

CALIFORNIA HORSE RACING BOARD
TITLE 4., CALIFORNIA CODE OF REGULATIONS
ARTICLE 15. VETERINARY PRACTICES
PROPOSED AMENDMENT OF
RULE 1843.3. PENALTIES FOR MEDICATION VIOLATIONS

1843.3. Penalties for Medication Violations.

(a) In reaching a decision on a penalty for a violation of Business and Professions Code section 19581, the Board, the board of stewards, the hearing officer or the administrative law judge shall consider the penalties set forth in subsections (d) and (e) of this Rule 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:

(1) The past record of the licensee regarding violations of Business and Professions Code section 19581;

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

(3) The legal availability of the drug and whether the drug was prescribed to the horse by a California Horse Racing Board (CHRB) licensed veterinarian;

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

(5) The steps taken by the trainer to safeguard the horse;

(6) 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;

(A) "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 by the trainer from whose care such horse(s) were transferred.

(7) The probability of environmental contamination or inadvertent exposure due to human drug use or other factors;

(8) The purse of the race;

(9) 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 through the process described in Rule 1842 of this division;

(10) Whether there was any suspicious wagering pattern on the race;

(11) Whether the licensed trainer was acting under the advice of a CHRB licensed veterinarian.

(c) The Board shall consider the classification of a drug substance as referred to in Rule 1843.2 of this division and the California Horse Racing Board (CHRB) Penalty Categories Listing by Classification, (Revised 4/15), which is hereby incorporated by reference, if a determination is made that an official test sample from a horse contained:

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

(2) Any drug substance, medication or chemical authorized by this article in excess of the authorized level or other restrictions as set forth in the article.

(d) Penalties for violation of each classification level are as follows:

CATEGORY “A” PENALTIES

Penalties for violations due to the presence of a drug substance in an official test sample, which CHRB drug classification is categorized as warranting a Category A penalty are as follows:

LICENSED TRAINER:		
1st offense	2nd LIFETIME offense	3rd LIFETIME offense
<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>AND</p> <ul style="list-style-type: none"> ◦ Minimum fine of \$10,000 or 10% of gross purse (greater of the two) absent mitigating circumstances. The presence of aggravating factors could be used to impose a maximum fine of \$25,000 or 25% of purse (greater of the two). <p>AND</p> <ul style="list-style-type: none"> ◦ May be referred to the Board for any further action deemed necessary by the Board. 	<ul style="list-style-type: none"> ◦ Minimum two-year suspension absent mitigating circumstances. The presence of aggravating factors could be used to impose a maximum of a three-year suspension. <p>AND</p> <ul style="list-style-type: none"> ◦ Minimum fine of \$20,000 or 25% of gross purse (greater of the two) absent mitigating circumstances. The presence of aggravating factors could be used to impose a maximum fine of \$50,000 or 50% of purse (greater of the two). <p>AND</p> <ul style="list-style-type: none"> ◦ May be referred to the Board for any further action deemed necessary by the Board. 	<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 permanent license revocation. <p>AND</p> <ul style="list-style-type: none"> ◦ Minimum fine of \$25,000 or 50% of gross 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>AND</p> <ul style="list-style-type: none"> ◦ May be referred to the Board for any further action deemed necessary by the Board.
LICENSED OWNER:		
1st offense	2nd LIFETIME offense in owner's stable	3rd LIFETIME offense in owner's stable
<ul style="list-style-type: none"> ◦ Disqualification of horse and loss of purse. <p>AND</p> <p>Horse may be placed on the veterinarian's list for up to 90 days and must pass a Board - approved examination pursuant to Rule 1846 before becoming eligible to be entered.</p> <p>AND</p> <ul style="list-style-type: none"> ◦ Be subject to drug testing at the owner's expense and be negative for prohibited drug substances as defined in Rule 1843.1. 	<ul style="list-style-type: none"> ◦ Disqualification of horse and loss of purse. <p>AND</p> <ul style="list-style-type: none"> ◦ Horse shall be placed on the veterinarian's list for up to 120 days and must pass a Board - approved examination pursuant to Rule 1846 before becoming eligible to be entered. <p>AND</p> <ul style="list-style-type: none"> ◦ Be subject to drug testing at the owner's expense and be negative for prohibited drug substances as defined in Rule 1843.1. 	<ul style="list-style-type: none"> ◦ Disqualification of horse, loss of purse and absent mitigating circumstances, minimum fine of \$10,000. The presence of aggravating factors could be used to impose a maximum fine of \$50,000. <p>AND</p> <ul style="list-style-type: none"> ◦ Horse shall be placed on the veterinarian's list for up to 180 days and must pass a Board-approved examination pursuant to Rule 1846 before becoming eligible to be entered. <p>AND</p> <ul style="list-style-type: none"> ◦ Be subject to drug testing at the owner's expense and be negative for prohibited drug substances as defined in Rule 1843.1. <p>AND</p> <ul style="list-style-type: none"> ◦ Referral to the Board with a recommendation of a suspension of owners license for a minimum of 90 days.

CATEGORY “B” PENALTIES

Penalties for violations due to the presence of a drug substance in an official test sample, which CHRB drug classification is categorized as warranting a Category B penalty are as follows:

LICENSED TRAINER:		
1st offense	2nd offense (within two year time period)	3rd offense (within five year time period)
<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 60-day suspension. <p>AND/OR</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 fine of \$10,000. 	<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 180-day suspension. <p>AND/OR</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 fine of \$20,000. 	<ul style="list-style-type: none"> ◦ Minimum 90-day suspension absent mitigating circumstances. The presence of aggravating factors could be used to impose a maximum of a one-year suspension. <p>AND/OR</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 fine of \$50,000 or 10% of purse (greater of the two). <p>AND</p> <ul style="list-style-type: none"> ◦ May be referred to the Board for any further action deemed necessary by the Board.
LICENSED OWNER:		
1st offense	2nd offense in stable (within two year time period)	3rd offense in stable (within five year time period)
<ul style="list-style-type: none"> ◦ Disqualification of horse and loss of purse. <p>AND</p> <ul style="list-style-type: none"> ◦ Horse must pass a Board-approved examination pursuant to Rule 1846 before becoming eligible to be entered. <p>AND</p> <ul style="list-style-type: none"> ◦ Be subject to drug testing at the owner’s expense and be negative for prohibited drug substances as defined in Rule 1843.1. 	<ul style="list-style-type: none"> ◦ Disqualification of horse and loss of purse. <p>AND</p> <ul style="list-style-type: none"> ◦ Horse must pass a Board-approved examination pursuant to Rule 1846 before becoming eligible to be entered. <p>AND</p> <ul style="list-style-type: none"> ◦ Be subject to drug testing at the owner’s expense and be negative for prohibited drug substances as defined in Rule 1843.1. 	<ul style="list-style-type: none"> ◦ Disqualification of horse, loss of purse and absent mitigating circumstances minimum fine of \$5,000. The presence of aggravating factors could be used to impose a maximum fine of \$20,000. <p>AND</p> <ul style="list-style-type: none"> ◦ Horse shall be placed on the veterinarian’s list for up to 45 days and must pass a Board-approved examination pursuant to Rule 1846 before becoming eligible to be entered. <p>AND</p> <ul style="list-style-type: none"> ◦ Be subject to drug testing at the owner’s expense and be negative for prohibited drug substances as defined in Rule 1843.1.

CATEGORY “B” PENALTIES FOR RULE 1843.6 TOTAL CARBON DIOXIDE (TCO₂) TESTING

Penalties for violations due to exceeding permitted levels of TCO₂ as defined in Rule 1843.6 are

LICENSED TRAINER:		
1st offense TCO₂ (> 37.0 mm/l/-<39 mm/l)	2nd offense TCO₂ (> 37.0 mm/l/-<39 mm/l)	3rd offense TCO₂ (> 37.0 mm/l/-<39 mm/l)
<ul style="list-style-type: none"> Up to a 30-day suspension absent mitigating circumstances. The presence of aggravating factors could be used to impose a maximum of a 60-day suspension. <p>AND/OR</p> <ul style="list-style-type: none"> Minimum fine of \$1,500 absent mitigating circumstances. The presence of aggravating factors could be used to impose a maximum fine of \$5,000. 	<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 120-day suspension. <p>AND/OR</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 fine of \$10,000. 	<ul style="list-style-type: none"> Minimum 90-day suspension absent mitigating circumstances. The presence of aggravating factors could be used to impose a maximum of a 180-day suspension. <p>AND/OR</p> <ul style="list-style-type: none"> Minimum fine of \$5,000 absent mitigating circumstances. The presence of aggravating factors could be used to impose a maximum fine of \$15,000.
LICENSED OWNER:		
1st offense TCO₂ (> 37.0 mm/l/-<39mm/l)	2nd offense TCO₂ (> 37.0 mm/l/-<39 mm/l)	3rd offense TCO₂ (> 37.0 mm/l/-<39 mm/l)
<ul style="list-style-type: none"> Disqualification of horse and loss of purse. 	<ul style="list-style-type: none"> Disqualification of horse and loss of purse. 	<ul style="list-style-type: none"> Disqualification of horse, loss of purse and in the absence of mitigating circumstances, \$2,500 fine.
LICENSED TRAINER:		
1st offense TCO₂ (≥ 39.0 mm/l)	2nd offense TCO₂ (≥ 39.0 mm/l)	3rd offense TCO₂ (≥ 39.0 mm/l)
<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 60-day suspension. <p>AND/OR</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 fine of \$10,000. 	<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 180-day suspension. <p>AND/OR</p> <ul style="list-style-type: none"> Minimum fine of \$5,000 absent mitigating circumstances. The presence of aggravating factors could be used to impose a maximum fine of \$15,000. 	<ul style="list-style-type: none"> Minimum 90-day suspension absent mitigating circumstances. The presence of aggravating factors could be used to impose a maximum of a 365-day suspension. <p>AND/OR</p> <ul style="list-style-type: none"> Minimum fine of \$10,000 absent mitigating circumstances. The presence of aggravating factors could be used to impose a maximum fine of \$25,000.
LICENSED OWNER:		
1st offense TCO₂ (≥ 39.0 mm/l)	2nd offense TCO₂ (≥ 39.0 mm/l)	3rd offense TCO₂ (≥ 39.0 mm/l)
<ul style="list-style-type: none"> Disqualification of horse and loss of purse. 	<ul style="list-style-type: none"> Disqualification of horse and loss of purse. 	<ul style="list-style-type: none"> Disqualification of horse, loss of purse and a fine ranging from a minimum of \$5,000, up to a maximum of \$20,000.

as set forth below. All concentrations are for measurements in serum or plasma.

CATEGORY “C” PENALTIES

Penalties for violations due to the presence of a drug substance in an official test sample, which CHRB drug classification is categorized as warranting a Category C penalty and for the presence of more than one non-steroidal anti-inflammatory (NSAID) in a plasma/serum sample, as defined in Rule 1844 of this division, and furosemide as defined in Rule 1845 of this division in an official test sample are as set forth below. All concentrations are for measurements in serum or plasma.

LICENSED TRAINER:		
1st offense	2nd offense (within 365-day period)	3rd offense (within 365-day period)
<ul style="list-style-type: none"> Minimum fine of \$500 to a maximum fine of \$1,000 absent mitigating circumstances. 	<ul style="list-style-type: none"> Minimum fine of \$1,000 to a maximum fine of \$2,500, and up to a 15 - day suspension absent mitigating circumstances. 	<ul style="list-style-type: none"> Minimum fine of \$2,500 and up to a 30 - day suspension absent mitigating circumstances

Penalties for a fourth violation within a 365-day period shall require a minimum 15-day suspension and \$2500 fine. Penalties for any subsequent violation within a 365-day period shall require a greater suspension and fine than the penalty imposed for the previous violation.

CATEGORY “C” PENALTIES FOR RULE 1844, AUTHORIZED MEDICATION (C) (1), (2), (3)

~~Penalties for violations due to overages for permitted non-steroidal anti-inflammatory drug substances (NSAIDs) as defined in Rule 1844 (c) (1), (2) and (3) of this division. All concentrations are for measurements in serum or plasma.~~

~~The official veterinarian shall consult with the treating veterinarian in all violations of 1844 (c). If the trainer has not had an 1844 (c) violation within the previous three years, the board of stewards may issue a warning in lieu of a fine for violations of 1844 (c)(1), phenylbutazone, provided the reported level is below 5.1 mcg/ml.~~

LICENSED TRAINER:	Phenylbutazone (2.1-<5.0 mcg/ml) Flunixin (20-<100 ng/ml) Ketoprofen (2-< 50 ng/ml)	Phenylbutazone (2.1-<5.0 mcg/ml) Flunixin (20-<100 ng/ml) Ketoprofen (2-< 50 ng/ml)
1st offense	2nd offense (within 365-day period)	3rd offense (within 365-day period)
⌚ Minimum fine of \$500 to a maximum fine of \$1,000.	⌚ Minimum fine of \$1,000 to a maximum fine of \$2,500.	⌚ Minimum fine of \$2,500 to a maximum fine of \$5,000.
LICENSED OWNER:	Phenylbutazone (2.1-<5.0 mcg/ml) Flunixin (20-<100 ng/ml) Ketoprofen (2-< 50 ng/ml)	Phenylbutazone (2.1-<5.0 mcg/ml) Flunixin (20-<100 ng/ml) Ketoprofen (2-< 50 ng/ml)
1st offense	2nd offense (within 365-day period)	3rd offense (within 365-day period)
No penalty administered.	No penalty administered.	No penalty administered.
LICENSED TRAINER:	Phenylbutazone (≥ 5.0 mcg/ml) Flunixin (≥ 100 ng/ml) Ketoprofen (≥ 50 ng/ml)	Phenylbutazone (≥ 5.0 mcg/ml) Flunixin (≥ 100 ng/ml) Ketoprofen (≥ 50 ng/ml)
1st offense	2nd offense (within 365-day period)	3rd offense (within 365-day period)
⌚ Minimum fine of \$1,000 to a maximum fine of \$2,500.	⌚ Minimum fine of \$2,500 to a maximum fine of \$5,000.	⌚ Minimum fine of \$5,000 to a maximum fine of \$10,000.
LICENSED OWNER:	Phenylbutazone (≥ 5.0 mcg/ml) Flunixin (≥ 100 ng/ml) Ketoprofen (≥ 50 ng/ml)	Phenylbutazone (≥ 5.0 mcg/ml) Flunixin (≥ 100 ng/ml) Ketoprofen (≥ 50 ng/ml)
1st offense	2nd offense (within 365-day period)	3rd offense (within 365-day period)
⌚ Horse must pass Board-approved examination pursuant to Rule 1846 before being eligible to run	⌚ Disqualification of horse and loss of purse. If same horse, placed on veterinarian's list for up to 45 days, must pass Board-approved examination pursuant to Rule 1846 before being eligible to run.	⌚ Disqualification of horse and loss of purse. Minimum \$5,000 fine. If same horse, placed on veterinarian's list for 60 days, must pass Board-approved examination pursuant to Rule 1846 before being eligible to run.

(e) Violations due to the presence of a drug substance in an official test sample, which CHRB drug classification is categorized as warranting a Category "D" penalty, may result in a written warning to the licensed trainer and owner.

CATEGORY “D” PENALTIES

1 st offense (within 365-day period)	2 nd offense (within 365-day period)	3 rd offense (within 365-day period)
Minimum of an official written warning to a maximum fine of \$250.	Minimum of a \$250 fine to a maximum fine of \$500.	Minimum of a \$500 fine to a maximum fine of \$750.

(f) If a licensee has received a penalty for a Class A, B or C medication violation, and within a 365-day period has a subsequent lesser violation (e.g. an A violation followed by a B violation), the earlier violation shall count as a “prior violation” for the purposes of determining the penalty for the subsequent lesser violation.

(g) If a licensee has received a penalty for a Class B, C or D medication violation, and within a 365-day period has a subsequent greater violation (e.g. a D violation followed by a C violation), the earlier violation shall count as an aggravating factor for the purposes of determining the penalty for the subsequent greater violation.

(h) Any drug or its metabolite or analogue thereof found to be present in an official test sample that is not classified in Rule 1843.2 of this division shall be classified as a Class 1 substance and a Category “A” penalty until classified by the Board.

(i) The administration of a drug substance to a race horse must be documented by the treating veterinarian through the process described in Rule 1842 of this division.

(j) Any licensee found to be responsible for the administration of any drug substance resulting in a positive test may be subject to the same penalties set forth for the licensed trainer and his presence may be required at any and all hearings relative to the case.

(1) Any veterinarian found to be involved in the administration of any drug substance resulting in a positive test in Penalty Category “A” shall be referred to the California Veterinary Medical Board (CVMB) for consideration of further disciplinary action.

(2) Any veterinarian found to be involved in the administration of any drug substance resulting in a positive test in Penalty Category “B” or “C” may be referred to the CVMB for

consideration of further disciplinary action upon the recommendation of the Equine Medical Director, the board of stewards or hearing officers.

(k) A licensee who is suspended because of a medication violation is not able to benefit financially during the period of suspension. This includes, but is not limited to, ensuring that horses are not transferred to licensed family members or, for any licensee whose suspension is for more than 30 days, to any other licensee who has been an employee of the suspended licensee within the previous year.

(1) A licensee whose license is revoked because of a medication violation is not able to benefit financially following the revocation of his or her license. This includes, but is not limited to, ensuring that horses are not transferred to licensed family members or to any other licensee who has been an employee of the licensee whose license is revoked within the previous year.

(l) "Licensed family members" means any person who holds an occupational license issued by the CHRB and who is related to the suspended licensee, or the licensee whose license is revoked, by blood, or by marriage or domestic partnership, or who is related by blood to the spouse or domestic partner of such licensee.

(1) Licensed trainers suspended 60 days or more shall be banned from all inclosures under the jurisdiction of the CHRB. In addition, during the period of suspension, such trainer shall forfeit all assigned stall space and shall remove from the inclosures all signage, colors, advertisements, training-related equipment, tack, office equipment, and any other property.

(2) A trainer whose license is revoked shall be banned from all inclosures under the jurisdiction of the CHRB. In addition, such trainer shall forfeit all assigned stall space and shall remove from the inclosures all signage, colors, advertisements, training-related equipment, tack, office equipment, and any other property.

Authority: Sections 19440, 19461 and 19580,
Business and Professions Code.

Reference: Sections 19461, 19580, 19581 and 19582,
Business and Professions Code; and
Section 11425.50, Government Code.