

This is an amendment to 15.2.6 NMAC Sections 9 and 12, effective 04/08/2025.

Explanatory paragraph: This is a short-form amendment to 15.2.6 NMAC, Sections 9 and 12, effective April 8, 2025. For Section 9 of 15.2.6 NMAC, Subsections C - O were not published as there were no changes.

15.2.6.9 MEDICATIONS AND PROHIBITED SUBSTANCES: The classification guidelines contained within the "Uniform Classification Guidelines for Foreign Substances and Recommended Penalties and Model Rule", December [2023] 2024 version [17.0] 18.1 and "Association of Racing Commissioners International Controlled Therapeutic Medication Schedule for Horses", version 4.2.1, - December, 2020 update are incorporated by reference. Any threshold herein incorporated by reference by inclusion in one of the documents above shall not supersede any threshold or restriction adopted by the commission as specified by this section.

A. Penalties:

(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 or the commission will use the association of racing commissioner's international recommended penalty 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.

(3) If a licensed veterinarian is administering or prescribing a drug not listed in the association of racing commissioners international uniform classification guidelines for foreign substances, the identity of the drug shall be forwarded to the New Mexico racing commission designee to be forwarded to the racing medication and testing consortium for classification.

(4) Any drug or metabolite thereof found to be present in a pre- or post-race sample which is not classified in the association of racing commissioners international uniform classification guidelines for foreign substances shall be assumed to be an association of racing commissioners international class 1 drug and the trainer and owner shall be subject to those penalties as set forth in penalty category 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 based on the following criteria:

(a) whether the drug is approved by the United States food and drug administration for use in the horse;

(b) whether the drug is approved by the United States food and drug administration for use in any species;

(c) whether the drug as approved has any legitimate therapeutic application in the equine athlete;

(d) whether the drug was identified as "necessary" by the racing medication and testing consortium veterinary advisory committee;

(e) whether legitimate, recognized therapeutic alternatives exist; and

(f) the association of racing commissioner's international classification of the drug.

(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 or suspensions.

(7) If a positive test arises in a trial race, the horse subject to the positive test is to be placed on the stewards' list. The purse for both the trial and the race for which the trial was conducted will be held until the case has been fully adjudicated.

(8) When the penalty assessed against a licensee for a medication or drug violation in a trial race results in a disqualification and loss of purse, the licensee is subject to the same penalties for any race for which the trial race was conducted.

(9) Any licensee of the commission, including veterinarians, found 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.

(10) 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.

(11) 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 or license revocation. This is in addition to any penalties issued by the stewards or the commission.

(12) 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 does not prohibit a prosecution for a criminal act, nor does a potential criminal prosecution stall administrative action by the stewards or the commission.

(13) Procedures shall be established to ensure that a licensed trainer is not able to 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 or entered on behalf of a licensed person within the first degree of affinity (marriage relationship) or first degree of consanguinity (blood relationship):

(a) first degree of affinity shall mean the licensee's spouse or spouse's mother, father, brother, sister, son or daughter;

(b) first degree of consanguinity shall mean the licensee's mother, father, brother, sister, son or daughter.

(c) No entry in any race shall be accepted for a horse owned wholly or in part by, or trained by, a person whose husband or wife is under license suspension by any racing jurisdiction or regulatory racing organization at time of such entry; except that, if the license of a jockey has been suspended for a routine riding offense, the stewards may waive this rule.

(d) The spouse or domestic partner of any licensee that has had their license suspended, revoked or summarily suspended by the commission, or any other recognized regulatory organization may be suspended as well to assure that the suspended licensee does not benefit from horse racing in any way during their suspension. If the license of a jockey has been suspended for a routine riding offense and given a suspension of less than 15 days, the spouse or domestic partner may continue to participate in racing at the discretion of the stewards. The assistant trainer of a trainer that has had their license suspended, revoked or summarily suspended by the commission, or any other recognized regulatory organization may be suspended as well to assure that the suspended licensee does not benefit from horse racing in any way during their suspension.

(14) Aggravating and Mitigating Factors:

(a) In reaching a decision on a penalty for a violation for the New Mexico horse racing act or New Mexico racing commission rules and regulations, the commission, the board of stewards, the hearing officer or the administrative law judge shall consider the penalties set forth in paragraph (2) of this subsection and any aggravating and mitigating circumstances. Deviation from these penalties is appropriate where the facts of the particular case warrant such a deviation, for example: there may be mitigating circumstances for which a lesser or no penalty is appropriate, and aggravating factors for which a greater penalty is appropriate.

(b) Mitigating circumstances and aggravating factors, which must be considered, include but are not limited to:

(i) The past record of the licensee regarding violations of the New Mexico horse racing act or New Mexico racing commission rules;

(ii) the potential of the drug(s) to influence a horse's racing performance and the amount of the drug present;

(iii) the legal availability of the drug and whether the drug was prescribed to the horse by a New Mexico racing commission licensed veterinarian;

(iv) whether there is reason to believe the responsible party knew of the administration of the drug or intentionally administered the drug;

(v) the steps taken by the trainer to safeguard the horse;

(vi) the steps taken by an owner to safeguard against subsequent medication violations including, but not limited to, the transfer of the horse(s) to an unaffiliated trainer. An "unaffiliated trainer" means a trainer or an assistant trainer who is not related by blood, marriage or domestic partnership, or who is not or was never employed to the trainer from whose case such horse(s) were transferred;

(vii) the probability of environmental contamination or inadvertent exposure due to human drug use or other facts;

(viii) the purse of the race;

(ix) whether the drug found to be present in the official test sample was one for which the horse was receiving treatment as determined and documented by an New Mexico racing commission licensed veterinarian;

(x) whether there was any suspicious wagering pattern on the race; or

(xi) whether the licensed trainer was acting under the advice of an New Mexico racing commission veterinarian.

(c) The stewards shall consider the classification of a drug substance and the "uniform classification guidelines for foreign substances" if a determination is made that an official test sample from a horse contained;

(i) Any drug substance, medication, metabolites or analogues thereof foreign to the horse, whose use is not expressly authorized in this section, or

(ii) any drug substance, medication or chemical authorized by this section in excess of the authorized level or other restrictions as set forth in this section.

(d) Penalties for violation of each classification level are listed in Subsection B of 15.2.6.9 NMAC.

B. Penalty recommendations:

(1) Category A penalties will be assessed for violations due to the presence of a drug carrying a category A penalty. Recommended penalties for category A violations are as follows:
Licensed trainer:
1st offense:
A minimum one-year suspension absent mitigating circumstances or the presence of aggravating factors could be used to impose a maximum three-year suspension. A minimum fine of \$10,000 or ten percent of the total purse (greater of the two) absent mitigating circumstances or the presence of aggravating factors could be used to impose a maximum fine of \$25,000 or twenty-five percent of the total purse (greater of the two) and may be referred to the commission for any further action deemed necessary by the commission.
2nd lifetime offense in any jurisdiction:
A minimum three-year suspension absent mitigating circumstances or the presence of aggravating factors could be used to impose a maximum of license revocation with no reapplication for a three-year period. A minimum fine of \$25,000 or twenty-five percent of the total purse (greater of the two) absent mitigating circumstances or the presence of aggravating factors could be used to impose a maximum fine of \$50,000 or fifty percent of the total purse (greater of the two), and may be referred to the commission for further action deemed necessary by the commission.
3rd lifetime offense in any jurisdiction:
A minimum five-year suspension absent mitigating circumstances or the presence of aggravating factors could be used to impose a maximum of license revocation with no reapplication for a five-year period. A minimum fine of \$50,000 or fifty percent of the total purse (greater of the two) absent mitigating circumstances or the presence of aggravating factors could be used to impose a maximum fine of \$100,000 or one hundred percent of the total purse (greater of the two), and may be referred to the commission for any further action deemed necessary by the commission.
Licensed owner:
1st offense:
Disqualification and loss of purse. 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.
2nd lifetime offense in owner's stable in any jurisdiction:
Disqualification and loss of purse. 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.
3rd lifetime offense in owner's stable in any jurisdiction:
Disqualification, loss of purse, \$50,000 fine. 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 and referral to the commission with a recommendation of a suspension for a minimum of 90 days.
(2) Category B penalties will be assessed for violations due to the presence of a drug carrying a category B penalty and for the presence of more than one NSAID in a plasma or serum sample in accordance with Paragraph (5) of Subsection N of 15.2.6.9 NMAC. Recommended penalties for category B violations are as follows:

Licensed trainer:
1st offense:
A minimum 15-day suspension absent mitigating circumstances or the presence of aggravating factors could be used to impose a maximum 60-day suspension. A minimum fine of \$500 absent mitigating circumstances or the presence of aggravating factors could be used to impose a \$1,000 fine.
2nd offense (365-day period) in any jurisdiction:
A minimum 30-day suspension absent mitigating circumstances or the presence of aggravating factors could be used to impose a maximum 180-day suspension. A minimum fine of \$1,000 absent mitigating circumstances or the presence of aggravating factors could be used to impose a maximum fine of \$2,500.
3rd offense (365-day period) in any jurisdiction:
A minimum 60-day suspension absent mitigating circumstances or the presence of aggravating factors could be used to impose a maximum of a one year suspension. A minimum fine of \$2,500 absent mitigating circumstances or the presence of aggravating factors could be used to impose a maximum \$5,000 fine or five percent of the total purse (greater of the two) and may be referred to the commission for any further action deemed necessary by the commission.
Licensed owner:
1st offense:
Disqualification, loss of purse (in the absence of mitigating circumstances)* and horse must pass a commission-approved examination before becoming eligible to be entered.
2nd offense (365-day period) in owner's stable in any jurisdiction:
Disqualification, loss of purse (in the absence of mitigating circumstances)* and horse must pass a commission-approved examination before becoming eligible to be entered.
3rd offense (365-day period) in owner's stable in any jurisdiction:
Disqualification, loss of purse, and in the absence of mitigating circumstances a \$5,000 fine* and horse must be placed on the veterinarian's list for 45 days and must pass a commission-approved examination before becoming eligible to be entered.

(3)	Category C penalties will be assessed for violations due to the presence of a drug carrying a category C penalty.
(a)	phenylbutazone > 0.3 mcg/ml or
(b)	flunixin > 5.0 ng/ml or
(c)	ketoprofen > 2.0 ng/ml or
(d)	penalty class C drugs.
	Recommended penalties for category C violations are as follows:
Licensed trainer:	
	1st offense (365-day period) in any jurisdiction, the penalty is a minimum fine of \$1,000 absent mitigating circumstances.
	2nd offense (365-day period) in any jurisdiction, the penalty is a minimum fine of \$1,500 and 15 day suspension absent mitigating circumstances.
	3rd offense (365-day period) in any jurisdiction, the penalty is a minimum fine of \$2,500 and a 30 day suspension absent mitigating circumstances.
Licensed owner:	
	1st offense (365-day period) in any jurisdiction, the penalty is disqualification, loss of purse in the absence of mitigating circumstances and the horse must pass a commission-approved examination before being eligible to run.
	2nd offense (365-day period) in any jurisdiction, the penalty is disqualification, and loss of purse in the absence of mitigating circumstances. If same horse, that horse shall be placed on veterinarian's list for 45 days and must pass a commission-approved examination before being eligible to run.
	3rd offense (365-day period) in any jurisdiction, the penalty is disqualification, loss of purse, and in the absence of mitigating circumstances a \$5,000 fine and if same horse that horse shall be placed on veterinarian's list for 60 days and must pass a commission-approved examination before being eligible to run.

(4)	Category C penalties will be assessed for violations due to the presence of:
(a)	furosemide >100 ng/ml; or

(b) no detectable furosemide concentration when identified as administered. Recommended penalties for category C violations are as follows:
Licensed trainer:
1st offense (365-day period) in any jurisdiction, the penalty is a minimum of a written warning to maximum fine of \$500.
2nd offense (365-day period) in any jurisdiction, the penalty is a minimum of a written warning to maximum fine of \$750.
3rd offense (365-day period) in any jurisdiction, the penalty is a minimum fine of \$500 to a maximum fine of \$1,000.
Licensed owner:
1st offense (365-day period) in any jurisdiction, the horse may be required to pass a commission-approved examination before being eligible to run.
2nd offense (365-day period) in any jurisdiction, the horse may be required to pass a commission-approved examination before being eligible to run.
3rd offense (365-day period) in any jurisdiction, the penalty is disqualification, loss of purse, and the horse must pass a commission-approved examination before being eligible to run.

(5) Out-Of-Competition penalties will be assessed for violations in any official sample other than blood and urine due to the presence of:
(a) penalty class A drugs as listed above and with the association of racing commissioners international “uniform classification guidelines for foreign substances and recommended penalties and model rules” and incorporated by reference under 15.2.6.9 NMAC.
(b) blood doping agents including, but not limited to, erythropoietin (EP), darbepoetin, oxylglobin, hemopure, aranesp or any substance that abnormally enhances the oxygenation of body tissues;
(c) gene doping agents or the non-therapeutic use of genes, genetic elements, or cells that have the capacity to enhance athletic performance or produce analgesia;
(d) clenbuterol or albuterol present in any official sample in a horse not previously placed on the veterinarian’s list pursuant to paragraph (1) of subsection (C) of 15.2.6.9 NMAC; and
(e) androgenic-anabolic steroids present in any official sample in a horse not previously placed on the veterinarian’s list pursuant to paragraph (10) of subsection (C) of 15.2.6.9 NMAC.
Licensed trainer:
1st offense (365-day period) in any jurisdiction, the penalty is a minimum 30-day suspension.
2nd offense (365-day period) in any jurisdiction, the penalty is a minimum 60-day suspension.
3rd offense (365-day period) in any jurisdiction, the penalty is a minimum 180-day suspension.

~~[(5)]~~ **(6)** Any violation subsequent to a third violation will carry the same terms as imposed for a third violation. Penalties will run consecutively for a trainer or owner.

~~[(6)]~~ **(7)** If the trainer has not had more than one violation involving a drug that carries a category C penalty within the previous two years, the stewards are encouraged to issue a warning in lieu of a fine provided the reported level in phenylbutazone is below 3.0 micrograms per milliliter absent of aggravating factors.

~~[(7)]~~ **(8)** After a two-year period, if a licensee has had no further violations involving a drug that carries a category C penalty, any penalty due to an overage in the 2.0-5.0 micrograms per milliliter range for phenylbutazone will be expunged from the licensee’s record for penalty purposes.

[15.2.6.9 NMAC - Rp, 15 NMAC 2.6.9, 4/13/2001; A, 8/30/2001; A, 7/15/2002; A, 8/15/2002; A, 9/29/2006; A, 10/31/2006; A, 8/30/2007; A, 1/31/2008; A, 3/01/2009; A, 6/15/2009; A, 6/30/2009; A, 9/15/2009; A, 12/15/2009; A, 3/16/2010; A, 7/05/2010; A, 9/1/2010; A, 12/1/2010; A, 11/1/2011; A, 2/15/2012; A, 4/30/2012; A, 7/31/2012; A, 12/14/2012; A, 5/1/2013; A/E, 5/2/2013; A, 9/30/2013; A, 4/1/2014; A, 5/16/2014; A, 8/15/2014; A, 9/15/2014; A, 3/16/2015; A, 9/16/15; A, 3/15/2016; A, 6/15/2016; A/E, 6/28/2016; A, 9/15/2016; A, 12/16/2016; A, 7/1/2017; A, 10/31/17; A, 3/14/2018; A, 9/26/2018; A, 5/1/2019; A, 12/19/2019; A, 4/20/2021; A, 12/28/2021; A, 4/9/2024; A, 8/13/2024; A, 4/8/2025]

15.2.6.12 PHYSICAL INSPECTION OF HORSES:

A. Assessment of racing condition:

- (1) Every horse entered to participate in an official race may be subjected to a veterinary inspection prior to starting in a race for which it is entered.
 - (2) The identification and inspection of every horse entered to participate in an official race shall be conducted by the official veterinarian or the racing veterinarian.
 - (3) The agency or the association employing the examining veterinarian(s) should provide a staffing level of not less than two veterinarians.
 - (4) The trainer of each horse or a representative of the trainer must present the horse for inspection as required by the examining veterinarian. Horses presented for examination must have bandages removed and the legs must be clean. Prior to examination horses may not be placed in ice nor shall any device or substance be applied that impedes veterinary clinical assessment.
 - (5) The assessment of a horse's racing condition shall be based on the recommendations of the American association of equine practitioners and shall include: proper identification of each horse inspected; observation of each horse in motion; manual palpation and passive flexion of both forelimbs; clinical observation in the paddock and saddling area, during the parade to post and at the starting gate; any other inspection deemed necessary by the official veterinarian and the racing veterinarian or the stewards.
 - (6) Every horse shall be observed by the racing veterinarian during and after the race.
 - (7) The official veterinarian or the racing veterinarian shall maintain a permanent continuing health and racing soundness record of each horse inspected.
 - (8) The official veterinarian or the racing veterinarian are authorized access to any and all horses housed on association grounds regardless of entry status.
 - (9) If, prior to starting, a horse is determined to be unfit for competition, or if the veterinarian is unable to make a determination of racing soundness, the veterinarian will recommend to the stewards the horse be scratched.
 - (10) Horses scratched upon the recommendation of the official veterinarian or the racing veterinarian, are to be placed on the veterinarian's list.
 - (11) All pre-race examination reports on each horse selected for a pre-race examination will be submitted to the commission on a monthly basis. In addition, these reports will be made available to the commission upon request within a 48-hour period.
- B. Veterinarian's list:**
- (1) The official veterinarian or racing veterinarian shall maintain the veterinarian list of all horses which are determined to be unfit to compete in a race due to illness, physical distress, medical compromise, heat exhaustion, unsoundness, injury, infirmity, voluntary administration of a medication invoking a mandatory stand down time, administration of shock-wave therapy or any other assessment or determination by the official veterinarian or racing veterinarian that the horse is unfit to race.
 - (2) Horses listed pursuant to this rule and on HISA's veterinarians' list are ineligible to enter to race in any jurisdiction until released by the official veterinarian or racing veterinarian except when there is an administrative issue in releasing the horse from a veterinarian's list of another racing jurisdiction.
 - (3) A horse placed on the veterinarian's list due to illness, injury or infirmity unrelated to the racing soundness of the horse may be released from the list when a minimum of seven calendar days has passed from the time the horse was placed on the list.
 - (4) A horse placed on the veterinarian's list for unsoundness or lameness shall be released from the list only after the following has been met:
 - (a) A minimum of seven calendar days has elapsed;
 - (b) the horse demonstrates to the satisfaction of the official veterinarian or racing veterinarian that the horse is serviceably sound and in fit physical condition to exert its best effort in a race;
 - (c) the horse completes a published work after the seven calendar days has elapsed of four furlongs at 0:52 seconds or better for thoroughbreds; or 220 yards at 13.3 seconds or better for quarter horses while being observed the official veterinarian or racing veterinarian, and;
 - (d) the horse submits to a post work official sample collection for laboratory confirmation for compliance with 15.2.6.9 NMAC at the expense of the current owner. Samples shall be subjected to the same testing as conducted for post race official samples. The presence of a prohibited substance in the post work sample shall result in the horse remaining on the veterinarian's list.
 - (5) A horse placed on the veterinarian's list for voluntary administration of a medication invoking a mandatory stand down time shall be released from the list subject to the provisions and restrictions set forth in Paragraph (1) of C of 15.2.6.9 NMAC.

(6) A horse placed on the veterinarian's list for administration of shock-wave therapy shall be released from the list subject to the provisions and restrictions set forth in Subsection C. of 15.2.6.8.

C. Postmortem examination:

(1) ~~[The]~~ A commission designee or official veterinarian may require a postmortem examination of any horse that dies or is euthanized on association grounds.

(2) ~~[The]~~ A commission designee or official veterinarian may require a postmortem examination of any horse that dies or is euthanized at recognized training facilities within this jurisdiction.

(3) If a postmortem examination is to be conducted, the commission shall take possession of the horse upon death for a postmortem examination. All shoes and equipment on the horse's legs shall be left on the horse.

(4) If a postmortem examination is to be conducted, the commission ~~[or its representative]~~ designee or official veterinarian shall collect blood, urine, bodily fluids, or other biologic specimens immediately, if possible before euthanization. The commission may submit blood, urine, bodily fluid, or other biologic specimens collected during a postmortem examination for testing analysis. The presence of a prohibited substance in a specimen collected during the postmortem examination may constitute a violation.

(5) ~~[Requests]~~ Any requests by an owner's or trainer's veterinarian for each postmortem examination shall be filed with the official veterinarian by the owner's or trainer's veterinarian within one hour of the death and shall be submitted on a necropsy submission form entitled New Mexico racing commission necropsy submission form, hereby incorporated by reference and which is available at all official veterinarian offices and all stable gates. The trainer or their designee is responsible to supply all information to complete this form.

(6) All licensees shall be required to comply with postmortem examination requirements as a condition of licensure. In proceeding with a postmortem examination the commission or its designee shall coordinate with the owner or the owner's authorized agent to determine and address any insurance requirements.

(7) Postmortem examinations shall be conducted according to the most recent edition of the American association of equine practitioners' guidelines for the necropsy of racehorses.

(8) Upon completion of the postmortem examination the diagnostic laboratory shall file a written report with the racing commission's agency director and official veterinarian.

(9) The owner or the owner's authorized agent or trainer will be responsible for all costs of a postmortem examination, i.e., testing fees, transportation of the horse and disposal ~~[etc., when the results of a postmortem examination constitute a violation of the New Mexico racing commission rules]~~ of the horse.
[15.2.6.12 NMAC - Rp, 15 NMAC 2.6.12, 4/13/2001; A, 9/1/2010; A, 12/1/2010; A, 11/1/2011; A, 2/15/2012; A, 7/31/2012; A, 12/19/2019; A, 4/9/2024; A, 8/13/2024; A, 4/8/2025]

History of 15.2.6 NMAC:

Pre-NMAC History: Material in this part was derived from that previously filed with the commission of public records - state records center and archives as:

NMSRC 67-1, Amendment No. 1., Rule Revisions Adopted by the New Mexico State Racing Commission April 21, 1967 Rules 352 & 380, filed 4/26/1967;

NMSRC 69-1, New Mexico Laws and Rules and Regulations Governing Horse Racing, filed 6/9/1969;

NMSRC 81-1, Rules Governing Horse Racing in New Mexico, filed 12/4/1981;

History of Repealed Material:

15 NMAC 2.6, Horse Racing - Veterinary Practices, Equine Health, Medication, and Trainer Responsibility, filed 9/29/1995 repealed in its entirety; renumbered, reformatted and replaced by 15.2.6 NMAC, Horse Racing - Veterinary Practices, Equine Health, Medication, and Trainer Responsibility, to conform to the new NMAC requirements effective 4/13/2001.

Other History:

NMSRC 81-1, Rules Governing Horse Racing in New Mexico, filed 12/4/1981 - that applicable portion renumbered, reformatted and amended to 15 NMAC 2.6, Horse Racing - Veterinary Practices, Equine Health, Medication, and Trainer Responsibility, filed 9/29/1995.