<b>1<sup>st</sup> offense</b>	<b>2<sup>nd</sup> offense (365-day period) in any jurisdiction</b>	<b>3<sup>rd</sup> offense (365-day period) in any jurisdiction</b>
<ul style="list-style-type: none"> <li>◦ Minimum 15-day suspension absent mitigating circumstances. The presence of aggravating factors could be used to impose a maximum of a 60-day suspension.</li> </ul> <p align="center"><b>AND</b></p> <ul style="list-style-type: none"> <li>◦ Minimum fine of \$500 absent mitigating circumstances. The presence of aggravating factors could be used to impose a maximum of \$1,000.</li> </ul> <p>Minimum fine of \$2,500 and a minimum 180 day suspension absent mitigating circumstances if the presence of a nerve blocking drug is detected.</p>	<ul style="list-style-type: none"> <li>◦ Minimum 30-day suspension absent mitigating circumstances. The presence of aggravating factors could be used to impose a maximum of a 180-day suspension.</li> </ul> <p align="center"><b>AND</b></p> <ul style="list-style-type: none"> <li>◦ Minimum fine of \$1,000 absent mitigating circumstances. The presence of aggravating factors could be used to impose a maximum of \$2,500.</li> </ul> <p>Minimum fine of \$2,500 and a minimum 180 day suspension absent mitigating circumstances if the presence of a nerve blocking drug is detected.</p>	<ul style="list-style-type: none"> <li>◦ Minimum 60-day suspension absent mitigating circumstances. The presence of aggravating factors could be used to impose a maximum of a one-year suspension.</li> </ul> <p align="center"><b>AND</b></p> <ul style="list-style-type: none"> <li>◦ Minimum fine of \$2,500 absent mitigating circumstances. The presence of aggravating factors could be used to impose a maximum of \$5,000 or 5% of purse (greater of the two).</li> </ul> <p>Minimum fine of \$2,500 and a minimum 180 day suspension absent mitigating circumstances if the presence of a nerve blocking drug is detected.</p> <ul style="list-style-type: none"> <li>◦ May be referred to the Commission for any further action deemed necessary by the Commission.</li> </ul>
<b>LICENSED OWNER:</b>		
<b>1<sup>st</sup> offense</b>	<b>2<sup>nd</sup> offense in stable (365-day period) in any jurisdiction</b>	<b>3<sup>rd</sup> offense in stable (365-day period) in any jurisdiction</b>
<ul style="list-style-type: none"> <li>◦ Loss of purse.</li> </ul>	<ul style="list-style-type: none"> <li>◦ Loss of purse.</li> </ul>	<ul style="list-style-type: none"> <li>◦ Loss of purse, and in the absence of mitigating circumstances a \$5,000 fine.</li> </ul>

<b>HORSE:</b>		
<b>1<sup>st</sup> offense</b>	<b>2<sup>nd</sup> offense in stable (365-day period) in any jurisdiction</b>	<b>3<sup>rd</sup> offense in stable (365-day period) in any jurisdiction</b>
<ul style="list-style-type: none"> <li>◦ Disqualification.</li> </ul> <p style="text-align: center;"><b>AND</b></p> <ul style="list-style-type: none"> <li>◦ In accordance with CRCR 5.612, 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.</li> </ul> <p>*Prohibited use of Nerve blocking drugs, will require a horse to be placed on the Veterinarian's list for 180 days and must pass a Commission approved examination before becoming eligible to be entered.</p>	<ul style="list-style-type: none"> <li>◦ Disqualification.</li> </ul> <p style="text-align: center;"><b>AND</b></p> <ul style="list-style-type: none"> <li>◦ In accordance with CRCR 5.612, Horse shall be placed on the Veterinarian's list for 60 days and must pass a Commission-approved examination before becoming eligible to be entered.</li> </ul> <p>*Prohibited use of Nerve blocking drugs, will require a horse to be placed on the Veterinarian's list for 180 days and must pass a Commission approved examination before becoming eligible to be entered.</p>	<ul style="list-style-type: none"> <li>◦ Disqualification.</li> </ul> <p style="text-align: center;"><b>AND</b></p> <ul style="list-style-type: none"> <li>◦ In accordance with CRCR 5.612, Horse shall be placed on the Veterinarian's list for 90 days and must pass a Commission-approved examination before becoming eligible to be entered.</li> </ul> <p>*Prohibited use of Nerve blocking drugs, will require a horse to be placed on the Veterinarian's list for 180 days and must pass a Commission approved examination before becoming eligible to be entered.</p>

## PROPOSED AMENDMENT TO 5.441 CATEGORY C CHART

The following are recommended penalties for violations due to the presence of a drug carrying a Category "C" penalty and overages for permitted NSAIDs and furosemide: (All concentrations are for measurements in serum or plasma.)

<b>LICENSED TRAINER</b>	<b>Phenylbutazone (2.0- 5.0 mcg/ml) Flunixin (21-99 ng/ml) Ketoprofen (2.00- 50.0 ng/ml) Furosemide (&gt;100 ng/ml) and no furosemide when identified as administered*</b>	<b>Phenylbutazone (&gt;5.0 mcg/ml) Flunixin (&gt;100 ng/ml) Ketoprofen (&gt;50 ng/ml) and CLASS C Violations</b>
1 <sup>st</sup> Offense (365-day period) in any jurisdiction	Minimum fine of \$250 absent mitigating circumstances.	Minimum fine of \$1000 absent mitigating circumstances.
2 <sup>nd</sup> Offense (365-day period) in any jurisdiction	Minimum fine of \$500 absent mitigating circumstances.	Minimum fine of \$1,500 and 15-day suspension absent mitigating circumstances.
3 <sup>rd</sup> Offense (365-day period) in any jurisdiction	Minimum fine of \$1,000 and 15-day suspension absent mitigating circumstances.	Minimum fine of \$2,500 and 30-day suspension absent mitigating circumstances.
<b>LICENSED OWNER</b>	<b>Phenylbutazone (2.0- 5.0 mcg/ml) Flunixin (21-99 ng/ml) Ketoprofen (2.00- 50.0 ng/ml) Furosemide (&gt;100 ng/ml) and no furosemide when identified as administered*</b>	<b>Phenylbutazone (&gt;5.0 mcg/ml) Flunixin (&gt;100 ng/ml) Ketoprofen (&gt;50 ng/ml) and CLASS C Violations</b>
1 <sup>st</sup> Offense (365-day period) in any jurisdiction	Horse must pass commission-approved examination before being eligible to run.	Loss of purse. Horse must pass Commission-approved examination before being eligible to run.
2 <sup>nd</sup> Offense (365-day period) in any jurisdiction	Loss of purse. If same horse, placed on Veterinarian's list for 45 days, and then must pass Commission-approved examination before being eligible to run.	Loss of purse. If same horse, placed on Veterinarian's list for 45 days, must pass Commission-approved examination before being eligible to run.
3 <sup>rd</sup> Offense (365-day period) in any jurisdiction	Loss of purse. Minimum \$5,000 fine. If same horse, placed on Veterinarian's list for 60 days, and then must pass Commission-approved examination before being eligible to run.	Loss of purse. Minimum \$5,000 fine. If same horse, placed on Veterinarian's list for 60 days, must pass Commission-approved examination before being eligible to run.

<b>HORSE</b>	<b>Phenylbutazone (2.0- 5.0 mcg/ml) Flunixin (21-99 ng/ml) Ketoprofen (2.00- 50.0 ng/ml) Furosemide (&gt;100 ng/ml) and no furosemide when identified as administered*</b>	<b>Phenylbutazone (&gt;5.0 mcg/ml) Flunixin (&gt;100 ng/ml) Ketoprofen (&gt;50 ng/ml) and CLASS C Violations</b>
1st Offense (365-day period) in any jurisdiction	In accordance with CRCR 5.612, horse required to pass Commission-approved examination before being eligible to run.	Disqualification. <b>AND</b> In accordance with CRCR 5.612, horse will be placed on Veterinarian's list for 30 days, and then must pass Commission- approved examination before being
2nd Offense (365-day period) in any jurisdiction	Disqualification. <b>AND</b> In accordance with CRCR 5.612, If same horse, placed on Veterinarian's list for 45 days, must pass Commission-approved examination before being eligible to run.	Disqualification. <b>AND</b> In accordance with CRCR 5.612, If same horse, placed on Veterinarian's list for 45 days, must pass Commission-approved examination before being eligible to run.
3rd Offense (365-day period) in any jurisdiction	Disqualification. <b>AND</b> In accordance with CRCR 5.612, If same horse, placed on Veterinarian's list for 60 days, must pass Commission-approved examination before being eligible to run.	Disqualification. <b>AND</b> In accordance with CRCR 5.612, If same horse, placed on Veterinarian's list for 60 days, must pass Commission-approved examination before being eligible to run.

\*If the trainer has not had more than one violation within the previous two years, the Stewards/ Judges are encouraged to issue a warning in lieu of a fine provided the reported level is below 3.0 mcg/ml, absent of aggravating factors. After a two year period, if the licensee has had no further violations, any penalty due to an overage in the 2.0 – 5.0 category will be expunged from the licensee's record for penalty purposes.

## Penalties

### Multiple Medication Violations (MMV)

(H) A trainer who receives a penalty for a medication violation based upon a horse testing positive for a Class 1-5 medication with Penalty Class A-D, as provided in the ARCI Uniform Classification for Foreign Substances shall be assigned points based upon the medication's penalty guideline as follows:

<b>Penalty Class</b>	<b>Points If Controlled Therapeutic Substance</b>	<b>Points If Non-Controlled Substance</b>
<b>Class A1</b>	N/A	6
<b>Class B</b>	2	4
<b>Class C</b>	1	2
<b>Class D</b>	½	2

- (i) The points assigned to a medication violation shall be included in the Stewards' or Commission Ruling. Such Ruling shall be included in the ARCI official database and the ARCI shall assign points consistent with section (A) for advisory purposes for medication violations where points have not been assigned by regulatory action. Points assigned by such regulatory ruling or by the ARCI shall reflect, in the case of multiple positive tests as described in paragraph (d), whether they shall thereafter constitute a single violation. Points will be assessed after a ruling is rendered, and penalty enhancement shall be applied to future violations. The Stewards' or Commission Ruling shall be posted on the official website of the Commission and within the official database of the Association of Racing Commissioners International. If an appeal is pending, that fact shall be noted in such Ruling. No points shall be applied until a final adjudication of the enforcement of any such violation.
- (j) A trainer's cumulative points for violations in all racing jurisdictions shall be maintained and certified by the Association of Racing Commissioners International. Once all appeals are waived or exhausted, the points shall immediately become part of the trainer's official ARCI record and shall be considered by the Commission in its determination to subject the trainer to the mandatory enhanced penalties by the Stewards or Commission as provided in this regulation.
- (k) 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.
- (l) The official ARCI record shall constitute prima facie evidence of a trainer's past record of violations and cumulative 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.

(m) The Stewards or Commission shall include all points for violations in all racing jurisdictions as contained in the trainer’s official ARCI record when determining whether the mandatory enhancements provided in this regulation shall be imposed.

(n) 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:

<b>Points</b>	<b>Suspension in days</b>
3-5.5	30
6-8.5	60
9-10.5	180
11 or more	360

MMV’s are not a substitute for the current penalty system and are intended to be an additional uniform penalty when the licensee:

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

(h) The suspension periods as provided above, shall run consecutive to any suspension imposed for the underlying offense.

(i) The Stewards’ or Commission Ruling shall distinguish between the penalty for the underlying offense and the enhancement based upon the trainer’s cumulative points.

(j) Any trainer who has received a medication violation may petition the ARCI to expunge the points received for the violation for the purpose of the MMV system only. The points shall be expunged as follows:

<b>Penalty Classification</b>	<b>Time to Expungement</b>
A	Permanent
B	3 years
C	2 years
D	1 year

(6) 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 and/or suspensions.

- (7) On Multiple Medication Violation (MMV) offenses, the Division, Board of Stewards, and Hearing Officer shall consider points given in all other States, regardless of whether they have formally adopted the ARCI-001-020 Medications and Prohibited Substances Penalty Chart for Multiple Medication Violations (MMV). The Division shall consider all cumulative points, and such enhanced penalty shall run consecutive to the Colorado penalty assessment.
- (8) Any licensee of the Commission, including veterinarians, found to be responsible for the improper or intentional administration of any drug resulting in a positive test may, after proper notice and hearing, be subject to the same penalties set forth for the licensed trainer.
- (9) The licensed owner, veterinarian or any other licensed party involved in a positive laboratory finding shall be notified in writing of the hearing and any resulting action. In addition their presence may be required at any and all hearings relative to the case.
- (10) Any veterinarian found to be involved in the administration of any drug carrying the penalty category of "A" shall be referred to the State Licensing Board of Veterinary Medicine for consideration of further disciplinary action and/or license revocation. This is in addition to any penalties issued by the Stewards or the Commission.
- (11) Any person who the Stewards or the Commission believe may have committed acts in violation of criminal statutes may be referred to the appropriate law enforcement agency. Administrative action taken by the Stewards or the Commission in no way prohibits a prosecution for criminal acts committed.

A licensed trainer shall not benefit financially during the period for which the individual has been suspended. This includes, but is not limited to, ensuring that horses are not transferred to licensed family members.

The Commission hereby cites the following sources:

(1) Version ~~8.00 December 2014~~ **10.0 JULY 2015** of the Association of Racing Commissioners International Uniform Classification Guidelines for Foreign Substances; by the Association of Racing Commissioners International, 1510 Newtown Pike, Suite 210, Lexington, Kentucky, USA 40511. This rule does not include any later Amendments or Editions of the *ARCI Uniform Classification Guidelines for Foreign Substances*

Certified copies of the complete text of the referenced materials are maintained at the Colorado Department of Revenue Division of Racing Events, 1881 Pierce Street, Room 108, Lakewood Colorado 80214-1494, and may be inspected at that address during normal business hours. Certified copies shall be provided at requestors cost.

## **CHAPTER 6**

### **Rule 6.122** – Additional language – Summary Suspension

#### **Original Rule**

The Board or a hearing officer has authority to summarily suspend a licensee for fourteen (14) days or less without holding a hearing, where the Board or hearing officer has reasonable cause to believe and makes a finding that the licensee has been guilty of a deliberate or willful violation or that the public health, safety or welfare imperatively requires the emergency action, incorporates the findings in their order, and promptly institutes disciplinary proceedings.

#### **Suggested Addition**

The Board or a hearing officer has authority to summarily suspend a licensee for fourteen (14) days or less without holding a hearing, where the Board or hearing officer has reasonable cause to believe and makes a finding that the licensee has been guilty of a deliberate or willful violation or that the public health, safety or welfare imperatively requires the emergency action, incorporates the findings in their order, and promptly institutes disciplinary proceedings.

**SHOULD EITHER THE LICENSEE, FOR ANY REASON, OR THE BOARD, UPON A SHOWING OF GOOD CAUSE, ELECT TO CONTINUE A HEARING SCHEDULED WITHIN THE SUMMARY SUSPENSION TIME, THE SUMMARY SUSPENSION SHALL CONTINUE UNTIL THE CONTINUED HEARING IS SCHEDULED.**

### **Rule 6.202** – Removal of greyhound reference

#### **Original**

All protests must be filed not later than one (1) hour before post time. Protests must be made to the Board in writing and signed by the complainant. The written protest must include the grounds of the protest. However, the Board may scratch an ineligible greyhound, horse or remove a jockey at any time.

#### **Proposed Modification**

All protests must be filed not later than one (1) hour before post time. Protests must be made to the Board in writing and signed by the complainant. The written protest must include the grounds of the protest. However, the Board may scratch an ineligible greyhound, horse or remove a jockey at any time.

## **CHAPTER 7**

### **Chapter 7, 400 series (7.411?)** – New rule – Scratches

**IF A HORSE IS SCRATCHED FOR FAILURE TO FULFILL AN ENTRY, FOR ANY REASON, THE HORSE SHALL BE INELIGIBLE FOR ANY RACES THE SAME RACE WEEK AND PLACED ON THE STEWARDS LIST.**

### **Chapter 7, 500 series** – New rule – Weights

#### **Suggestion\***

**CLAIM OF A WEIGHT ALLOWANCE TO WHICH A HORSE IS NOT ENTITLED WILL NOT DISQUALIFY SAID HORSE UNLESS A TIMELY PROTEST AS REQUIRED BY**

**RULE 6.202 IS MADE IN WRITING AND LODGED WITH THE STEWARDS AT LEAST SIXTY (60) MINUTES BEFORE POST TIME OF THE RACE IN QUESTION.**

**Rule 7.633** – Should have already been deleted – Jockey Body Fat Minimum  
~~A jockey or apprentice jockey shall maintain a minimum body fat content of not less than 5.0% of total body mass. Every jockey or apprentice jockey engaged to ride shall report to the scale room at the time required and shall have their body fat content measured by the clerk of scales on a body fat scale. A jockey or apprentice jockey whose body fat measures below 5.0% but greater than 4.0% of total body mass shall be placed on warning by the stewards, and shall be suspended from riding if this minimum standard of 5.0% is not met within three (3) calendar days of the warning. A jockey or apprentice jockey whose body fat content measures below 4.0% of total body mass shall be disqualified from riding in any race until such time as the jockey's or apprentice jockey's body mass measures 5.0% or greater. Compliance with this rule is optional for any jockey or apprentice jockey licensed in the United States before December 31, 2003.~~

## **CHAPTER 8**

**Chapter 8, 200 series** – New rule – Claiming of Horses

**AT THE TIME OF FILING THE CLAIM FORM, CLAIMANTS SHALL HAVE THE RIGHT TO DESIGNATE ON THE CLAIM FORM A REQUEST FOR A POST-RACE TEST OF THE CLAIMED HORSE FOR PROHIBITIVE SUBSTANCES PER CRC GUIDELINES.**

**IN THE EVENT A REQUEST IS MADE FOR A POST-RACE TEST, THE CLAIMED HORSE SHALL BE TAKEN TO THE TEST BARN IMMEDIATELY AFTER THE RACE, A BLOOD SAMPLE SHALL BE DRAWN BY THE COMMISSION VETERINARIAN, AND THE SAMPLE SUBMITTED TO A COMMISSION APPROVED LABORATORY.**

**THE SUCCESSFUL CLAIMANT SHALL BE RESPONSIBLE FOR PAYING THE COST FOR THE TEST. THE HORSE SHALL NOT BE TESTED UNLESS PAYMENT ACCOMPANIES THE CLAIM CARD AND THE REQUEST FOR POST-RACE TESTING IS CLEARLY MARKED ON THE CLAIM CARD.**

**THE SUCCESSFUL CLAIMANT SHALL HAVE THE RIGHT TO VOID THE CLAIM IF THE POST-RACE TEST IS POSITIVE FOR A PROHIBITED SUBSTANCE PER CRC GUIDELINES. IN THE EVENT OF A POSITIVE TEST, THE ORIGINAL TRAINER OF THE HORSE MAY BE SUBJECT TO ADMINISTRATIVE ACTION.**

**THE SUCCESSFUL CLAIMANT SHALL HAVE FORTY-EIGHT (48) HOURS TO EXERCISE HIS OR HER RIGHT TO REVOKE THE CLAIM.**

**THE SUCCESSFUL CLAIMANT SHALL BE RESPONSIBLE FOR ALL EXPENSES FOR THE CARE AND MAINTENANCE OF THE HORSE FROM THE TIME THE HORSE IS TRANSFERRED TO THE CLAIMANT UNTIL THE TIME THE HORSE IS**

**RETURNED TO THE PRIOR OWNER FOLLOWING REVOCATION OF THE CLAIM.  
FURTHER, THE HORSE SHALL BE DESIGNATED AS INELIGIBLE TO BE DRAWN  
UNTIL THE TEST RESULTS ARE RETURNED.**