

## CHAPTER 11. MEDICATION AND TESTING

### SECTION 7. OUT OF COMPETITION TESTING

1. Any horse on the grounds at a racetrack under the jurisdiction of the commission, or stabled off association grounds while under the care or control of trainer or owner licensed by the commission, is subject to testing without advance notice.
2. Horses to be tested shall be selected at the discretion of the Commission, executive director or judges.
3. Trainers shall fully comply with the instructions of the Commission, which may include but not limited to the following: trainers shall present their horse(s) for testing at the specified time and place mandated by the Commission; testing procedures may be performed on the grounds of any Commission licensed association, trainer's training facility or any other location under commission jurisdiction. Failure to comply shall result in the horse(s) being ineligible to race, and shall be considered a violation equivalent to a Class 1 positive. It is a defense to any action brought against an owner and/or trainer that good cause existed that prohibited the owner, trainer and/or their representative or ~~designee~~ authorized agent from complying with the time limits set forth in this subsection. The owner, trainer and/or their representative or designee has the burden of proving the good cause defensively by a preponderance of the evidence.
4. A commission veterinarian, any licensed veterinarian or veterinary technician authorized by the commission, may at any time, take a urine, blood, or hair sample from a horse for out of competition testing. All samples obtained shall immediately be sealed in a suitable container and witnessed by the trainer or trainer's authorized agent and certified to by their signature.
5. Prohibited substances, practices, and procedures are defined as:
  - A. Blood doping agents including, but not limited to, erythropoietin (EPO), Darbepoetin, Oxyglobin, Hemopure, Aranesp, or any substance that abnormally enhances the oxygenation of body tissues;
  - B. Gene doping agents or the non-therapeutic use of genes, genetic elements, and/or cells that have the capacity to enhance athletic performance or produce analgesia;

- C. The presence of any substance described in Paragraph A or B is prohibited and is a violation of this rule; and
  - D. The following conduct by a licensee shall be considered a violation of this rule:
    - 1. Possession of any substance as described in Paragraph A and/or B, the use of which may endanger the health and welfare of the horse, or endanger the safety of the driver, or which may adversely affect the integrity of racing;
    - 2. Possession and/or use of a drug, substance or medication that has not been approved by the United States Food and Drug Administration (FDA) for use in a horse in the United States; or,
    - 3. Possession and/or use of any product not clearly labeled, listing ingredients.
6. The trainer, owner, and/or their designees shall cooperate with the Commission Veterinarian, any licensed veterinarian or veterinary technician authorized by the commission by:
- A. Assisting in the immediate location and identification of the horse(s) selected for out of competition testing;
  - B. Providing a stall or safe location to collect the samples;
  - C. Assisting in properly procuring the samples; and
  - D. Obeying any instruction necessary to accomplish the provision of this rule.  
The Commission, executive director or judges may, summarily suspend, exclude, and/or otherwise penalize any licensee or other person who does not fully cooperate with a commission representative while taking action to enforce this rule pending a hearing before the Commission.
7. The collection of blood, urine or hair samples under this rule shall be divided in three (3) parts to be analyzed as follows:
- A. Approved primary laboratory for screening;
  - B. Approved primary laboratory for confirmation; and,

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