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ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Medication
- 2) Code Citation: 11 Ill. Adm. Code 603
- 3) 

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| <u>Section Numbers:</u><br>603.60<br>603.75<br>603.160 | <u>Proposed Actions:</u><br>Amendment<br>Amendment<br>Amendment |
|--|---|
- 4) Statutory Authority: 230 ILCS 5/9(b)
- 5) A Complete Description of the Subjects and Issues Involved: In Section 603.60, threshold levels for cetirizine, cimetidine, guaifenesin, and ranitidine are added to the list of therapeutic medications as approved by the Racing Medication and Testing Consortium (RMTC) effective October 2015. Methylprednisolone is also being added to the list as approved by the Association of Racing Commissioners International (ARCI) effective April 2, 2013. The references to the ARCI medication guidelines are being updated to December 2015, version 11.00. As approved by the ARCI in 2014, NSAID stacking provisions are added which prohibits the presence of more than one NSAID with the exceptions of phenylbutazone (0.3 mcg/ml of serum or plasma), flunixin (3.0 ng/ml of serum or plasma), and ketoprofen (1.0 ng/ml of serum or plasma). The penalties for excess amounts of phenylbutazone, flunixin, and ketoprofen are being removed because they are consistent with the ARCI medication guidelines.  
  
In Sections 603.75 and 603.160, the references to the ARCI medication guidelines are being updated to December 2015, version 11.00.
- 6) Published studies or reports and sources of underlying data used to compose this rulemaking: Association of Racing Commissioners International Model Rules.
- 7) Will this proposed rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending in this Part? No
- 11) Statement of Statewide Policy Objectives: No local governmental units will be required to increase expenditures.

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- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Written comments should be submitted, within 45 days after this notice, to:

Mickey Ezzo  
Illinois Racing Board  
100 West Randolph  
Suite 5-700  
Chicago, Illinois 60601

(312) 814-5017  
Mickey.ezzo@illinois.gov

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
  - B) Reporting, bookkeeping or other procedures required for compliance: None
  - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda which this rulemaking was summarized: January 2016

The full text of the Proposed Amendments begins on the next page.

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TITLE 11: ALCOHOL, HORSE RACING, LOTTERY, AND VIDEO GAMING  
SUBTITLE B: HORSE RACING  
CHAPTER I: ILLINOIS RACING BOARD  
SUBCHAPTER c: RULES APPLICABLE TO ALL OCCUPATION LICENSEES

PART 603  
MEDICATION

|         |  |
|---------|--|
| Section |  |
| 603.10  | Pre-Race Saliva Tests                                    |
| 603.20  | Racing Soundness Exam                                    |
| 603.30  | Foreign Substances and Pharmaceutical Aids Banned        |
| 603.40  | Twenty-four Hour Ban                                     |
| 603.50  | Trainer Responsibility                                   |
| 603.55  | Prima Facie Evidence                                     |
| 603.60  | Permitted Use of Foreign Substances and Threshold Levels |
| 603.70  | Furosemide   |
| 603.75  | Environmental Contaminants                               |
| 603.80  | Needles, Syringes and Injectables                        |
| 603.90  | Drugs, Chemicals and Prescription Items                  |
| 603.100 | Detention Barn   |
| 603.110 | Test Samples   |
| 603.120 | Referee Samples  |
| 603.130 | Laboratory Findings and Reports                          |
| 603.140 | Distribution of Purses                                   |
| 603.150 | Post Mortems   |
| 603.160 | Penalties  |
| 603.170 | Veterinarian's Records                                   |
| 603.180 | Carbon Dioxide Tests                                     |
| 603.190 | Erythropoietin and Darbepoietin Antibody Testing Program |
| 603.200 | Out of Competition Testing                               |
| 603.210 | Androgenic - Anabolic Steroids (AAS)                     |

AUTHORITY: Implementing and authorized by Section 9(b) of the Illinois Horse Racing Act of 1975 [230 ILCS 5/9(b)].

SOURCE: Adopted at 21 Ill. Reg. 3232, effective March 4, 1997; amended at 22 Ill. Reg. 2217, effective January 1, 1998; amended at 22 Ill. Reg. 3594, effective February 1, 1998; amended at 25 Ill. Reg. 15611, effective December 1, 2001; amended at 26 Ill. Reg. 12360, effective August 1, 2002; amended at 27 Ill. Reg. 5027, effective March 7, 2003; amended at 27 Ill. Reg. 7331,

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effective April 15, 2003; amended at 28 Ill. Reg. 1374, effective January 19, 2004; amended at 28 Ill. Reg. 4751, effective March 1, 2004; emergency amendment at 28 Ill. Reg. 7565, effective May 11, 2004, for a maximum of 150 days; emergency expired October 7, 2004; amended at 28 Ill. Reg. 11250, effective August 1, 2004; amended at 28 Ill. Reg. 15790, effective December 1, 2004; emergency amendment at 29 Ill. Reg. 2779, effective February 22, 2005, for a maximum of 150 days; emergency amendment at 29 Ill. Reg. 4116, effective February 25, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 5726, effective April 8, 2005; amended at 29 Ill. Reg. 12265, effective July 24, 2005; amended at 29 Ill. Reg. 14038, effective September 1, 2005; emergency amendment at 30 Ill. Reg. 14371, effective August 21, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 18729, effective November 20, 2006; amended at 31 Ill. Reg. 1478, effective January 1, 2007; emergency amendment at 31 Ill. Reg. 6680, effective April 23, 2007, for a maximum of 150 days; amended at 31 Ill. Reg. 12982, effective September 1, 2007; amended at 32 Ill. Reg. 7397, effective May 1, 2008; amended at 33 Ill. Reg. 12571, effective August 25, 2009; expedited correction at 34 Ill. Reg. 9551, effective August 25, 2009; emergency amendment at 35 Ill. Reg. 265, effective December 17, 2010, for a maximum of 150 days; emergency amendment at 35 Ill. Reg. 2810, effective February 1, 2011, for a maximum of 150 days; amended at 35 Ill. Reg. 7400, effective April 25, 2011; amended at 35 Ill. Reg. 8485, effective May 23, 2011; emergency amendment at 35 Ill. Reg. 15296, effective September 6, 2011, for a maximum of 150 days; emergency rule repealed by emergency amendment at 35 Ill. Reg. 18434, effective October 24, 2011, for the remainder of the 150 days; emergency amendment at 35 Ill. Reg. 18959, effective October 25, 2011, for a maximum of 150 days; amended at 36 Ill. Reg. 330, effective January 1, 2012; emergency amendment at 36 Ill. Reg. 3290, effective February 15, 2012, for a maximum of 150 days; emergency amendment at 36 Ill. Reg. 6057, effective April 6, 2012, for a maximum of 150 days; amended at 36 Ill. Reg. 8967, effective June 1, 2012; amended at 36 Ill. Reg. 12815, effective August 1, 2012; amended at 36 Ill. Reg. 17078, effective November 28, 2012; emergency amendment at 36 Ill. Reg. 17131, effective November 28, 2012, for a maximum of 150 days; amended at 37 Ill. Reg. 4993, effective April 1, 2013; emergency amendment at 38 Ill. Reg. 9121, effective April 10, 2014, for a maximum of 150 days; amended at 38 Ill. Reg. 18555, effective August 25, 2014; amended at 39 Ill. Reg. 11492, effective August 1, 2015; amended at 40 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 603.60 Permitted Use of Foreign Substances and Threshold Levels**

- a) Non-Steroidal Anti-Inflammatories (NSAID): Threshold Levels
  - 1) Only one non-steroidal anti-inflammatory drug (NSAID) may be present in a horse's body while it is participating in a race. The presence of more than one NSAID, greater than the threshold level, is forbidden and will result in the purse being redistributed.

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- 2) Subject to the prohibition contained in Section 603.40 (24 hour ban), the only foreign substances that now meet the criteria established in Section 603.80 are phenylbutazone, flunixin, ketoprofen, pyrillamine, isoxsuprine and the therapeutic medications listed in subsection (f).
  
- 3) Laboratory reports of phenylbutazone in a concentration greater than or equal to 2 mcg/ml in serum or plasma, flunixin in a concentration greater than or equal to 20 ng/ml in serum or plasma, and ketoprofen in a concentration greater than or equal to 2 ng/ml in serum or plasma shall be treated as Class 4 drugs, as defined in the Association of Racing Commissioners International Uniform Classification Guidelines for Foreign Substances (ARCI, 1510 Newtown Pike, Suite 210, Lexington KY 40511; December 2015 version 11.00; this incorporation includes no later amendments or editions).~~The threshold level of phenylbutazone is 2 mcg/ml of serum or plasma. The level of phenylbutazone shall be less than 2 mcg/ml of serum or plasma.~~
  - A) ~~In the event a post race sample from a horse contains an amount of phenylbutazone greater than or equal to 2 mcg/ml but less than 5 mcg/ml of serum or plasma, the trainer and any other responsible party shall be subject to the following penalties,:~~
    - i) ~~first offense within a 365 day period, minimum penalty of a written warning to a maximum fine of \$500;~~
    - ii) ~~second offense within a 365 day period, minimum penalty of a written warning to a maximum fine of \$750 and the owner shall be notified;~~
    - iii) ~~third or subsequent offense within a 365 day period, minimum fine of \$500 to a maximum fine of \$1,000 and the purse shall be redistributed.~~
  
  - B) ~~In the event a post race sample from a horse contains an amount of phenylbutazone greater than or equal to 5 mcg/ml of serum or plasma, the trainer and any other responsible party shall be subject to the following penalties, absent mitigating circumstances,:~~
    - i) ~~first offense within a 365 day period, minimum fine of \$1,000 and the purse shall be redistributed;~~

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- ii) ~~second offense within a 365 day period, minimum fine of \$1,500, a 15 day suspension and the purse shall be redistributed;~~
  - iii) ~~third or subsequent offense within a 365 day period, minimum fine of \$2,500, a 30 day suspension and the purse shall be redistributed and the owner shall be fined a minimum of \$5,000.~~
- 4C) A finding by the Board's laboratory of any amount of oxyphenbutazone in the absence of phenylbutazone shall be treated as a Class 4 drug, as defined in the ~~ARCI Association of Racing Commissioners International Uniform Classification~~ Guidelines for Foreign Substances (incorporated by reference in subsection (a)(3)) ~~ARCI, 1510 Newtown Pike, Suite 210, Lexington KY 40511; December~~ April 2015 version ~~11.009.00~~; this incorporation includes no later amendments or editions).
- 4) The threshold level of flunixin shall be less than 20 ng/ml of serum or plasma and the threshold level of ketoprofen shall be less than 2 ng/ml of serum or plasma. In the event a post-race sample from a horse contains an amount of:
- A) flunixin greater than or equal to 20 ng/ml but less than 100 ng/ml or ketoprofen greater than or equal to 2 ng/ml but less than 50 ng/ml, the trainer shall be subject to the following penalties, absent mitigating circumstances,:
    - i) ~~first offense within a 365 day period, minimum penalty of a written warning to a maximum fine of \$500;~~
    - ii) ~~second offense within a 365 day period, minimum penalty of a written warning to a maximum fine of \$750 and the owner shall be notified;~~
    - iii) ~~third or subsequent offense within a 365 day period, minimum fine of \$500 to a maximum fine of \$1,000 and the purse shall be redistributed.~~
  - B) flunixin greater than or equal to 100 ng/ml or ketoprofen greater

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~~than or equal to 50 ng/ml, the trainer shall be subject to the following penalties, absent mitigating circumstances,:~~

- ~~i) first offense within a 365 day period, minimum fine of \$1,000 and the purse shall be redistributed;~~
- ~~ii) second offense within a 365 day period, minimum fine of \$1,500, a 15 day suspension and the purse shall be redistributed;~~
- ~~iii) third or subsequent offense within a 365 day period, minimum fine of \$2,500, a 30 day suspension, the purse shall be redistributed and the owner shall be fined a minimum of \$5,000.~~

5) The use of multiple permitted NSAIDs shall be discontinued at least 48 hours prior to post time for the race in which the horse is entered. The presence of more than one NSAID is prohibited with the exceptions of:

- (A) Phenylbutazone – in a concentration less than 0.3 mcg/ml in serum or plasma.
- (B) Flunixin – in a concentration less than 3 ng/ml in serum or plasma.
- (C) Ketoprofen – in a concentration less than 1 ng/ml in serum or plasma.

65) If the phenylbutazone, flunixin or ketoprofen overage is due to the negligence of the veterinarian attending the horse, the veterinarian shall be subject to the same penalties as are set forth in the ARCI Guidelines for Foreign Substances (incorporated by reference in subsection (a)(3)) subsections (a)(3)(A) and (B) and (a)(4)(A) and (B).

76) Penalties for violations of this Section shall be based on the following criteria:

- A) previous warnings and rulings for violations of this Section;
- B) the age and experience of the violator;

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- C) whether the violator has ever been the subject of a medication ruling in this or any other racing jurisdiction;
  - D) what action, if any, was taken to avoid the violation;
  - E) the purse of the race.
- b) The following foreign substances may be administered externally to a horse entered to a race: Leg paints and liniment that do not contain any "caine" derivatives, pharmacodynamic and/or chemotherapeutic agents, and that can be applied topically without penetrating the skin.
- c) Subject to the prohibition contained in Section 603.40 (24-hour ban), the following foreign substances, commonly referred to as anti-bacterial, anti-fungal, or anti-protozoal ~~or anti-ulcer~~ drugs, may be present in the body of a horse participating in a race.
- 1) Anti-Bacterials
    - Amikacin
    - Ampicillin
    - Ampicillin sodium
    - Azolsulfamide
    - Chloramphenicol
    - Doxycycline
    - Enrofloxacin (Baytril)
    - Erythromycin sulfate
    - Gentamicin sulfate
    - Kanamycin sulfate
    - Methenamine
    - Metronidazole
    - Neomycin sulfate
    - Nitrofurantoin
    - Oxytetracycline
    - Penicillin G. Benzathine
    - Penicillin G. Potassium
    - Sulfadimethozine
    - Sulfadimethoxine
    - Sulfamethoxazole
    - Sulfametranidazole

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Sulfapyridine  
Sulfathiazole  
Tetracycline  
Trimethoprim

2) Anti-Fungals

Amphotericin B  
Griseofulvin  
Neomycin Undecylenate  
Nystatin

3) Anti-Protozoals

Nitazoxanide (Navigator)  
Ponazuril (Marquis)  
Pyrimethamine (Daraprim)

4) Anti-Ulcers

~~Cimetidine (Tagamet)~~  
~~Ranitidine (Zantac)~~

- d) This listing of anti-bacterial, anti-fungal, and anti-protozoal ~~and anti-ulcer~~ drugs is all inclusive and shall not include any other anti-bacterial, anti-fungal, or anti-~~protozoal or anti-ulcer~~ drug, except as provided in subsection (f).
- e) A foreign substance of accepted therapeutic value may be administered as prescribed by a veterinarian when threshold levels and guidelines for its use have been approved by the Board and this Part has been duly amended. The Board shall give due consideration to threshold levels and guidelines, when making additions to the permitted list, that have been established by the Association of Racing Commissioners International (ARCI, 1510 Newtown Pike, Suite 210, Lexington KY 40511; ~~December April 2015 version 11.009-00~~; this incorporation includes no later amendments or editions).
- f) Subject to the prohibition contained in Section 603.40 (24 hour ban), the use of the following therapeutic medications shall be permitted. The official test samples may contain the following therapeutic medications in concentrations less than the following threshold levels:

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- 1) Acepromazine – 10 ng/ml as 2-(1-hydroxyethyl) promazine sulfoxide (HEPS) in urine.
- 2) Albuterol – 1 ng/ml in urine.
- 3) ~~Effective October 4, 2015,~~ Betamethasone – 10 pg/ml in serum or plasma.
- 4) Butorphanol – 300 ng/ml of total butorphanol in urine.
- 5) Cetirizine – 6 ng/ml in serum or plasma.
- 6) Cimetidine – 400 ng/ml in serum or plasma.
- 75) Clenbuterol – 140 pg/ml in urine in thoroughbred and quarter horse breeds; and Level of Detection (which is not less than 10 pg/ml) in serum or plasma in the standardbred breed.
- 86) Dantrolene – 100 pg/ml of 5-hydroxydantrolene in serum or plasma.
- 97) Detomidine – Level of Detection for detomidine in serum or plasma.
- 108) ~~Effective October 4, 2015,~~ Dexamethasone – ~~Limit of Detection (which is not less than 5 pg/ml)~~ in serum or plasma.
- 119) Diclofenac – 5 ng/ml in serum or plasma.
- 1210) Dimethyl sulfoxide (DMSO) – 10 mcg/ml in serum or plasma.
- 1311) Firocoxib – 20 ng/ml in serum or plasma.
- 1412) Furosemide – 100 ng/ml in serum or plasma.
- 1513) Glycopyrrlate – 3 pg/ml in serum or plasma.
- 16) Guaifenesin – 12 ng/ml in serum or plasma
- 1714) ~~Effective October 4, 2015,~~ Isoflupredone – 100 pg/ml in serum or plasma.
- 1815) Lidocaine – 20 pg/ml of total 3-hydroxylidocaine in serum or plasma.

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- ~~1916~~) Mepivacaine – 10 ng total hydroxymepivacaine/ml in urine.
- ~~2017~~) Methocarbamol – 1 ng/ml in serum or plasma.
- 21) Methylprednisolone – 100 pg/ml in serum or plasma.
- ~~2218~~) Omeprazole sulfide – 1 ng/ml in urine.
- ~~2319~~) ~~Effective October 4, 2015,~~ Prednisolone – 1 ng/ml in serum or plasma.
- ~~2420~~) Procaine penicillin – 25 ng/ml of procaine in serum or plasma.  
Procaine penicillin must be reported to the Board at time of administration and shall not be administered after the horse is entered to race.
- 25) Ranitidine – 40 ng/ml in serum or plasma.
- ~~2621~~) ~~Effective October 4, 2015,~~ Triamcinolone acetonide – 100 pg/ml in serum or plasma.
- ~~2722~~) Xylazine – 10 pg/ml in serum or plasma.
- g) Laboratory reports of the therapeutic medications listed in subsection (f) greater than or equal to their respective threshold level shall be treated as they are defined and classified in the Association of Racing Commissioners International Uniform Classification Guidelines for Foreign Substances (ARCI, 1510 Newtown Pike, Suite 210, Lexington KY 40511; ~~December April~~ 2015 version ~~11.009.00~~; this incorporation includes no later amendments or editions).
- h) Official test samples may contain the following drug substance, or its metabolites, in a concentration less than the amount that does not exceed the threshold level:
- 1) ~~The threshold level of isoxsuprin~~ Isoxsuprin - shall be less than 1,000 ng/ml in urine.
  - 2) ~~The threshold level of O-desmethyl pyrilamine~~ Pyrilamine- shall be less than 50 ng/ml O-desmethyl pyrilamine in urine.
- i) The provisions of this Section shall be applied retroactively when substantively applicable, including all actions pending before the Board without regard to when

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the cause of action accrued; provided, however, that this subsection shall not operate to affect rights of individuals that have fully vested.

- j) To help ~~licensees~~~~horsemen~~ determine the test levels of substances contained in this ~~section~~Section, the Board laboratory will test, at the sole expense of the licensee for the actual cost of processing the sample, all equine urine, serum or plasma samples submitted to it that are accompanied by ~~an affidavit~~ certification indicating time, method and route of administration.

(Source: Amended at 40 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 603.75 Environmental Contaminants**

The following drugs are recognized as substances that unavoidably become part of the food supply or environment of the horse, or are recognized as substances of human use and addiction and that could be found in the horse due to its close association with humans:

- a) Benzoylcegonine (a metabolite of cocaine):
- 1) Each time the laboratory reports benzoylcegonine in a concentration less than 150 ng/ml in urine the Stewards shall conduct an inquiry. The presence of benzoylcegonine in the horse shall be considered reasonable cause to order a drug screen on the trainer, groom or any other licensed person who cares for the horse pursuant to 11 ~~Illinois~~Ill. Adm. Code 508.50.
  - 2) Laboratory reports of benzoylcegonine in a concentration greater than or equal to 150 ng/ml in urine shall be treated as a Class 1 drug, as defined in the Association of Racing Commissioners International Uniform Classification Guidelines for Foreign Substances (ARCI, 1510 Newtown Pike, Suite 210, Lexington KY 40511; ~~December~~April 2015 version ~~11.009.00~~; this incorporation includes no later amendments or editions).

- b) Caffeine:

Laboratory reports of caffeine in a concentration greater than or equal to 100 ng/ml in urine shall be treated as a Class 2 drug, as defined in the Association of Racing Commissioners International Uniform Classification Guidelines for Foreign Substances (ARCI, 1510 Newtown Pike, Suite 210, Lexington KY 40511; ~~December~~April 2105 version ~~11.009.00~~; this incorporation includes no

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later amendments or editions).

c) Theobromine:

Laboratory reports of theobromine in a concentration greater than or equal to 2 mcg/ml in urine shall be treated as a Class 4 drug, as defined in the Association of Racing Commissioners International Uniform Classification Guidelines for Foreign Substances (ARCI, 1510 Newtown Pike, Suite 210, Lexington KY 40511; ~~December~~<sup>April</sup> 2015 version ~~11.009.00~~; this incorporation includes no later amendments or editions).

(Source: Amended at 40 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 603.160 Penalties**

- a) Any person who administers or conspires to administer any foreign substance to any horse in violation of this Part shall be subject to a fine and/or license suspension or revocation and the purse money won may be ~~re-distributed~~redistributed.
- b) Penalties for violations of this Part shall be based on the following criteria:
- 1) the nature of the foreign substance; e.g., cough medicine, steroid, narcotic, stimulant, depressant, etc.;
  - 2) the accessibility of the drug; e.g., can be purchased over the counter, only with a prescription, only with a license for controlled substances, cannot be purchased in this country;
  - 3) the age and experience of the violator;
  - 4) whether the violator has ever been the subject of a medication ruling in this or any other racing jurisdiction;
  - 5) what action, if any, was taken by the violator to avoid the violation;
  - 6) the purse of the race.
- c) Any person who violates any provision of this Part for which no specific penalty is provided may be penalized by the stewards or the Board in accordance with the

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provisions for penalties contained elsewhere in this Chapter or in the Illinois Horse Racing Act of 1975. When imposing penalties, the stewards or the Board shall consider all relevant factors including, but not limited to those specified in this Part.

- d) In harness racing, any trainer suspended for a violation of this Part, shall, upon notice of the violation, submit to the Stewards a current stable list on a form provided by the Board.
  - 1) The horses on the stable list shall be placed on the Steward's List unless:
    - A) The owner of each horse on the stable list secures the services of a trainer approved by the Stewards; and
    - B) The approved trainer stables the horses on the stable list on the grounds of an organization licensee for the full term of the penalized trainer's suspension;
  - 2) Horses on the stable list shall be permitted to leave to race in other racing jurisdictions or for medical reasons.
- e) Penalties for Class 4 and 5 drug violations:
  - 1) Class 4 as defined in the Association of Racing Commissioners International Uniform Classification Guidelines for Foreign Substances (ARCI, 1510 Newtown Pike, Suite 210, Lexington KY 40511; December 2015~~January 2014~~ version 11.007-00; this incorporation includes no later amendments or editions). Except as provided in Sections 603.60 and 603.70 of this Part, upon finding of a Class 4 substance, the trainer shall be subject to a fine and/or license suspension or revocation and the purse money won may be re-distributed according to the criteria set forth in subsection (e)(3).
  - 2) Class 5 as defined in the Association of Racing Commissioners International Uniform Classification Guidelines for Foreign Substances. Except as provided in Sections 603.75 and 603.60(c) of this Part, upon finding of a Class 5 substance, the trainer shall be subject to a fine and/or license suspension or revocation and the purse money won may be re-distributed according to the criteria set forth in subsection (e)(3).

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- 3) In determining a disqualification and purse redistribution under this subsection (e), the Stewards shall use the following criteria:
  - A) A recommendation by the Board veterinarian and/or Board chemist regarding the significance of the concentration of the drug or metabolite present and the estimated withdrawal time.
  - B) A recommendation by industry experts, including equine pharmacologists and equine physiologists, regarding the effect of the drug on the horse in the concentration found and/or estimated withdrawal times.
  - C) Repeat violations of these medication and prohibited substance rules by the same trainer or with respect to the same horse.
  - D) Prior violations of similar rules in other racing jurisdictions by the same trainer or with respect to the same horse.
  - E) The criteria set forth in subsection (b).
- 4) The provisions of this subsection (e) shall be applied retroactively when substantively applicable, including all actions pending before the Board, without regard to when the cause of action accrued; provided, however, that this subsection (e)(4) shall not operate to affect rights of individuals that have fully vested prior to April 23, 2007.

(Source: Amended at 40 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)