

before they can race. The voluntary administration of furosemide without an external bleeding incident shall not subject the horse to the initial period of ineligibility as defined by (b) above. A horse may be recommended for removal from the Bleeder List only on the direction of the licensed, practicing veterinarian, who shall certify in writing to the Board of Judges the recommendation for removal. A horse, which has been placed on a Bleeder List in another jurisdiction pursuant to these rules, shall be placed on a Bleeder List in this jurisdiction.

(d) Post race urine and blood samples may be taken by or under the supervision of the State Veterinarian from all horses treated with Lasix® (furosemide) to control respiratory bleeding pursuant to the requirements set forth in (b) above. Post-race test results must show a detectable concentration of furosemide in the serum, plasma or urine sample taken from a furosemide treated horse. Quantitation of furosemide in serum or plasma shall be performed and concentrations may not exceed 100 nanograms of furosemide per milliliter of serum or plasma. In the event a post-race analysis of a blood sample reveals that the concentration of furosemide exceeds a level of 100 nanograms per milliliter of serum or plasma (100 ng/mL) or in the event that a post-race analysis of a blood or urine sample reveals no detectable concentration of furosemide, the trainer and other persons charged with responsibility, including, without limitation, licensed, practicing veterinarians, shall be liable to the penalties as set forth in (e) below.

(e) Should the stewards determine that any person or persons have violated (d) above, they shall punish the offending party as follows:

1. A trainer and other persons charged with responsibility, including, without limitation, licensed, practicing veterinarians, shall receive a warning for the first violation.
2. A trainer and other persons charged with responsibility, including, without limitation, licensed, practicing veterinarians, shall receive a fine not to exceed \$500.00 for a second violation.
3. A trainer and other persons charged with responsibility, including, without limitation, licensed, practicing veterinarians, shall be suspended, fined or both for a third violation.
4. Repeated violations of (d) above by a trainer and other persons charged with responsibility, including, without limitation, licensed, practicing veterinarians, for any horse under their care may subject said trainer and other persons charged with responsibility, including, without limitation, licensed, practicing veterinarians, to fine and/or suspension regardless of whether or not the same horse is involved.

(f) Notwithstanding anything to the contrary herein or in N.J.A.C. 13:71-23.1, no penalty shall be imposed where on the day of the race a horse carries in its body either

Phenylbutazone or Flunixin, both NSAID(s), under the following conditions:

1. The NSAID level does not exceed the following permitted serum or plasma threshold concentrations which are consistent with administration by a single intravenous injection that follows the FDA-approved dose regimen for each product(s) at least 24 hours before the post time for the race in which the horse is entered:

- i. Phenylbutazone (or its metabolite oxphenylbutazone) - five micrograms per milliliter (five $\mu\text{g/mL}$);
- ii. Flunixin -20 nanograms per milliliter (20 ng/mL);

2. Phenylbutazone and Flunixin are not to be administered within the 24 hours before post time for the race in which the horse is entered; and

3. The presence of more than one of the two approved NSAID or any unapproved NSAID(s) in the post-race serum or plasma sample is not permitted. The use of all but one of the approved NSAID shall be discontinued at least 48 hours before the post time for the race in which the horse is entered.

(g) In the event post-race testing determines that the threshold levels set forth for the two permitted NSAID(s) were exceeded, there is evidence of more than one of the two permitted NSAID(s) present or there is evidence of an unapproved NSAID the Board of Judges shall penalize, the trainer and other persons charged with responsibility, including, without limitation, licensed, practicing veterinarians, as follows, regardless of whether or not the same horse is involved:

1. First violation of N.J.A.C. 13:71-23.8(f) – \$500.00 fine, loss of purse and 15 day suspension; and
2. Second or subsequent violations of N.J.A.C. 13:71-23.8(f) – such fines, suspensions and/or other penalties allowed by this chapter.

(h) The following anti-ulcer medications may be administered up to 24 hours prior to the race in which the horse is entered: Omeprazole; Cimetidine; Ranitidine; and Sucralfate. In the event a horse tests positive for any of the anti-ulcer medications identified in this subsection, the trainer and other persons charged with responsibility, including, without limitation, licensed, practicing veterinarians, shall be subject to the following penalties:

1. \$250.00 fine for the first violation;
2. \$500.00 fine and loss of purse for the second violation; and
3. Increased fine, loss of purse and license suspension as deemed appropriate by the Board of Judges for the third and subsequent violations.

(i) The following substances may be present in post-race samples as a result of possible environmental contamination from plants that are traditionally grazed or harvested as equine feed or are present from contamination during cultivation, processing, treatment, storage and transportation phases that contribute to contamination:

1. Atropine;
2. Dimethyl sulfoxide;
3. Estradiol;
4. Hydrocortisone;
5. Morphine and Metabolites;
6. Salicylic acid;
7. Scopolamine;
8. Strychnine;
9. Testosterone;
10. Theobromine; or
11. Theophylline.

(j) If a horse tests positive for one of the substances identified in (i) above, within 10 days of being notified of the positive test, the trainer and other persons charged with responsibility, including, without limitation, licensed, practicing veterinarians, may request in writing a hearing before the Board of Judges for the purpose of determining whether the positive test resulted from environmental contamination as described in (i) above. The trainer and other persons charged with responsibility, including, without limitation, licensed, practicing veterinarians, shall have the burden of proof at the hearing. If the trainer and other persons charged with responsibility, including, without limitation, licensed, practicing veterinarians, meet their burden of proof in showing environmental contamination as described in (i) above, the Board of Judges shall consider the environmental contamination as a mitigating circumstance in assessing a penalty.

(k) Regulatory thresholds (the concentration of the drug below which no administrative action is taken) are established for caffeine as 100 nanograms per milliliter (100 ng/mL) of serum or plasma. A positive test which exceeds the regulatory threshold will subject trainers and other persons charged with responsibility, including, without limitation, licensed, practicing veterinarians, to penalties consistent with those permitted by the New Jersey Racing Commission rules.

Amended by R.1988 d.183, effective April 18, 1988.
See: 20 N.J.R. 250(a), 20 N.J.R. 912(c).

Changed time a second time bleeder must remain on respiratory list from three months to 30 days; added third time bleeder to be kept for three months.

Amended by R.1990 d.486, effective October 1, 1990 (operative January 1, 1991).
See: 22 N.J.R. 1718(a), 22 N.J.R. 3155(a).

Authorizes the administration of medication in assigned stall instead of detention barn and establishes dosage levels and time requirements recommended by the Association of Racing Commissioners International; provides for disciplinary action in the event of excessive drug levels as per post-race testing.

Amended by R.1990 d.575, effective November 19, 1990 (operative January 1, 1991).

See: 22 N.J.R. 1233(c), 22 N.J.R. 3500(b).

Provides for the acceptance of certification of respiratory bleeders from racing commissions in other jurisdictions.

Amended by R.1991 d.264, effective May 20, 1991.

See: 23 N.J.R. 675(c), 23 N.J.R. 1684(e).

Changed "14 calendar days" to "10 calendar days"; changed "three months" to "90 days" in (d).

Amended by R.1992 d.18, effective January 6, 1992.

See: 23 N.J.R. 2919(d), 24 N.J.R. 109(a).

Revised (a)2.

Amended by R.1994 d.128, effective March 7, 1994.

See: 25 N.J.R. 3105(a), 26 N.J.R. 1240(a).

Amended by R.1995 d.297, effective June 5, 1995.

See: 26 N.J.R. 1957(a), 27 N.J.R. 2244(b).

Amended by R.1996 d.445, effective October 7, 1996.

See: 28 N.J.R. 3055(a), 28 N.J.R. 4488(b).

Administrative correction.

See: 29 N.J.R. 448(b).

Amended by R.1997 d.91, effective February 18, 1997.

See: 28 N.J.R. 5057(a), 29 N.J.R. 584(b).

In (a)2, inserted reference to observation by a licensed veterinarian on the racetrack grounds.

Petition for Rulemaking.

See: 35 N.J.R. 1456(c), 1741(c), 2755(a).

Petition for Rulemaking: New Jersey Racing Commission; Notice of Action on Petition for Rulemaking: Administering Medication to Respiratory Bleeders.

See: 38 N.J.R. 1881(b).

Amended by R.2006 d.227, effective June 19, 2006.

See: 38 N.J.R. 1396(a), 38 N.J.R. 2727(b).

Section was "Administering medication to respiratory bleeders; standards for the administration of phenylbutazone". Rewrote section.

Case Notes

Rule sets forth the association between the administration of drugs and the need to protect horses from them. *Gallo v. New Jersey Racing Commission*, 6 N.J.A.R. 381 (1983).

13:71-23.9 Possession of drugs or drug instruments

(a) No person aside from licensed veterinarians shall have in his possession anywhere within the grounds of any association conducting a race meeting, or anywhere within the confines of a racetrack enclosure, or anywhere within the grounds of any licensed off-track stabling facility, any drugs not possessed in accordance with the laws of the State of New Jersey, nor any contraband drug or unauthorized prescription legend drugs, nor any hypodermic syringes or needles, or any other instrument which may be used for injection, unless the injectable device is possessed for self-administration, and further provided that the individual possessing such device promptly notify the State Steward:

1. That he is in possession of such device; and
2. Of the chemical substance to be administered.

Amended by R.1993 d.261, effective June 21, 1993.

See: 24 N.J.R. 1061(a), 25 N.J.R. 2488(b).