

**Statement of Authority, Basis, Purpose, and Fiscal Impact
of Amendment of Regulation**

1 CCR 208-1

Rule #3.302

Statutory Authority:

Section 12-60-201(1), C.R.S., Section 202(3)(f), C.R.S., Section 12-60-501, C.R.S., Section 12-60-503(1)(a), C.R.S.; Section 12-60-507(1)(l), C.R.S.

Basis and Purpose:

To clarify that the Division may, pursuant to statute, impose a suspension upon a licensee of the same duration as has been imposed in another jurisdiction.

CURRENT RULE

It is the Commission's and Division's policy to recognize and uphold the rulings of other racing jurisdictions or breed registries which are recognized as official registries by the Commission. Also, the Commission and Division reserve the right to deny the application for a license of any person licensed in another racing jurisdiction.

PROPOSED AMENDMENT

It is the Commission's and Division's policy to recognize and uphold the rulings of other racing jurisdictions or breed registries which are recognized as official registries by the Commission.

PURSUANT TO § 12-60-507(1)(L), BASED UPON THE EVIDENCE OF A RULING FROM ANOTHER JURISDICTION, THE COMMISSION, THE BOARD OF STEWARDS OR A HEARING OFFICER SHALL SUSPEND THE LICENSE OF A LICENSEE UNTIL PROOF CAN BE FURNISHED THAT SUCH SUSPENSION HAS BEEN LIFTED OR EXPIRED IN THE OTHER JURISDICTION. NO ADDITIONAL PENALTIES MAY BE ASSESSED UNDER THIS RULE. Also, the Commission and Division reserve the right to deny the application for a license of any person licensed in another racing jurisdiction.

**Statement of Authority, Basis, Purpose, and Fiscal Impact
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1 CCR 208-1

Rule #3.435

Statutory Authority:

Section 12-60-201(1), C.R.S., Section 202(3)(f), C.R.S., Section 12-60-501, C.R.S., Section 12-60-503(1)(a), C.R.S.

Basis and Purpose:

To relocate certain aspects of the rules which were included as part of the Human Drug Testing program, but are more appropriately separated from the rule and included as their own rule.

PROPOSED ADDITION

NO LICENSEE WHILE ON GROUNDS UNDER THE JURISDICTION OF THE COLORADO RACING COMMISSION SHALL:

- a) **ENGAGE IN THE ILLEGAL SALE OR DISTRIBUTION ALCOHOL OR A CONTROLLED SUBSTANCE;**
- b) **POSSESS, WITHOUT A VALID PRESCRIPTION, A CONTROLLED SUBSTANCE OR THE MEANS OF INTRODUCING SAID SUBSTANCE INTO THE BODY; OR,**
- c) **POSSESS OR CONSUMER ANY ALCOHOLIC BEVERAGES IN A SECURED OR RESTRICTED AREA.**

LICENSEES FOUND IN VIOLATION OF THIS RULE SHALL BE SUBJECT TO ADMINISTRATIVE ACTION INCLUDING FINES AND SUSPENSION.

**Statement of Authority, Basis, Purpose, and Fiscal Impact
of Amendment of Regulation**

1 CCR 208-1

Rule #3.437

Statutory Authority:

Section 12-60-201(1), C.R.S., Section 202(3)(f), C.R.S., Section 12-60-501, C.R.S., Section 12-60-503(1)(a), C.R.S.

Basis and Purpose:

To revise the Human Drug Testing rules and penalties in order to clarify general procedure and provide further guidance to licensees and Division staff in the compliance and enforcement of the rule.

To include a rule which expressly enumerates the ability of the Division, through its licensing powers delegated by the Commission, to require certain assurances of an applicant through the process of placing conditions upon approval of license.

CURRENT RULE

The Division, Board may conduct random testing, as well as testing based on reasonable suspicion or probable cause. Other qualified or certified persons designated by the Division may conduct testing for the use of alcohol when reasonable suspicion or probable cause exists. The Commission shall determine by policy the testing procedures and the license categories to be included in testing as permitted by law. Said policies and procedures shall be made available to all licensees.

No licensee while in a restricted or secured area shall:

- a) Engage in the illegal sale or distribution of alcohol or a controlled substance;
- b) Possess, without a valid prescription, a controlled substance or the means of introducing said substance into the body;
- c) Have present within their system any controlled substance, or:
- d) Have any alcohol in excess of .05% in their system except that no jockey, apprentice jockey, exercise person, pony person, starter, assistant starter, outrider or any other licensee who performs the duties of these license categories while on association grounds shall have present within his/her body any amount of alcohol in excess of .02% prior to completing his/her duties required by the license.

- e) Possess or consume any alcoholic beverages.

Any licensee who refuses to submit to an alcohol test or drug (controlled substance) test shall be presumed to have tested positive.

Based upon a positive field screening test, the Board shall prohibit the licensee from participating in racing for the remainder of the day. If the results of the field screening test are being sent out for confirmation, a licensee may return to work, prior to a hearing before the Board, provided they provide a negative screening test administered by the Division on the day they wish to return. Upon confirmation or stipulation of a positive test or a refusal to test, the Board shall suspend the licensee for a period not less than forty-eight (48) hours for alcohol and for a period not less than fourteen (14) days for drugs.

Notwithstanding CRCR 7.110, for an alcohol or drug related offense, the Board may permit the offending party to appoint a substitute trainer in accordance with the procedures set forth in CRCR #3.522 and #3.524.

Prior to subsequent participation in racing, the licensee shall, at a time designated by the Division or Board, produce a negative test result and shall agree to further testing to verify continued unimpairment. In addition, the Board or Hearing Officer may conduct a hearing to determine if other disciplinary action is appropriate, including ordering the licensee to obtain assessment by a professional approved by the Division to determine if there is a substantial probability that the licensee is dependent on, or abuses, alcohol or other controlled substances.

If there is a substantial probability of dependency or abuse or for a second positive test or refusal to be tested, the licensee shall satisfactorily complete a certified alcohol/controlled substance abuse rehabilitation program approved by the Division, assuming other testing conditions have been satisfied.

For a second positive test or refusal to be tested or combination thereof within any twelve (12) consecutive months, the Board shall suspend the licensee's license for a period not less than five (5) days for alcohol and for a period not less than thirty (30) days for drugs and until the licensee has satisfactorily enrolled in a certified alcohol/controlled substance abuse rehabilitation program approved by the Division, assuming other testing conditions have been satisfied. In addition, the Board or Hearing Officer may conduct a hearing to determine if other disciplinary action is appropriate. The licensee shall also pay a fee of \$25.00 to be retested and shall pay all costs related to any rehabilitation programs.

For a third or subsequent positive test or refusal to be tested or combination thereof within any consecutive twelve (12) months for alcohol, the Board shall suspend the licensee's license until the licensee has satisfactorily completed a certified alcohol abuse rehabilitation program approved by the Division and until the licensee has retested negative with the Division. For a third or subsequent positive test or refusal to be tested or combination thereof within any consecutive twelve (12) months for drugs, the Board shall suspend the licensee's license for the race meet plus 60 days and until the licensee has satisfactorily completed a certified drug abuse

rehabilitation program approved by the Division and refer the licensee to the Commission for further disciplinary action. The licensee shall also pay a fee of \$25.00 to be retested and shall pay all costs related to any rehabilitation programs.

The Division shall develop procedures for the collection and splitting of samples, and securing the chain of custody. The procedures shall address situations when there is an insufficient quantity of a sample for splitting and when the licensee desires to waive a split sample.

If the confirmation sample is negative, the mandatory suspension shall be vacated and the licensee shall be reinstated. If confirmation sample cannot be confirmed, then licensee may be retested at the Division's expense.

PROPOSED AMENDMENT

The Division, ~~Board~~ may conduct random testing, as well as testing based on reasonable suspicion or probable cause. Other qualified or certified persons designated by the Division may conduct testing for the use of alcohol **OR CONTROLLED SUBSTANCES** when reasonable suspicion or probable cause exists. The Commission shall determine by policy the testing procedures and the license categories to be included in testing as permitted by law. Said policies and procedures shall be made available to all licensees. **ANY LICENSEE WHO REFUSES TO SUBMIT TO AN ALCOHOL OR DRUG (CONTROLLED SUBSTANCE) TEST SHALL BE PRESUMED TO HAVE TESTED POSITIVE.**

No licensee while in a restricted or secured area **OR WHO, BY LICENSURE STATUS, HAS ACCESSED, WILL ACCESS, OR MAY ACCESS A RESTRICTED OR SECURED AREA DURING THE REASONABLE COURSE OF THE DAY** shall:

- a) ~~Engage in the illegal sale or distribution of alcohol or a controlled substance;~~
- b) ~~Possess, without a valid prescription, a controlled substance or the means of introducing said substance into the body;~~
- c) Have present within their system any controlled substance, ~~or;~~ **OR,**
- d) Have any alcohol in excess of .05% in their system except that no jockey, apprentice jockey, exercise person, pony person, starter, assistant starter, outrider or any other licensee who performs the duties of these license categories while on association grounds shall have present within his/her body any amount of alcohol in excess of .02% prior to completing his/her duties required by the license.
- e) ~~Possess or consume any alcoholic beverages.~~

~~Any licensee who refuses to submit to an alcohol test or drug (controlled substance) test shall be presumed to have tested positive.~~

~~Based upon a positive field screening test, the Board shall prohibit the licensee from participating in racing for the remainder of the day. If the results of the field screening test are being sent out for confirmation, a licensee may return to work, prior to a hearing before the Board, provided they provide a negative screening test administered by the Division on the day they wish to return. Upon confirmation or stipulation of a positive test or a refusal to test, the Board shall suspend the licensee for a period not less than forty-eight (48) hours for alcohol and for a period not less than fourteen (14) days for drugs.~~

~~Notwithstanding CRCR 7.110, for an alcohol or drug related offense, the Board may permit the offending party to appoint a substitute trainer in accordance with the procedures set forth in CRCR #3.522 and #3.524.~~

~~Prior to subsequent participation in racing, the licensee shall, at a time designated by the Division or Board, produce a negative test result and shall agree to further testing to verify continued unimpairment. In addition, the Board or Hearing Officer may conduct a hearing to determine if other disciplinary action is appropriate, including ordering the licensee to obtain assessment by a professional approved by the Division to determine if there is a substantial probability that the licensee is dependent on, or abuses, alcohol or other controlled substances.~~

~~If there is a substantial probability of dependency or abuse or for a second positive test or refusal to be tested, the licensee shall satisfactorily complete a certified alcohol/controlled substance abuse rehabilitation program approved by the Division, assuming other testing conditions have been satisfied.~~

~~For a second positive test or refusal to be tested or combination thereof within any twelve (12) consecutive months, the Board shall suspend the licensee's license for a period not less than five (5) days for alcohol and for a period not less than thirty (30) days for drugs and until the licensee has satisfactorily enrolled in a certified alcohol/controlled substance abuse rehabilitation program approved by the Division, assuming other testing conditions have been satisfied. In addition, the Board or Hearing Officer may conduct a hearing to determine if other disciplinary action is appropriate. The licensee shall also pay a fee of \$25.00 to be retested and shall pay all costs related to any rehabilitation programs.~~

~~For a third or subsequent positive test or refusal to be tested or combination thereof within any consecutive twelve (12) months for alcohol, the Board shall suspend the licensee's license until the licensee has satisfactorily completed a certified alcohol abuse rehabilitation program approved by the Division and until the licensee has retested negative with the Division. For a third or subsequent positive test or refusal to be tested or combination thereof within any consecutive twelve (12) months for drugs, the Board shall suspend the licensee's license for the race meet plus 60 days and until the licensee has satisfactorily completed a certified drug abuse rehabilitation program approved by the Division and refer the licensee to the Commission for further disciplinary action. The licensee shall also pay a fee of \$25.00 to be retested and shall pay all costs related to any rehabilitation programs.~~

A POSITIVE SCREENING TEST OR REFUSAL TO TEST IS PRIMA FACIE EVIDENCE THAT A VIOLATION OF THIS RULE HAS OCCURRED. LICENSEES WHO TEST POSITIVE FOR ALCOHOL OR A PROHIBITED SUBSTANCE SHALL IMMEDIATELY BE SUSPENDED AS SET FORTH WITHIN THIS RULE FOR THE CORRESPONDING SUBSTANCE AND OFFENSE. A LICENSEE WHO HAS BEEN SUSPENDED IN ACCORDANCE WITH THIS RULE MAY ELECT TO HAVE A SPLIT SAMPLE SENT TO THE DIVISION'S CONFIRMATORY LABORATORY AT LICENSEE'S EXPENSE. LICENSEE MAY ALSO REQUEST A HEARING BEFORE THE BOARD BY WRITTEN REQUEST. LICENSEE REQUESTS FOR HEARING SHALL SET FORTH THE REASON FOR APPEAL TO THE BOARD FOR REVIEW. HOWEVER, LICENSEE SHALL REMAIN SUSPENDED UNTIL SUCH HEARING IS HELD.

IF THE CONFIRMATORY ANALYSIS INDICATES THAT THE SAMPLE IS NEGATIVE FOR PROHIBITED SUBSTANCES, LICENSEE SHALL BE IMMEDIATELY REINSTATED AND MAY RETURN TO WORK. IF THE CONFIRMATORY SAMPLE ANALYSIS DETECTS THE PRESENCE OF ANY SUBSTANCE THAT IS INTENDED TO DILUTE OR MASK THE PRESENCE OF ANOTHER SUBSTANCE, LICENSEE MAY BE SUBJECT TO ADDITIONAL ADMINISTRATIVE ACTION INCLUDING FINES AND SUSPENSION.

ANY LICENSEE WHO IS REQUIRED TO PROVIDE A NEGATIVE SAMPLE PRIOR TO RETURN TO WORK SHALL BE TESTED AT LICENSEE'S EXPENSE. IF THE CONFIRMATORY ANALYSIS INDICATES THAT A PROHIBITED SUBSTANCE WAS PRESENT IN THE SAMPLE, LICENSEE MAY BE CHARGED WITH AN ADDITIONAL VIOLATION OF THIS RULE. IF THE RESULTS OF THE TEST INDICATES THE PRESENCE OF A SUBSTANCE WHICH IS INTENDED TO DILUTE OR MASK THE PRESENCE OF ANOTHER SUBSTANCE, LICENSEE SHALL BE SUBJECT TO ADDITIONAL ADMINISTRATIVE ACTION INCLUDING FINES AND SUSPENSION.

PENALTY SCHEDULE

THE TIMING OF ALL OFFENSES IS DETERMINED ON A ROLLING 365-DAY SCHEDULE.

FOR THE PRESENCE OF CONTROLLED SUBSTANCES OR REFUSAL TO PROVIDE A SAMPLE FOR TESTING:

- **FIRST OFFENSE: LICENSEE SHALL BE SUSPENDED FOR FOURTEEN (14) DAYS AND SHALL BE REQUIRED TO PROVIDE A NEGATIVE URINE SAMPLE ON THE DAY LICENSEE RETURNS TO WORK.**

- **SECOND OFFENSE: LICENSEE SHALL BE SUSPENDED FOR THIRTY (30) DAYS. LICENSEE SHALL BE REQUIRED TO PROVIDE A NEGATIVE URINE SAMPLE AND PROOF OF ENROLLMENT IN A COMMISSION-APPROVED DRUG REHABILITATION PROGRAM ON THE DAY LICENSEE RETURNS TO WORK.**

- **THIRD OFFENSE: LICENSEE SHALL BE SUSPENDED FOR THE REMAINDER OF THE RACE MEET, PLUS SIXTY (60) DAYS. LICENSEE SHALL BE REQUIRED TO PROVIDE A NEGATIVE URINE SAMPLE AND SUPPLY PROOF OF COMPETITION OF A COMMISSION-APPROVED DRUG REHABILITATION PROGRAM ON THE DAY LICENSEE RETURNS TO WORK.**

FOR THE PRESENCE OF ALCOHOL OR REFUSAL TO TEST:

- **FIRST OFFENSE: LICENSEE SHALL BE SUSPENDED FOR FORTY-EIGHT (48) HOURS AND SHALL BE REQUIRED TO PASS A BREATHALYZER TEST ON THE DAY LICENSEE RETURNS**

TO WORK.

- **SECOND OFFENSE: LICENSEE SHALL BE SUSPENDED FOR FIVE (5) DAYS. LICENSEE SHALL BE REQUIRED TO PASS A BREATHALYZER TEST AND PROVIDE PROOF OF ENROLLMENT IN A COMMISSION-APPROVED ALCOHOL ABUSE/REHABILITATION PROGRAM ON THE DAY LICENSEE RETURNS TO WORK.**

- **THIRD OFFENSE: LICENSEE SHALL BE SUSPENDED UNTIL LICENSEE PROVIDES THE DIVISION WITH DOCUMENTATION THAT LICENSEE HAS SATISFACTORILY COMPLETED A COMMISSION-APPROVED ALCOHOL ABUSE/REHABILITATION PROGRAM.**

FOR THE PRESENCE OF BOTH PROHIBITED SUBSTANCES AND ALCOHOL, THE SUSPENSION PERIOD SHALL BE EQUAL TO THE LONGER PERIOD BETWEEN THE TWO CATEGORIES FOR THE OFFENSE.

PRESENCE OF MULTIPLE PROHIBITED SUBSTANCES AND/OR ALCOHOL IN A TEST SAMPLE SHALL BE TREATED AS A SINGLE OFFENSE.

The Division shall develop procedures for the collection and splitting of samples, and securing the chain of custody. The procedures shall address situations when there is an insufficient quantity of a sample for splitting and when the licensee desires to waive a split sample.

~~If the confirmation sample is negative, the mandatory suspension shall be vacated and the licensee shall be reinstated. If confirmation sample cannot be confirmed, then licensee may be retested at the Division's expense.~~

**Statement of Authority, Basis, Purpose, and Fiscal Impact
of Amendment of Regulation**

1 CCR 208-1

Rule #3.521

Statutory Authority:

Section 12-60-201(1), C.R.S., Section 202(3)(f), C.R.S., Section 12-60-501, C.R.S., Section 12-60-503(1)(a), C.R.S.; Section 12-60-507(1)(l), C.R.S.

Basis and Purpose:

To enact a rule to combat the issue of “program trainers” in the horse racing industry.

PROPOSED RULE

A LICENSED TRAINER SHALL NOT ENGAGE IN THE PRACTICE OF PROGRAM TRAINING. A PROGRAM TRAINER IS A TRAINER WHO ON BEHALF OF AN INELIGIBLE TRAINER OR UNDISCLOSED PERSON:

- a) **ENTERS INTO AN AGREEMENT FOR THE SOLE PURPOSE OF COMPLETING AN ENTRY FORM FOR A RACE;**
- b) **PAYS AN ENTRY FEE ON BEHALF OF AN INELIGIBLE TRAINER OR AN UNDISCLOSED PERSON;**
- c) **RECEIVES A FINANCIAL OR BENEFICIAL INTEREST FOR THE SOLE PURPOSE OF BEING LISTED AS THE TRAINER ON THE OFFICIAL RACE PROGRAM;**
- d) **OBTAINS OFFICIAL WORKS WITHIN THE STATE OF COLORADO ON BEHALF OF AN INELIGIBLE TRAINER OR UNDISCLOSED PERSON;**
- e) **IS ATTEMPTING TO ASSUME THE APPEARANCE OF BEING THE TRAINER OF A HORSE THAT HE/SHE DOES NOT HAVE IN HIS/HER CARE, CUSTODY OR CONTROL; OR**
- f) **IS ATTEMPTING TO ASSUME THE APPEARANCE OF BEING THE TRAINER OF A HORSE THAT IS UNDER THE CONTROL OF AND/OR TRAINED BY THE INELIGIBLE TRAINER OR UNDISCLOSED PERSON.**

AN INDIVIDUAL WHO IS FOUND IN VIOLATION OF ANY SUBSECTION OF THIS RULE SHALL BE FINED AND SUSPENDED TO THE FULLEST EXTENT OF THE BOARD’S POWER, UNDER CRCR #6.120. FOR ANY SUBSEQUENT VIOLATION, THE LICENSEE SHALL BE FINED AND SUSPENDED TO THE FULLEST EXTENT OF THE BOARD’S POWER AND THE MATTER SHALL BE SENT BEFORE THE COLORADO RACING COMMISSION FOR FURTHER REVIEW.

**Statement of Authority, Basis, Purpose, and Fiscal Impact
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1 CCR 208-1

Rule #3.606

Statutory Authority:

Section 12-60-201(1), C.R.S., Section 202(3)(f), C.R.S., Section 12-60-501, C.R.S., Section 12-60-503(1)(a), C.R.S.

Basis and Purpose:

To modify language of the current rule to adopt new ARCI model rule.

CURRENT RULE

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 AMENDMENT

~~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.~~

FOR THE PURPOSES OF THIS RULE, “DESIGNATED RACE” SHALL MEAN ANY STAKES RACE OR ASSOCIATED TRIAL IN ANY STATE AS DESIGNATED BY THE STEWARDS. A JOCKEY SUSPENDED FOR TEN (10) CALENDAR DAYS OR LESS FOR A RIDING VIOLATION UNLESS OTHERWISE SPECIFIED IN THE RULING MAY CONTINUE TO EXERCISE HORSES DURING TRAINING HOURS AND MAY FULFILL RIDING ENGAGEMENTS IN DESIGNATED RACES, AS DESIGNATED BY THE STEWARDS AT THE BEGINNING OF THE RACE MEETING.

PRIOR TO THE COMMENCEMENT OF A MEETING, A LISTING OF DESIGNATED RACES BY THE STEWARDS SHALL BE SUBMITTED TO THE COMMISSION. A COPY OF SUCH RACES SHALL BE POSTED IN THE JOCKEYS’ ROOM, AND ANY OTHER SUCH PLACE DEEMED APPROPRIATE BY THE STEWARDS. THE STEWARDS MAY ELEVATE A RACE TO DESIGNATED RACE STATUS AFTER THE

COMMENCEMENT OF THE MEET AND SHALL SUBMIT IT TO THE COMMISSION AND UPDATE THE LISTING AS ABOVE.

THE OFFICIAL RULINGS WHERE DESIGNATED RACES ARE PERMITTED SHALL BE STATED IN THE INITIAL RULING.

A JOCKEY WHO IS SERVING A SUSPENSION OF TEN (10) CALENDAR DAYS OR LESS MAY RIDE IN DESIGNATED RACES DURING THE SUSPENSION UNDER THE FOLLOWING CONDITIONS:

- 1. THE RACE HAS BEEN SPECIFIED AS A DESIGNATED RACE BY THE STEWARDS OFFICIATING AT THE MEETING; AND**
- 2. THE JOCKEY IS NAMED NO LATER THAN THE TIME SET FOR THE CLOSE OF ENTRIES FOR THE DESIGNATED RACE.**

WHEN A JOCKEY RIDES IN ANY DESIGNATED RACE(S) THE BOARD OF STEWARDS WHICH ORIGINALLY IMPOSED THE SUSPENSION WILL DESIGNATE THE DAY TO SERVE THE ADDITIONAL SUSPENSION.

**Statement of Authority, Basis, Purpose, and Fiscal Impact
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1 CCR 208-1

Rule #3.624

Statutory Authority:

Section 12-60-201(1), C.R.S., Section 202(3)(f), C.R.S., Section 12-60-501, C.R.S., Section 12-60-503(1)(a), C.R.S.

Basis and Purpose:

To ensure a jockey is paid even if the horse they are riding has a positive test and is ultimately disqualified.

CURRENT RULE

A jockey's fee shall be considered earned when the jockey is weighed out by the clerk of scales. The fee shall not be considered earned if any jockey, of their own free will, take themselves off of their mount, where injury to the horse or jockey is not involved. Any conditions or considerations not covered by these Rules shall be at the discretion of the stewards.

PROPOSED MODIFIED RULE

A jockey's fee shall be considered earned when the jockey is weighed out by the clerk of scales. The fee shall not be considered earned if any jockey, of their own free will, take themselves off of their mount, where injury to the horse or jockey is not involved. Any conditions or considerations not covered by these Rules shall be at the discretion of the stewards. **A JOCKEY'S PERCENTAGE OF PURSE SHALL BE CONSIDERED EARNED WHEN THE RACE HAS BEEN DECLARED OFFICIAL. IN THE EVENT OF A PURSE REDISTRIBUTION BECAUSE OF A POSITIVE TEST, JOCKEYS SHALL NOT BE REQUIRED TO REPAY ANY PURSE EARNED UNLESS THE RACING COMMISSION RULES THE JOCKEY WAS AN ACCOMPLICE IN THE PROHIBITED PRACTICE.**

**Statement of Authority, Basis, Purpose, and Fiscal Impact
of Amendment of Regulation**

1 CCR 208-1

Rule #3.626

Statutory Authority:

Section 12-60-201(1), C.R.S., Section 202(3)(f), C.R.S., Section 12-60-501, C.R.S., Section 12-60-503(1)(a), C.R.S.

Basis and Purpose:

To loosen restrictions upon a jockey's use of an agent, in order to accommodate the low number of agents and those agent's breed specializations.

CURRENT RULE

Each jockey is entitled to have one jockey agent. All engagements to ride shall be made by the jockey or the agent.

PROPOSED AMENDMENT

Each jockey is entitled to have one jockey agent **FOR EACH BREED**. All engagements to ride shall be made by the jockey or the agent.

**Statement of Authority, Basis, Purpose, and Fiscal Impact
of Amendment of Regulation**

1 CCR 208-1

Rule #3.642

Statutory Authority:

Section 12-60-201(1), C.R.S., Section 202(3)(f), C.R.S., Section 12-60-501, C.R.S., Section 12-60-503(1)(a), C.R.S.

Basis and Purpose:

To modify the current rule to allow a jockey who has ridden a horse that has placed in a race, but has subsequently lost the purse due to testing positive for a prohibited medication, to keep the fee awarded for the placement and not be required to reimburse the purse fund.

CURRENT RULE

A jockey's fee shall be considered earned when the jockey is weighed out by the clerk of scales. The fee shall not be considered earned if any jockey, of their own free will, take themselves off of their mount, where injury to the horse or jockey is not involved. Any conditions or considerations not covered by these Rules shall be at the discretion of the stewards.

PROPOSED AMENDMENT

A jockey's fee shall be considered earned when the ~~jockey is weighed out by the clerk of scales~~ **RACE HAS BEEN DECLARED OFFICIAL**. The fee shall not be considered earned if any jockey, of their own free will, take themselves off of their mount, where injury to the horse or jockey is not involved. **IN THE EVENT OF A PURSE REDISTRIBUTION BECAUSE OF A POSITIVE TEST, A JOCKEY SHALL NOT BE REQUIRED TO REPAY ANY FEE EARNED UNLESS THE COMMISSION, BOARD OF STEWARDS OR A HEARING OFFICER RULES THAT THE JOCKEY WAS AN ACCOMPLICE IN THE PROHIBITED PRACTICE**. Any conditions or considerations not covered by these Rules shall be at the discretion of the stewards.

**Statement of Authority, Basis, Purpose, and Fiscal Impact
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1 CCR 208-1

Rule #4.104

Statutory Authority:

Section 12-60-201(1), C.R.S., Section 202(3)(f), C.R.S., Section 12-60-501, C.R.S., Section 12-60-503(1)(a), C.R.S.

Basis and Purpose:

To revise the rule to expressly empower the Director of the Division to demand that a licensee-official or licensee-employee be replaced.

CURRENT RULE

The Commission reserves the right to demand a change of any of the officials or employees for any reason which the Commission deems good and sufficient, and any successor to any official or employee replaced shall be approved by the Commission. A racing official may be fined, suspended or removed at any time for incompetence and/or failure to follow or enforce these Rules or the law.

PROPOSED AMENDMENT

The Commission **OR THE DIRECTOR MAY** ~~reserves the right to~~ demand a change of any of the officials or employees for any reason which the Commission **OR THE DIRECTOR** deems good and sufficient, and any successor to any official or employee replaced shall be approved by the Commission **OR THE DIRECTOR**. A racing official may be fined, suspended or removed at any time for incompetence and/or failure to follow or enforce these Rules or the law.

**Statement of Authority, Basis, Purpose, and Fiscal Impact
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1 CCR 208-1

Rule #5.244

Statutory Authority:

Section 12-60-201(1), C.R.S., Section 202(3)(f), C.R.S., Section 12-60-501, C.R.S., Section 12-60-503(1)(a), C.R.S.

Basis and Purpose:

To revise the rules to require that horses are on grounds 48 hours prior to entry, instead of 48 hours prior to post.

CURRENT RULE

Any horse entered for racing must be present on the grounds at least forty eight (48) hours prior to the scheduled post time of the first race in which the horse is entered on any given calendar day.

PROPOSED AMENDMENT

Any horse entered for racing must be present on the grounds at least forty eight (48) hours prior to the ~~scheduled post time of the first race in which the horse is entered on any given calendar day~~ **CLOSE OF ENTRIES INTO THE RACE WHICH THE HORSE IS TO BE ENTERED.**

**Statement of Authority, Basis, Purpose, and Fiscal Impact
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1 CCR 208-1

Rule #5.246

Statutory Authority:

Section 12-60-201(1), C.R.S., Section 202(3)(f), C.R.S., Section 12-60-501, C.R.S., Section 12-60-503(1)(a), C.R.S.

Basis and Purpose:

To include a rule that prohibits a horse that has been entered into a race from leaving the grounds until the race or race series in which it has been entered has concluded or when the horse has been eliminated from further competition.

PROPOSED RULE

ONCE A HORSE HAS BEEN ENTERED INTO A RACE, IT CANNOT LEAVE THE GROUNDS UNTIL THE RACE, OR RACE SERIES, IN WHICH THE HORSE HAS BEEN ENTERED, HAS CONCLUDED OR THE HORSE HAS BEEN ELIMINATED FROM FURTHER COMPETITION. ANY HORSE LEAVING THE GROUNDS AFTER BEING ENTERED INTO A RACE SHALL BECOME INELIGIBLE AND SCRATCHED FROM THE RACE. ANY LICENSEE REMOVING AN ENTERED HORSE FROM RACETRACK GROUNDS MAY BE SUBJECT TO ADMINISTRATIVE ACTION. ANY FEE PAID IN REGARDS TO THE ENTRY OF THE HORSE SHALL BE FORFEIT.

**Statement of Authority, Basis, Purpose, and Fiscal Impact
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1 CCR 208-1

Rule #5.441

Statutory Authority:

Section 12-60-201(1), C.R.S., Section 202(3)(f), C.R.S., Section 12-60-501, C.R.S., Section 12-60-503(1)(a), C.R.S.

Basis and Purpose:

To modify the rule to reflect recent changes in the ARCI model rules for Multiple Medication Violations, as well as to update versions within the current rule with the current ACRI model rule. The basis and purpose of this modification is also to include “Clenbuterol” as a prohibited substance in the State of Colorado and reflect that change in the penalty schedule.

CURRENT 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:

LICENSED TRAINER:		
1st offense	2nd LIFETIME offense in any jurisdiction	3rd LIFETIME offense in any jurisdiction
<ul style="list-style-type: none"> ◦ Minimum one-year suspension absent mitigating Circumstances. The presence of aggravating factors could be used to impose a maximum of a three-year suspension. <p style="text-align: center;">and</p> <ul style="list-style-type: none"> ◦ 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). and <ul style="list-style-type: none"> ◦ May be referred to the Commission for any further action deemed necessary by the Commission. 	<ul style="list-style-type: none"> ◦ 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. <p style="text-align: center;">and</p> <ul style="list-style-type: none"> ◦ 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). <p style="text-align: center;">and</p> <ul style="list-style-type: none"> ◦ May be referred to the Commission for any further action deemed necessary by the Commission. 	<ul style="list-style-type: none"> ◦ 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. <p style="text-align: center;">and</p> <ul style="list-style-type: none"> ◦ 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). <p style="text-align: center;">and</p> <ul style="list-style-type: none"> ◦ May be referred to the Commission for any further action deemed necessary by the Commission.
LICENSED OWNER:		
1st offense	2nd LIFETIME offense in owner’s stable in any jurisdiction	3rd LIFETIME offense in owner’s stable in any jurisdiction
<ul style="list-style-type: none"> ◦ Loss of purse. 	<ul style="list-style-type: none"> ◦ Loss of purse. 	<ul style="list-style-type: none"> ◦ Loss of purse and \$50,000 fine.

		<p style="text-align: center;">AND</p> <ul style="list-style-type: none"> ◦ Referral to the Commission with a recommendation of a suspension for a minimum of 90 days.
horse		
1st offense	2nd LIFETIME offense in owner's stable in any jurisdiction	3rd LIFETIME offense in owner's stable in any jurisdiction
<ul style="list-style-type: none"> ◦ Disqualification. <p style="text-align: center;">AND</p> <ul style="list-style-type: none"> ◦ 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. 	<ul style="list-style-type: none"> ◦ Disqualification. <p style="text-align: center;">AND</p> <ul style="list-style-type: none"> ◦ 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. 	<ul style="list-style-type: none"> ◦ Disqualification. <p style="text-align: center;">AND</p> <ul style="list-style-type: none"> ◦ 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.

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):*

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

HORSE:		
1st offense	2nd offense in stable (365-day period) in any jurisdiction	3rd offense in stable (365-day period) in any jurisdiction
<ul style="list-style-type: none"> ◦ Disqualification. <p style="text-align: center;">AND</p> <ul style="list-style-type: none"> ◦ 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. <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"> ◦ Disqualification. <p style="text-align: center;">AND</p> <ul style="list-style-type: none"> ◦ 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. <p style="text-align: center;">*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"> ◦ Disqualification. <p style="text-align: center;">AND</p> <ul style="list-style-type: none"> ◦ 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. <p style="text-align: center;">*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>

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.)

LICENSED TRAINER	Phenylbutazone (2.0- 5.0 mcg/ml) Flunixin (21-99 ng/ml) Ketoprofen (2.00- 50.0 ng/ml) Furosemide (>100 ng/ml) and no furosemide when identified as administered*	Phenylbutazone (>5.0 mcg/ml) Flunixin (>100 ng/ml) Ketoprofen (>50 ng/ml) and CLASS C Violations
1 st Offense (365-day period) in any jurisdiction	Minimum fine of \$250 absent mitigating circumstances.	Minimum fine of \$1000 absent mitigating circumstances.
2 nd 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 rd 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.
LICENSED OWNER	Phenylbutazone (2.0- 5.0 mcg/ml) Flunixin (21-99 ng/ml) Ketoprofen (2.00- 50.0 ng/ml) Furosemide (>100 ng/ml) and no furosemide when identified as administered*	Phenylbutazone (>5.0 mcg/ml) Flunixin (>100 ng/ml) Ketoprofen (>50 ng/ml) and CLASS C Violations
1 st 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 nd 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 rd 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.

HORSE	Phenylbutazone (2.0- 5.0 mcg/ml) Flunixin (21-99 ng/ml) Ketoprofen (2.00- 50.0 ng/ml) Furosemide (>100 ng/ml) and no furosemide when identified as administered*	Phenylbutazone (>5.0 mcg/ml) Flunixin (>100 ng/ml) Ketoprofen (>50 ng/ml) and CLASS C Violations
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. AND 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. AND 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. AND 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. AND 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. AND 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:

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

Points	Suspension in days
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:

Penalty Classification	Time to Expungement
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 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.

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 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:

LICENSED TRAINER:		
1st offense	2nd LIFETIME offense in any jurisdiction	3rd LIFETIME offense in any jurisdiction
<ul style="list-style-type: none"> ◦ Minimum one-year suspension absent mitigating Circumstances. The presence of aggravating factors could be used to impose a maximum of a three-year suspension. <p align="center">AND</p> <ul style="list-style-type: none"> ◦ 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). <p align="center">AND</p> <ul style="list-style-type: none"> ◦ May be referred to the Commission for any further action deemed necessary by the Commission. 	<ul style="list-style-type: none"> ◦ 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. <p align="center">AND</p> <ul style="list-style-type: none"> ◦ 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). <p align="center">AND</p> <ul style="list-style-type: none"> ◦ May be referred to the Commission for any further action deemed necessary by the Commission. 	<ul style="list-style-type: none"> ◦ 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. <p align="center">AND</p> <ul style="list-style-type: none"> ◦ 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). <p align="center">AND</p> <ul style="list-style-type: none"> ◦ May be referred to the Commission for any further action deemed necessary by the Commission.

LICENSED OWNER:		
1st offense	2nd LIFETIME offense in owner's stable in any jurisdiction	3rd LIFETIME offense in owner's stable in any jurisdiction
<ul style="list-style-type: none"> ◦ Loss of purse. 	<ul style="list-style-type: none"> ◦ Loss of purse. 	<ul style="list-style-type: none"> ◦ Loss of purse and \$50,000 fine. <p style="text-align: center;">AND</p> <ul style="list-style-type: none"> ◦ Referral to the Commission with a recommendation of a suspension for a minimum of 90 days.
Horse		
1st offense	2nd LIFETIME offense in owner's stable in any jurisdiction	3rd LIFETIME offense in owner's stable in any jurisdiction
<ul style="list-style-type: none"> ◦ Disqualification. <p style="text-align: center;">AND</p> <ul style="list-style-type: none"> ◦ 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. 	<ul style="list-style-type: none"> ◦ Disqualification. <p style="text-align: center;">AND</p> <ul style="list-style-type: none"> ◦ 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. 	<ul style="list-style-type: none"> ◦ Disqualification. <p style="text-align: center;">AND</p> <ul style="list-style-type: none"> ◦ 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.

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):*

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

HORSE:		
1st offense	2nd offense in stable (365-day period) in any jurisdiction	3rd offense in stable (365-day period) in any jurisdiction
<ul style="list-style-type: none"> ◦ Disqualification. <p style="text-align: center;">AND</p> <ul style="list-style-type: none"> ◦ 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. <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"> ◦ Disqualification. <p style="text-align: center;">AND</p> <ul style="list-style-type: none"> ◦ 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. <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"> ◦ Disqualification. <p style="text-align: center;">AND</p> <ul style="list-style-type: none"> ◦ 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. <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>

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.)

LICENSED TRAINER	Phenylbutazone (2.0- 5.0 mcg/ml) Flunixin (21-99 ng/ml) Ketoprofen (2.00- 50.0 ng/ml) Furosemide (>100 ng/ml) and no furosemide when identified as administered*	Phenylbutazone (>5.0 mcg/ml) Flunixin (>100 ng/ml) Ketoprofen (>50 ng/ml) and CLASS C Violations
1 st Offense (365-day period) in any jurisdiction	Minimum fine of \$250 absent mitigating circumstances.	Minimum fine of \$1000 absent mitigating circumstances.
2 nd 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 rd 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.
LICENSED OWNER	Phenylbutazone (2.0- 5.0 mcg/ml) Flunixin (21-99 ng/ml) Ketoprofen (2.00- 50.0 ng/ml) Furosemide (>100 ng/ml) and no furosemide when identified as administered*	Phenylbutazone (>5.0 mcg/ml) Flunixin (>100 ng/ml) Ketoprofen (>50 ng/ml) and CLASS C Violations
1 st 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 nd 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 rd 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.

HORSE	Phenylbutazone (2.0- 5.0 mcg/ml) Flunixin (21-99 ng/ml) Ketoprofen (2.00- 50.0 ng/ml) Furosemide (>100 ng/ml) and no furosemide when identified as administered*	Phenylbutazone (>5.0 mcg/ml) Flunixin (>100 ng/ml) Ketoprofen (>50 ng/ml) and CLASS C Violations
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. AND 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. AND 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. AND 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. AND 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. AND 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:

Penalty Class	Points If Controlled Therapeutic Substance	Points If Non-Controlled Substance
Class A	N/A	6
Class B	2	4
Class C	± ½ FOR FIRST VIOLATION WITH AN ADDITIONAL ½ POINT FOR EACH ADDITIONAL VIOLATION WITHIN 365 DAYS ¹	± 1 FOR FIRST VIOLATION WITH AN ADDITIONAL ½ POINT FOR EACH ADDITIONAL VIOLATION WITHIN 365 DAYS
Class D	½ 0	± 0

¹ POINTS FOR NSAID VIOLATIONS ONLY APPLY WHEN THE PRIMARY THRESHOLD OF THE NSAID IS EXCEEDED. POINTS ARE NOT TO BE SEPARATELY ASSIGNED FOR A STACKING VIOLATION.

IF THE BOARD OR THE COMMISSION RULES THAT THE VIOLATION IS DUE TO ENVIRONMENTAL CONTAMINATION, THEY MAY ASSIGN LESSER OR NO POINTS AGAINST THE TRAINER BASED UPON THE SPECIFIC FACTS OF THE CASE.

- (b) The points assigned to a medication violation 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:

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

POINTS	SUSPENSION IN DAYS
5 – 5.5	15 TO 30
6.0 – 8.5	45 TO 60
9 – 10.5	90 TO 180
11 OR MORE	180 TO 360

THIS MMV’s POLICY ~~are~~ IS not a substitute for the current penalty system and ~~are~~ **IS** 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:

Penalty Classification	Time to Expungement EXPIRE
A	Permanent 3 YEARS
B	3 2 years
C	2 1 years
D	1 year

IN THE CASE OF A MEDICATION VIOLATION THAT RESULTS IN A SUSPENSION, ANY POINTS ASSESSED EXPIRE ON THE ANNIVERSARY DATE OF THE DATE THE SUSPENSION IS COMPLETED.

- (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 ~~10.0 July 2015~~ **13.00 JANUARY 1, 2017** 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.

**Statement of Authority, Basis, Purpose, and Fiscal Impact
of Amendment of Regulation**

1 CCR 208-1

Rule #5.611

Statutory Authority:

Section 12-60-201(1), C.R.S., Section 202(3)(f), C.R.S., Section 12-60-501, C.R.S., Section 12-60-503(1)(a), C.R.S.

Basis and Purpose:

To revise the rule to change how certain parties may take certain horses off the vet's list.

CURRENT RULE

A horse may be removed from the veterinarian's list after the minimum days provided by rule #5.610 when, in the opinion of the Division veterinarian and/or the association veterinarian or a practicing veterinarian not representing the horse or trainer, the horse has satisfactorily recovered the capability of competing in a race. A horse placed on a veterinarian's list for a positive test may only be removed with the authorization of the division veterinarian.

1: If a practicing veterinarian removes a horse from the veterinarian's list, a form provided by the Division veterinarian shall be signed and submitted to the stewards.

PROPOSED AMENDMENT

A horse may be removed from the veterinarian's list after the minimum days provided by rule #5.610 when, in the opinion of the Division veterinarian and/or the association veterinarian or a practicing veterinarian not representing the horse or trainer **WHO HAS BEEN AUTHORIZED BY THE DIVISION VETERINARIAN IN WRITING PRIOR TO THE EXAMINATION, THAT** the horse has satisfactorily recovered the capability of competing in a race. A horse placed on a veterinarian's list for a positive test may only be removed with the authorization of the ~~the~~ Division veterinarian.

1: If a practicing veterinarian removes a horse from the veterinarian's list, a **copy of the** form provided by the Division veterinarian shall be ~~signed and~~ submitted to the ~~s~~Stewards.

**Statement of Authority, Basis, Purpose, and Fiscal Impact
of Amendment of Regulation**

1 CCR 208-1

Rule #6.612

Statutory Authority:

Section 12-60-201(1), C.R.S., Section 202(3)(f), C.R.S., Section 12-60-501, C.R.S., Section 12-60-503(1)(a), C.R.S.

Basis and Purpose:

To clarify and clearly state the procedure for referral hearings.

CURRENT RULE

Whenever a matter is referred to the Commission from the Board or a hearing officer for a more severe penalty or other reason, the Commission shall schedule a hearing concerning the referral, and shall send notice of the date, time and place of the hearing, along with a copy of the Board's or hearing officer's ruling to the respondent at least thirty (30) days prior to the hearing date, by mailing the notice by first-class mail to the respondent's last known address.

PROPOSED AMENDMENT

Whenever a matter is referred to the Commission from the Board or a hearing officer for a more severe penalty or other reason, the Commission shall schedule a hearing concerning the referral, and shall send notice of the date, time and place of the hearing, along with a copy of the Board's or hearing officer's ruling to the respondent at least thirty (30) days prior to the hearing date, by mailing the notice by first-class mail to the respondent's last known address. **UNLESS OTHERWISE ORDERED BY THE COMMISSION, HEARINGS REFERRED UNDER THIS RULE ARE NON-EVIDENTIARY HEARINGS AND SHALL BE REVIEWED ONLY USING THE EVIDENCE CONTAINED IN THE RECORD.**

**Statement of Authority, Basis, Purpose, and Fiscal Impact
of Amendment of Regulation**

1 CCR 208-1

Rule #6.704

Statutory Authority:

Section 12-60-201(1), C.R.S., Section 202(3)(f), C.R.S., Section 12-60-501, C.R.S., Section 12-60-503(1)(a), C.R.S.

Basis and Purpose:

To clarify the rule and modify certain actions that may or may not be taken when an owner has been suspended or has had their license revoked.

CURRENT RULE

Whenever the license of an owner is revoked or suspended, every animal owned in whole or in part by the owner shall be ineligible to be entered or to start in any race while the disciplinary action is in effect, unless the ownership of the animal has been transferred through a *bona fide* sale to a licensed owner in good standing, who is not an associated person as defined or has provided satisfactory proof to the stewards that no association exists.

PROPOSED AMENDMENT

Whenever the license of an owner is revoked or suspended, every animal owned in whole or in part by the owner shall be ineligible to be entered or to start in any race while the disciplinary action is in effect, ~~unless the ownership of the animal has been~~ **ANY HORSE(S) SO AFFECTED MAY BE** transferred through a *bona fide* sale to a licensed owner in good standing, ~~ALL TRANSFERS SHALL BE APPROVED BY THE STEWARDS. A HORSE MAY NOT BE TRANSFERRED TO ANY PERSON~~ who is ~~not~~ **not** an associated person as defined. ~~THE STEWARDS MAY REQUIRE THE SUSPENDED OWNER TO~~ **THE STEWARDS MAY REQUIRE THE SUSPENDED OWNER TO** ~~or has provided satisfactory proof to the stewards that no association exists.~~ **ANY HORSE TRANSFERRED FROM A SUSPENDED OWNER REMAINS INELIGIBLE AND SHALL BE PLACED ON THE STEWARD'S LIST UNTIL THE SUSPENDED OWNER'S SUSPENSION HAS RUN OR HAS BEEN LIFTED.**

**Statement of Authority, Basis, Purpose, and Fiscal Impact
of Amendment of Regulation**

1 CCR 208-1

Rule #6.706

Statutory Authority:

Section 12-60-201(1), C.R.S., Section 202(3)(f), C.R.S., Section 12-60-501, C.R.S., Section 12-60-503(1)(a), C.R.S.

Basis and Purpose:

To clarify the rule and modify certain actions that may or may not be taken when a trainer has been suspended or has had their license revoked.

CURRENT RULE

Whenever the license of a trainer is suspended or revoked, every animal which is under the trainer's care shall be ineligible to be entered or to start in any race while the disciplinary action is in effect, unless care of the animal has been transferred to a licensed trainer in good standing, who is not an associated person as defined or has provided satisfactory proof to the stewards that no association exists.

PROPOSED AMENDMENT

Whenever the license of a trainer is suspended or revoked, every ~~animal~~ **HORSE** which is under the trainer's care shall be ineligible to be entered or to start in any race while the disciplinary action is in effect. ~~unless care of the animal has been~~ **ANY HORSE(S) SO AFFECTED MAY BE** transferred to a licensed trainer in good standing. **ALL TRANSFERS SHALL BE APPROVED BY THE STEWARDS. A HORSE MAY NOT BE TRANSFERRED TO ANY PERSON** who is ~~not~~ an associated person as defined. **THE STEWARDS MAY REQUIRE THE SUSPENDED TRAINER TO** ~~or has~~ provided satisfactory proof ~~to the stewards~~ that no association exists. **ANY HORSE TRANSFERRED FROM A SUSPENDED TRAINER REMAINS INELIGIBLE AND SHALL BE PLACED ON THE STEWARD'S LIST UNTIL THE SUSPENDED TRAINER'S SUSPENSION HAS RUN OR HAS BEEN LIFTED.**

**Statement of Authority, Basis, Purpose, and Fiscal Impact
of Amendment of Regulation**

1 CCR 208-1

Rule #6.712

Statutory Authority:

Section 12-60-201(1), C.R.S., Section 202(3)(f), C.R.S., Section 12-60-501, C.R.S., Section 12-60-503(1)(a), C.R.S.

Basis and Purpose:

To delete a rule that has become obsolete with the enactment of other rules in the rule book.

CURRENT RULE

In determining an appropriate sanction in a medication violation, the Board, a hearing officer or the Commission may consider the following:

- :1 -Whether the unauthorized medication was a stimulant, depressant, anesthetic or narcotic;
- :2 -Whether the unauthorized medication could have altered the performance of the animal;
- :3 - Any previous medication violations by the licensee;
- :4 -Whether the licensee wagered on that race;
- :5 - The place of finish of the animal and whether the wagering public was or could have been misled.

PROPOSED AMENDMENT

~~In determining an appropriate sanction in a medication violation, the Board, a hearing officer or the Commission may consider the following:~~

- ~~:1 -Whether the unauthorized medication was a stimulant, depressant, anesthetic or narcotic;~~
- ~~:2 -Whether the unauthorized medication could have altered the performance of the animal;~~
- ~~:3 - Any previous medication violations by the licensee;~~
- ~~:4 -Whether the licensee wagered on that race;~~
- ~~:5 - The place of finish of the animal and whether the wagering public was or could have been misled.~~

**Statement of Authority, Basis, Purpose, and Fiscal Impact
of Amendment of Regulation**

1 CCR 208-1

Rule #7.104

Statutory Authority:

Section 12-60-201(1), C.R.S., Section 202(3)(f), C.R.S., Section 12-60-501, C.R.S., Section 12-60-503(1)(a), C.R.S.

Basis and Purpose:

To correct typographical errors.

CURRENT RULE

Prior to entry in a race at a race meeting sanctioned by the Commission, double registered horses shall be declared by the owner or trainer in writing to the racing secretary as to under which single breed registry the horse shall compete. No changes shall be made after an entry has been accepted for such horse during that race meet. However, is such horse is entered in a claiming race, all certificates of registration must be in the racing secretary's office and will be transferred to any successful claimant.

PROPOSED AMENDMENT

Prior to entry in a race at a race meeting sanctioned by the Commission, double registered horses shall be declared by the owner or trainer in writing to the racing secretary as to under which single breed registry the horse shall compete. No changes shall be made after an entry has been accepted for such horse during that race meet. However, ~~is~~ **IF** such horse is entered in a claiming race, all certificates of registration must be in the racing secretary's office and will be transferred to any successful claimant.

**Statement of Authority, Basis, Purpose, and Fiscal Impact
of Amendment of Regulation**

1 CCR 208-1

Rule #7.110

Statutory Authority:

Section 12-60-201(1), C.R.S., Section 202(3)(f), C.R.S., Section 12-60-501, C.R.S., Section 12-60-503(1)(a), C.R.S.

Basis and Purpose:

To revise rule to better conform to current industry practice.

CURRENT RULE

If any entry from any person whose license has been suspended or revoked and the suspension or revocation would be in effect at the time of the race or of any horse that is ineligible is received, the entry shall be void. If any entry fee has been paid and the entry is noticed before the draw has taken place, the entry fee shall be refunded; otherwise the entry fee shall be forfeited. Should the entry not be noticed until after the race has been run, any money or prize won by the entry shall be returned for redistribution. The entry shall not be void if the care of the horse is appropriately transferred to an eligible trainer prior to scratch time of the scheduled performance or if there is no scratch time then 9:00 a.m. the day after the draw. The transferee trainer shall sign in the presence of the stewards a form furnished by the Division of Racing Events accepting complete responsibility for the condition of the horse so transferred.

PROPOSED AMENDMENT

If any entry from any person whose license has been suspended or revoked and the suspension or revocation would be in effect at the time of the race ~~or of any horse that is ineligible is received,~~ the entry shall be void. If any entry fee has been paid and the entry is noticed before the draw has taken place, the entry fee shall be refunded; otherwise the entry fee shall be forfeited. Should the entry not be noticed until after the race has been run, any money or prize won by the entry shall be returned for redistribution. ~~The entry shall not be void if the care of the horse is appropriately transferred to an eligible trainer prior to scratch time of the scheduled performance or if there is no scratch time then 9:00 a.m. the day after the draw. The transferee trainer shall sign in the presence of the stewards a form furnished by the Division of Racing Events accepting complete responsibility for the condition of the horse so transferred.~~

**Statement of Authority, Basis, Purpose, and Fiscal Impact
of Amendment of Regulation**

1 CCR 208-1

Rule #7.200

Statutory Authority:

Section 12-60-201(1), C.R.S., Section 202(3)(f), C.R.S., Section 12-60-501, C.R.S., Section 12-60-503(1)(a), C.R.S.

Basis and Purpose:

To correct a typographical error and to harmonize with other rules appearing in same section that are marked for revision or deletion.

CURRENT RULE

Before a horse is eligible to race, it must be duly entered into that race. The licensed owner or trainer making the entry must be license prior to race time.

PROPOSED AMENDMENT

~~Before a horse is eligible to race, it must be duly entered into that race.~~ **NO HORSE SHALL BE QUALIFIED TO START IN A RACE UNLESS IT HAS BEEN, AND CONTINUES TO BE, ENTERED IN THAT RACE. NO HORSE SHALL BE ALLOWED TO START IN A RACE IN WHICH IT HAS BEEN ENTERED UNLESS IT MEETS ALL ELIGIBILITY REQUIREMENTS AND IS IN FIT CONDITION TO RACE.** The licensed owner or trainer making the entry must be licensed prior to race time.

**Statement of Authority, Basis, Purpose, and Fiscal Impact
of Amendment of Regulation**

1 CCR 208-1

Rule #7.202

Statutory Authority:

Section 12-60-201(1), C.R.S., Section 202(3)(f), C.R.S., Section 12-60-501, C.R.S., Section 12-60-503(1)(a), C.R.S.

Basis and Purpose:

To revise rule to better conform to current industry practice.

CURRENT RULE

At the time of entry a certificate of registration from the appropriate registry must be in the office of the racing secretary. A photo copy or a facsimile (FAX) of a certificate showing the current owner is acceptable when a horse is being entered into a race; however, the original certificate must be delivered to the racing secretary at a time designated by the Board.

PROPOSED AMENDMENT

~~At the time of entry~~ **BEFORE POST TIME OF THE START OF THE RACE**, a certificate of registration from the appropriate **BREED** registry must be in the office of the racing secretary. ~~A photo copy or a facsimile (FAX) of a certificate showing the current owner is acceptable when a horse is being entered into a race; however, the original certificate must be delivered to the racing secretary at a time designated by the Board.~~

**Statement of Authority, Basis, Purpose, and Fiscal Impact
of Amendment of Regulation**

1 CCR 208-1

Rule #7.206

Statutory Authority:

Section 12-60-201(1), C.R.S., Section 202(3)(f), C.R.S., Section 12-60-501, C.R.S., Section 12-60-503(1)(a), C.R.S.

Basis and Purpose:

To address contradictions with other rules.

CURRENT RULE

Before being entered into any race, a horse, on race day, must be eligible and in fit condition to race.

PROPOSED AMENDMENT

~~Before being entered into any race, a horse, on race day, must be eligible and in fit condition to race.~~

**Statement of Authority, Basis, Purpose, and Fiscal Impact
of Amendment of Regulation**

1 CCR 208-1

Rule #7.207

Statutory Authority:

Section 12-60-201(1), C.R.S., Section 202(3)(f), C.R.S., Section 12-60-501, C.R.S., Section 12-60-503(1)(a), C.R.S.

Basis and Purpose:

To enact a rule subjecting an authorized person to discipline if they enter a horse into a race for a specific purpose (for example, filling a field to make the race happen) with no intent of having the horse actually run in the race.

PROPOSED RULE

AT THE TIME OF ENTRY, THE AUTHORIZED PERSON SUBMITTING THE ENTRY IS RESPONSIBLE FOR THE PARTICIPATION OF THE HORSE INTO THE PUBLISHED RACE AS PROVIDED BY THE RACING SECRETARY. IF A LATER DECLARATION OF A HORSE FROM A CARDED RACE, OTHER THAN A VETERINARIAN SCRATCH, IS RECEIVED, THE AUTHORIZED PERSON SUBMITTING THE ENTRY MAY BE SUBJECT TO ADMINISTRATIVE ACTION.

**Statement of Authority, Basis, Purpose, and Fiscal Impact
of Amendment of Regulation**

1 CCR 208-1

Rule #7.220

Statutory Authority:

Section 12-60-201(1), C.R.S., Section 202(3)(f), C.R.S., Section 12-60-501, C.R.S., Section 12-60-503(1)(a), C.R.S.

Basis and Purpose:

To revise to better conform to current race industry practice.

CURRENT RULE

A horse may be entered in two races on a single day provided that one of those races is either a stake or handicap race. A horse's first obligation to run is in the race where its first position has been drawn. A horse may not be carried on the program in two races.

PROPOSED AMENDMENT

A horse may be entered in two races on a single day provided that one of those races is either a stake or handicap race. ~~A horse's first obligation to run is in the race where its first position has been drawn.~~ **THE DECLARATION OF THE HORSE MUST BE PROVIDED TO THE STEWARDS BEFORE 9:00 AM THE DAY WHICH THE RACES ARE TO BE RUN.** ~~A horse may not be carried on the program in two races.~~

**Statement of Authority, Basis, Purpose, and Fiscal Impact
of Amendment of Regulation**

1 CCR 208-1

Rule #7.416

Statutory Authority:

Section 12-60-201(1), C.R.S., Section 202(3)(f), C.R.S., Section 12-60-501, C.R.S., Section 12-60-503(1)(a), C.R.S.

Basis and Purpose:

To clarify the authority and procedure of a veterinarian to scratch a horse from a race.

CURRENT RULE

The Division or association veterinarian(s) shall have the authority to declare a horse from a race at any time after making a determination that the horse is not in fit condition to race.

PROPOSED AMENDMENT

The Division or association veterinarian(s) shall have the authority to declare a horse from a race at any time after making a determination that the horse is not in fit condition to race **AND SHALL NOTIFY THE STEWARDS IMMEDIATELY AND PROVIDE DOCUMENTATION IN A TIMELY MANNER.**

**Statement of Authority, Basis, Purpose, and Fiscal Impact
of Amendment of Regulation**

1 CCR 208-1

Rule #7.620

Statutory Authority:

Section 12-60-201(1), C.R.S., Section 202(3)(f), C.R.S., Section 12-60-501, C.R.S., Section 12-60-503(1)(a), C.R.S.

Basis and Purpose:

To revise current rules regarding numbers and colors, and their location, on jockeys in order to conform to current industry and race track practice.

CURRENT RULE

A jockey shall wear a number on the helmet cover and this number shall correspond to the saddle cloth number of the horse in the official program.

PROPOSED AMENDMENT

A jockey shall wear a ~~number on the~~ **COLORED** helmet cover ~~and this number shall~~ corresponding to the **COLORED** saddle cloth number of the horse in the official program. **IN THE CASE OF A STAKES RACE, THE HELMET COVER WILL MATCH THE DESIGNATED NUMBER ASSIGNED IN THE OFFICIAL PROGRAM.**

**Statement of Authority, Basis, Purpose, and Fiscal Impact
of Amendment of Regulation**

1 CCR 208-1

Rule #7.642

Statutory Authority:

Section 12-60-201(1), C.R.S., Section 202(3)(f), C.R.S., Section 12-60-501, C.R.S., Section 12-60-503(1)(a), C.R.S.

Basis and Purpose:

To remove redundant language that appears more expansively in Rule 3.402.

CURRENT RULE

All owners, trainers, jockeys, exercise persons, pony persons and outriders shall wear a safety helmet of the type approved by the Commission, and all jockeys and other licensees performing the duties of an exercise person shall wear a safety vest of the type approved by the Commission, when they are performing their duties on the racetrack.

PROPOSED AMENDMENT

~~All owners, trainers, jockeys, exercise persons, pony persons and outriders shall wear a safety helmet of the type approved by the Commission, and all jockeys and other licensees performing the duties of an exercise person shall wear a safety vest of the type approved by the Commission, when they are performing their duties on the racetrack.~~

**Statement of Authority, Basis, Purpose, and Fiscal Impact
of Amendment of Regulation**

1 CCR 208-1

Rule #8.109

Statutory Authority:

Section 12-60-201(1), C.R.S., Section 202(3)(f), C.R.S., Section 12-60-501, C.R.S., Section 12-60-503(1)(a), C.R.S.

Basis and Purpose:

To revise the rule to make process of payment more clear for both owners and trainers claiming horses and for Association and Division personnel designated to execute the claim.

CURRENT RULE

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 the Commission's primary testing 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. In the event of a positive test, the original trainer of the horse may be subject to disciplinary action.

PROPOSED AMENDMENT

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 the Commission's primary testing laboratory.

The successful claimant shall be responsible for paying the cost for the test. The horse shall not be tested unless payment **IS ON DEPOSIT WITH THE HORSEMEN'S BOOKKEEPER** ~~accompanies the claim card~~ and the request for post-race testing is clearly marked on the claim card **AND VERIFIED BY THE CLAIMS CLERK**. The successful claimant **IS RESPONSIBLE FOR PROVIDING THE FUNDS TO THE DIVISION VETERINARIAN THE DAY OF THE CLAIM OR THE POST-RACE TEST WILL NOT BE SUBMITTED**. **THE CLAIMANT** shall have the right to void the claim if the post-race test is positive for a prohibited substance. In the event of a positive test, the original trainer of the horse may be subject to disciplinary action.

**Statement of Authority, Basis, Purpose, and Fiscal Impact
of Amendment of Regulation**

1 CCR 208-1

Rule #8.404

Statutory Authority:

Section 12-60-201(1), C.R.S., Section 202(3)(f), C.R.S., Section 12-60-501, C.R.S., Section 12-60-503(1)(a), C.R.S.

Basis and Purpose:

To further assist in eliminating hidden ownerships.

CURRENT RULE

A person shall not offer, or enter into an agreement to claim or not to claim, or attempt to prevent another person from claiming any horse in a claiming race and shall not attempt by intimidation to prevent anyone from running a horse in any claiming race. An owner or trainer shall not make any agreement with one another for the protection of each other's horses in a claiming race.

PROPOSED AMENDMENT

A HORSE SHALL BE CLAIMED IN THE NAME OF THE TRUE OWNERSHIP. A person shall not offer, or enter into an agreement to claim or not to claim, or attempt to prevent another person from claiming any horse in a claiming race and shall not attempt by intimidation to prevent anyone from running a horse in any claiming race. An owner or trainer shall not make any agreement with one another for the protection of each other's horses in a claiming race.

**Statement of Authority, Basis, Purpose, and Fiscal Impact
of Amendment of Regulation**

1 CCR 208-1

Rule #8.408

Statutory Authority:

Section 12-60-201(1), C.R.S., Section 202(3)(f), C.R.S., Section 12-60-501, C.R.S., Section 12-60-503(1)(a), C.R.S.

Basis and Purpose:

To clarify that ownership may not be transferred after a successful claim, but would still allow trainership of the horse to be transferred.

CURRENT RULE

A horse claimed in a claiming race shall not be sold or transferred, wholly or in part, to anyone within thirty (30) days after the day it was claimed except in another claiming race.

PROPOSED AMENDMENT

A horse claimed in a claiming race shall not be sold or **OWNERSHIP** transferred, wholly or in part, to anyone within thirty (30) days after the day it was claimed except in another claiming race.

**Statement of Authority, Basis, Purpose, and Fiscal Impact
of Amendment of Regulation**

1 CCR 208-1

Rule #11.101

Statutory Authority:

Section 12-60-201(1), C.R.S., Section 202(3)(f), C.R.S., Section 12-60-501, C.R.S., Section 12-60-503(1)(a), C.R.S.

Basis and Purpose:

To enact a rule which expressly grants any association, race track, or off-track betting facility the right to impose its own rules at the expense of the enacting entity enforcing their own rules without the involvement of the Division.

PROPOSED RULE

THE OPERATOR OF ANY TRACK OR OFF-TRACK BETTING FACILITY MAY INSTITUTE HOUSE RULES IN ORDER TO CONDUCT ITS BUSINESS, SO LONG AS THOSE HOUSE RULES DO NOT CONFLICT WITH THESE RULES, THE LAWS OF THIS STATE OR WITH THE OPERATION OF DIVISION BUSINESS. THESE HOUSE RULES MUST BE DISPLAYED IN A CONSPICUOUS PLACE WHERE THEY MAY BE VIEWED BY ANY PARTY AFFECTED BY THE HOUSE RULE. ANY TRACK OR OFF-TRACK BETTING FACILITY MUST INFORM THE DIVISION OF ANY IMPLEMENTATION, OR MODIFICATION OF ANY EXISTING HOUSE RULES, NO LATER THAN FORTY-EIGHT (48) HOURS PRIOR TO THE HOUSE RULE OR MODIFICATION GOING INTO EFFECT. VIOLATION OF A HOUSE RULE DOES NOT CONSTITUTE A VIOLATION OF THESE RULES, BUT MAY AFFECT ELIGIBILITY OF A HORSE OR LICENSEE.