TESTIMONY OF
EDWARD J. MARTIN
PRESIDENT/CEO
ASSOCIATION OF RACING COMMISSIONERS INTERNATIONAL
Friday, June 22, 2018 – Subcommittee on Digital Commerce and Consumer Protect
Energy and Commerce Committee, US House of Representatives.

MAJOR POINTS OF TESTIMONY:

- The state racing regulators are totally uniform in prohibiting the presence of performance enhancing drugs in a horse when it races.

- There is total uniformity in adoption of a thirty year equine welfare policy to permit a voluntary race day equine welfare treatment scientifically proven to protect the horse.

- There is total uniformity in the use of progressive penalties. There is also penalty reciprocity between the states. A penalty in one is honored in all.

- The state racing commissions do more drug testing than is done in any other professional sport. 354,787 biological samples were sent to the labs in 2017. The US Anti-Doping Agency tests approximately 13,000 samples each year, roughly 4% the size of horse racing program.

- The anti-doping standards in horse racing are more stringent than human sport. Racing does not provide Therapeutic Use Exemptions (TUEs) allowing athletes to train and compete with a performance enhancing drug in their system.

- H.R. 2651 is a radical and unnecessary federalization of a state responsibility that is exercised effectively. Equine medication policies would be determined by a private entity and federal agency with no veterinary expertise or background with horses.

- Congress should focus instead on that part of the racing industry that is un-regulated and the unencumbered use of certain drugs, despite FDA warnings, which might be contributing to catastrophic breakdowns.

- A portion of the 9.5 million annual federal appropriation for anti-doping programs should be set aside for horse racing research.

- There are things the Congress can have the federal government do that would assist and augment the efforts of the state racing commissions in protecting horses and combating those who would cheat. H.R.2651 is not one of them.

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Mr. Chairman, Members of the Subcommittee:

I am here to explain what is done to police the sport of horse racing by the States, put it in perspective with what is done in other sports, address some of the misconceptions people have, and identify where the real need is to protect the welfare of the horse.

I will also outline why the ARCI has taken the unusual step in taking a position on H.R.2651 and suggest ways in which the federal government might be of assistance to the states.

I will also call your attention to a significant part of the horse industry that is un-regulated and now a focus of concern because of the widespread use of a class of drugs on very young horses despite warnings from the Federal Food and Drug Administration (FDA).

For over 80 years the ARCI has set standards for thoroughbred, standardbred, and quarter horse racing. Our members include the state regulators in the US, the federal and provincial regulators in Canada as well as the national regulator in several other jurisdictions. Our Model Rules and Drug Classification System are respected worldwide and some jurisdictions have adopted portions of the Model Rules by reference.

Testing:

The collective anti-doping drug testing program of the US State racing commissions represents the largest anti-doping program in professional sport. In 2017, US State Racing Commissions tested 354,787 biological samples taken from equine athletes. By comparison the entire network of

World Anti-Doping Agency testing agencies sent 300,565 samples from their athletes to the various testing labs around the globe.

By contrast, the US Anti-Doping Agency sent 12,756 samples to their labs in 2016. Adding the horse racing testing to its current portfolio, as is being proposed, would increase its testing operation by more than twenty-six times.

Individually, the State Racing Commissions in the following states perform more drug tests than the entire USADA program: California, Florida, Maryland, New Jersey, New York, Ohio, Pennsylvania, and West Virginia. The entire USADA program is comparable in size to the drug testing program in Louisiana.

As noted above, in 2017 US State Racing Commissions tested 354,787 biological samples and with a total of 1,566 adverse analytical findings reported. The "clear rate" was 99.5% of samples tested.

Results in pari-mutuel sport are comparable with the program in human sport. The USADA annual report indicates a clear rate of 99% for 2016. That same year the entire World Anti-Doping Agency program, including USADA, tested 300,565 samples with a clear rate of 98.4%. *(Neither the 2017 USADA or WADA testing reports have been posted as of this writing).*

Adverse Analytical Findings (AAF) in human sport do not always result in a violation as they normally do in horseracing because of the WADA therapeutic use exemption (TUE) policy that grants permission for athletes with a medical need to train and compete with prohibited substances in their system.

State racing commissions are uniform in not permitting TUEs.

Of the 1,566 AAFs in US pari-mutuel sport, there were 169 findings of Class 1 or Class 2 substances. 87.4% of all findings were for overages of legal, therapeutic medications and 63.3% of all findings were indicative of treatment misapplications. These numbers indicate a high rate of rule compliance.

The following chart represents the 2017 testing results of the individual states as reported by those states to the ARCI:

JURISDICTION	TESTS	AAFs	CLEAR RATE PERCENTAGE
ARIZONA	2165	36	98.34
ARKANSAS	7043	6	99.91
CALIFORNIA	21948	78	99.64
COLORADO	1072	11	98.97
DELAWARE - HARNESS	3790	4	99.89
DELAWARE - Flat	1853	7	99.62
FLORIDA*	73033	361	99.51
IDAHO	181	0	100.00
ILLINOIS	5998	10	99.83
INDIANA	9697	36	99.63
IOWA	4704	21	99.55
KENTUCKY	7917	39	99.51
LOUISIANA	11559	64	99.45
MAINE	DNR		
MARYLAND	14239	24	99.83
MASSACHUSETTS	4315	25	99.42
MICHIGAN	1183	25	97.89
MINNESOTA	4801	20	99.58
MONTANA	70	0	100.00
N. DAKOTA	155	3	98.06
NEBRASKA	1673	7	99.58
NEVADA	77		100.00
NEW JERSEY	26121	17	99.93
NEW MEXICO	5172	133	97.43
NEW YORK	58799	44	99.93
OHIO	21412	118	99.45
OHKLAHOMA	8467	107	98.74
OREGON	911	14	98.46
PENNSYLVANIA	29877	137	99.54
S. DALKOTA	262	1	99.62
TEXAS	6972	108	98.45
VIRGINIA	367	4	98.91
WASHINGTON	1596	14	99.12
WEST VIRGINIA	16678	82	99.51
WYOMING	680	6	99.12

MISCONCEPTIONS:

There have been many misconceptions involving the policies that have been put in place by the States for horseracing.

In a June 4, 2014 posting by then Humane Society of the US (HSUS) President Wayne Pacelle entitled "Dug In on Drug Use in Horse Racing Industry", the following claim is made:

> *"In horse racing, …. There is widespread drugging of equine athletes, but leaders of many racing organizations are fiercely resisting reforms at the national level, even though the whole enterprise engages in interstate gambling only with the consent of Congress."*

This is false and unsubstantiated. This statement is contrary to the official testing results reported by the drug testing labs utilized by the states. Those results are noted elsewhere in this submission.

Mr. Pacelle then observes:

> *"It is common for racehorses in the United States to be given drugs on race day to enhance their performance….."*

This is also false. State racing commission rules uniformly prohibit the administration of performance enhancing drugs on race day. This assertion will be challenged by those who would like the Congress to overturn a long term equine welfare policy of the states.

Over thirty years ago, the racing industry and veterinarians lobbied the state commissions to permit the race day administration of one medication to treat or inhibit the onset of exercise induced pulmonary hemorrhage (EIPH). This equine welfare program permitted the administration of only one medication, furosemide (Lasix), to be given a horse under controlled circumstances. Because the use of this medication might possibly have a minor effect on performance, the commissions required it be disclosed in the racing program. In no way can the use of this medication be considered a form of doping and those who claim it is demonstrate a total lack of familiarity with the condition it is intended to treat.

Adoption of this policy also effectively ended a practice where some trainers/owners would withhold water from a horse beginning the night before that horse was to race. Many consider denying any animal food or water is a form of animal cruelty.

This is the only substance permitted to be given in competition for therapeutic purposes. This policy stands in stark contrast to the World Anti-Doping Agency's policy that permits athlete specific therapeutic use exemptions based upon a documented medical need. Under the WADA policy undisclosed athletes are permitted to train and compete under the influence of prohibited performance enhancing substances which are also undisclosed. Many substances authorized under this WADA policy would never be permitted to be in a horse when it races.

Mr. Pacelle and unfortunately others may not appreciate that the state racing commission policies are more stringent when it comes to prohibiting the use of performance enhancing drugs in competition.

Mr. Pacelle also writes:

> *" In the United States, there is a patchwork of over three dozen horse racing jurisdictions, all with different medications permitted, varying levels of those medications allowed, different penalties for violations, different rules on which horses are tested for drugs, and different laboratories used to do the testing."*

Again, substances that can affect performance are not permitted to be in a horse when it races. Penalties are based upon the ARCI Model Rules and are, as in every other form or US jurisprudence, specific to the case at hand.

He then writes:

> *"Without one single regulating body, racehorse owners and trainers who are barred from racing in one jurisdiction can simply move their business elsewhere".*

This is also false as the states have uniformly adopted the ARCI policy on reciprocity:

ARCI-003-025 Rulings In Other Jurisdictions

A. Reciprocity

The commission and the stewards/judges shall honor rulings from other pari-mutuel jurisdictions regarding license suspensions, revocation or eligibility of contestants.

B. Appeals of Reciprocal Rulings

(1) Persons subject to rulings in other jurisdictions shall have the right to request a hearing before the Commission to show cause why such ruling should not be enforced in this jurisdiction.

(2) Any request for such hearing must clearly set forth in writing the reasons for the appeal.

Horses that will race come under scrutiny by the official veterinarian. The following represents the racing commission policies that are currently in place:

ARCI-006-070 Official Veterinarian

A. General

The official veterinarian shall:

(1) be employed by the Commission or similar agency having jurisdictional authority;

(2) be a graduate veterinarian and be licensed to practice in this jurisdiction;

(3) be qualified to objectively and competently provide the regulatory duties described herein;

(4) refuse employment or payment, directly or indirectly, from any horse owner or trainer of a horse racing or intending to race in this jurisdiction while employed as the official veterinarian for the commission;

(5) refrain from directly treating or prescribing for any horse under his/her jurisdiction except in cases of emergency, accident or injury;

(6) have no employment history or business relationship prior to employment as the official veterinarian that could constitute a conflict of interest or impede in the performance of official duties.

B. Responsibilities

Should the Commission be unable to provide adequate veterinary staffing to fulfill the duties described below, some of the official veterinarian responsibilities, as indicated by an asterisk (*), may be shared with or deferred to, an association-employed veterinarian. The association-employed veterinarian is

responsible for adhering to and upholding the rules and regulations of the commission and shall be accountable to the commission.

The official veterinarian shall:

(1) * recommend to the stewards any horse deemed unsafe to be raced, or a horse that it would be inhumane to allow to race;

(2) * conduct pre-race inspections on all potential starters on race day;

(3) * inspect any horse when there is a question as to the physical condition of such horse independent of the horse's entry status;

(4) * be present in the paddock during saddling, on the racetrack during the post parade and at the starting gate until the horses are dispatched from the starting gate for the race:

(5) * recommend to the stewards the scratching of any horse that is, in the opinion of the official veterinarian, injured, ill, or otherwise unable to compete due to a medical or health-related condition;

(6) * inspect any horse which appears in physical distress during the race or at the finish of the race; and shall report such horse together with his/her opinion as to the cause of the distress to the stewards and to the official veterinarian, if the inspection was done by either the racing veterinarian or an association-employed veterinarian;

(7) * provide emergency medical care to horses injured racing and effect case transfer to the practicing veterinarian;

(8) * be authorized to humanely destroy any horse deemed to be so seriously injured that it is in the best interests of the horse to so act; and

(9) * report to the Commission the names of all horses humanely destroyed or which otherwise expire at the meeting and the reasons therefore;

(10) * maintain all required records of postmortem examinations performed on horses which have died within the jurisdiction of the Commission;

(11) * maintain the Veterinarian's List of horses ineligible to race;

(12) supervise and control the Test Barn;

(13) supervise the taking of all specimens for testing according to procedures approved by the Commission;

(14) provide proper safeguards in the handling of all laboratory specimens to prevent tampering, confusion, or contamination and assure sample integrity;

(15) provide the stewards with a written statement regarding the nature and seriousness of all laboratory reports of prohibited substances in equine samples.

(16) have jurisdiction over the practicing licensed veterinarians within the enclosure for the purpose of these rules;

(17) review and consult with the applicants and the stewards/Commission regarding Commission license applications of practicing veterinarians, veterinary technicians or assistants, vendors of medical supplies and equipment, non-veterinarian health care providers (massage therapists, nutritionists, physical therapists, etc.);

(18) * cooperate with practicing veterinarians and other regulatory agencies to take measures to control communicable and/or reportable equine diseases.

ARCI-006-075 Racing Veterinarian

General Authority

(1) The racing veterinarian(s) shall be an employee of the Commission. At the discretion of the Commission, the duties of the racing veterinarian may be assumed by the official veterinarian.

(2) The racing veterinarian shall:

(a) be directly responsible to the official veterinarian;

(b) be a graduate veterinarian and be licensed to practice in the jurisdiction;

(c) be available to the racing secretary and/or the stewards prior to scratch time each racing day, at a time designated by the stewards, to inspect any horses and report on their condition as may be requested by the stewards;

(d) be present in the paddock during saddling, on the racetrack during the post parade and at the starting gate until the horses are dispatched from the gate for the race;

(e) inspect any horse when there is a question as to the physical condition of such horse;

(f) recommend scratching a horse to the stewards if, in the opinion of the racing veterinarian, the horse is physically incapable of exerting its best effort to win;

(g) inspect any horse which appears in physical distress during the race or at the finish of the race; and shall report such horse together with his/her opinion as to the cause of the distress to the stewards and to the official veterinarian;

(h) refuse employment or payment, directly or indirectly, from any horse owner or trainer of a horse racing or intending to race in this jurisdiction while employed as the official veterinarian for the Commission;

(i) refrain from directly treating or prescribing for any horse scheduled to participate during his/her term of appointment at any recognized meeting except in cases of emergency, accident or injury;

(j) be authorized to humanely destroy any horse deemed to be so seriously injured that it is in the best interests of the horse to so act;

(k) conduct soundness inspections on horses participating in races at the meeting; and

(l) with approval of the official veterinarian, place horses on the Bleeder List.

ARCI-011-030 Physical Inspection of Horses

A. Assessment of Racing Condition

(1) Every horse entered to participate in an official race shall be subjected to a veterinary inspection prior to starting in the race for which it is entered.

(2) The inspection 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 2 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; 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 include:

- (a) Proper identification of each horse inspected;
- (b) Observation of each horse in motion;
- (c) Manual palpation and passive flexion of both forelimbs;
- (d) Visual inspection of the entire horse and assessment of overall condition;
- (e) Clinical observation in the paddock and saddling area, during the parade to post and at the starting gate, during the running of the race, and following the race until the horse has exited the race track; and,
- (f) Any other inspection deemed necessary by the official veterinarian and/or the racing veterinarian.

(6) The official veterinarian and/or the racing veterinarian shall maintain a permanent continuing health and racing soundness record of each horse inspected.

(7) The official veterinarian and/or the racing veterinarian are authorized access to any and all horses housed on association grounds regardless of entry status.

(8) 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.

(9) Horses scratched upon the recommendation of the official veterinarian and/or the racing veterinarian are to be placed on the Veterinarian’s List.

B. Veterinarian's List

(1) The official veterinarian shall maintain the Veterinarian’s List of all horses which are determined to be unfit to compete in a race due to illness, unsoundness, injury, infirmity, heat exhaustion, positive test or overage, administration of a medication invoking a mandatory stand down time, administration of shock-wave therapy, positive out-of-competition test, or

any other assessment or determination by the regulatory veterinarian that the horse is unfit to race.

(2) Horses so listed are ineligible to start in a race in any jurisdiction until released by an official veterinarian or racing veterinarian except when there is an unforeseen administrative issue in releasing the horse from the Veterinarian's List of another racing jurisdiction.

(3) A horse may be released from the Veterinarian's List when a minimum of seven days has passed from the time the horse was placed on the Veterinarian's List.

(4) A horse placed on the Veterinarian's List for being unfit to compete in a race due to illness, physical distress, unsoundness, injury, infirmity, heat exhaustion, or any other assessment of determination by the regulatory veterinarian that warrants withdrawal from the race shall be released from the list only after the following has been met:

a. establish or demonstrate to the satisfaction of the official veterinarian or the racing veterinarian that the horse is serviceably sound and in fit physical condition to exert its best effort in a race or pass the Assessment of Racing Condition by the official veterinarian and/or the racing veterinarian,

b. provide a published work of a minimum of four furlongs at 0:52 for Thoroughbreds (220 yards at 13.3 seconds for Quarter Horses) observed by the official veterinarian and/or the racing veterinarian for horses that are listed as unsound or lame; other listed reasons above may be required to work at the discretion of the official veterinarian. Prior to such work, a declaration in writing must be provided by the attending veterinarian as the fitness of the subject horse, and,

c. submit to a post-work biologic sample collection for laboratory confirmation for compliance with ARCI-011-020 at the expense of the current owner unless otherwise provided in the local jurisdiction. Violations of ARCI-011-020 may result in penalties consistent with ARCI-011 Equine Veterinary Practices, Health, and Medication.

(5) A horse placed on the Veterinarian's List for Positive Test or Overage, administration of a medication invoking a mandatory stand down time, administration of shock-wave therapy, positive out-of-competition test, or any other veterinary administrative withdrawal shall be released from the list only after the following have been met:

a. establish or demonstrate to the satisfaction of the official veterinarian or the racing veterinarian that the horse is serviceably sound and in fit physical condition to exert its best effort in a race or it has passed the Assessment of Racing Condition by the official veterinarian and/or the racing veterinarian, and

b. at the discretion of the official veterinarian, it has provided a published work at a minimum of four furlongs in 0:52 (220 yards

in 13.3 seconds for Quarter Horses) observed by the official veterinarian and/or the racing veterinarian and submit to a post-work biologic sample collection for laboratory confirmation for compliance with ARCI-011-020 at the expense of the current owner. Violations of ARCI-011-020 may result in penalties consistent with ARCI-011 Equine Veterinary Practices, Health, and Medication.

(6) Horses having generated a positive finding on a biological sample collected pursuant to this section shall not be released from the vet's list until generating a negative test.

Standardbred rules are slightly different.

The Uniformity Argument.

The supporters of H.R. 2651 argue that the proposal should be enacted because there are numerous individual state regulatory authorities, each with its own set of rules.

While this is technically true, it is misleading to represent that fact as evidence of massive inconsistencies as to how the sport of horseracing is regulated or policed in the United States.

Those most affected by any inconsistency in state policy are the horsemen and the organizations representing them are uniformly opposed to H.R.2651. That says something.

The chart that follows demonstrates the degree of consistency on major policy among thoroughbred racing state rules. There is substantial uniformity among the states in the regulation of horse racing, although we acknowledge that case specific differences may occur in much the same way as officials in any other sport may differ. The substantial uniformity in regulatory policy goes way beyond the six items noted in the chart.

Jurisdiction:	Ban on Performance Enhancing Drugs	Controlled Therapeutic Schedule Adoption	Testing Laboratory accredited to international standards: ISO 17025	Race Day Equine Welfare Protective Treatment Allowed	Progressive Penalties
Arizona	Yes	Yes	Yes	Yes	Yes
Arkansas Racing & Gaming Commission	Yes	Yes	Yes	Yes	Yes
California	Yes	Yes	Yes	Yes	Yes
Colorado*	Yes	Yes	Yes	Yes	Yes
Delaware Thoroughbred Racing Commission	Yes	Yes	Yes	Yes	Yes
Florida	Yes	Yes	Yes	Yes	Yes
Idaho Racing Commission	Yes	Yes	Yes	Yes	Yes
Illinois Racing Board	Yes	Yes	Yes	Yes	Yes
Indiana	Yes	Yes	Yes	Yes	Yes
Iowa Racing and Gaming	Yes	Yes	Partial	Yes	Yes
Kentucky Horse Racing Commission	Yes	Yes	Yes	Yes	Yes
Louisiana	Yes	Yes	Partial	Yes	Yes
Maryland	Yes	Yes	Yes	Yes	Yes
Massachusetts Gaming Commission	Yes	Yes	Yes	Yes	Yes
Michigan Gaming Control Board	Yes	Yes	Yes	Yes	Yes
Minnesota	Yes	Yes	Yes	Yes	Yes
Montana	Yes	Yes	Yes	Yes	Yes
Nebraska	Yes	All but one.*	Yes	Yes	Yes
Nevada Gaming Control Board	Yes	Yes	Yes	Yes	Yes
New Jersey Racing Commission	Yes	Yes	Yes	Yes	Yes

New Mexico	Yes	Yes	Yes	Yes	Yes
New York - Thoroughbred	Yes	Yes	Yes	Yes	Yes
North Dakota	Yes	Yes	Yes	Yes	Yes
Ohio	Yes	Partial*	Yes	Yes	Yes
Oklahoma Horse Racing Commission	Yes	Partial*	Yes	Yes	Yes
Oregon Racing Commission	Yes	Partial*	Yes	Yes	Yes
Pennsylvania (Thoroughbred)	Yes	Yes	Yes	Yes	Yes
South Dakota	Yes	Yes	Yes	Yes	Yes
Texas Racing Commission	Yes	Yes	Yes	Yes	Yes
Virginia	Yes	Yes	Yes	Yes	Yes
Washington Horse Racing Commission	Yes	Yes	Yes	Yes	Yes
West Virginia	Yes	Yes	Yes	Yes	Yes
Wyoming Pari-Mutuel Commission	Yes	Yes	Yes	Yes	Yes

Every state that has authorized pari-mutuel wagering on horse racing is a member of the ARCI and, as such, relies upon the ARCI Model of Racing as the template for their individual state rulebook. These rules form the foundation for the regulatory scheme in every state and there is substantial, albeit not total, uniformity between the states.

The concept that there are wide variations from one state to the next as to the rules is just not true. It is telling that those who must adhere to these rules on a day to day basis, the practicing horsemen who travel state to state, are testifying to this subcommittee that they are satisfied with the existing system, pleased with how it works, and find the proposed legislation unnecessary.

Does that mean that there is no room for improvement. Of course not. But there exists a collaborative, inclusive process where issues are raised

and, when necessary, rules formulated in consultation with those who must comply with those rules.

Regarding horse racing's medication policies, the rules in each state largely mirror the Model Rules governing equine veterinary practices, health and medication which are included below:

EQUINE VETERINARY PRACTICES, HEALTH AND MEDICATION - CHAPTER 11

ARCI-011-005 Purpose

To describe requirements and procedures used to ensure the health and welfare of racehorses and to safeguard the interests of the public and the participants in racing.

Adopted in Version 1.4 ARCI 8/27/02 NAPRA 10/2/02

ARCI-011-010 Veterinary Practices

A. Veterinarians under Authority of Official Veterinarian

Veterinarians licensed by the Commission and practicing at any location under the jurisdiction of the Commission are under the authority of the official veterinarian and the stewards. The official veterinarian shall recommend to the stewards or the Commission the discipline that may be imposed upon a veterinarian who violates the rules.

B. Appropriate Role of Veterinarians

The following limitations apply to drug treatments of horses that are engaged in activities, including training, related to competing in pari-mutuel racing in the jurisdiction:

(1) No drug may be administered except in the context of a valid veterinarian-client-patient relationship between an attending veterinarian, the horse owner (who may be represented by the trainer or other agent) and the horse. The owner is not required by this subdivision to follow the veterinarian's instructions, but no drug may be administered without a veterinarian having examined the horse and provided the treatment recommendation. Such relationship requires the following:

(a) The veterinarian, with the consent of the owner, has accepted responsibility for making medical judgments about the health of the horse;

(b) The veterinarian has sufficient knowledge of the horse to make a preliminary diagnosis of the medical condition of the horse;

(c) The veterinarian has performed an examination of the horse and is acquainted with the keeping and care of the horse;

(d) The veterinarian is available to evaluate and oversee treatment outcomes, or has made appropriate arrangements for continuing care and treatment;

(e) The relationship is maintained by veterinary visits as needed, and;

(f) The veterinary judgments of the veterinarian are independent and are not dictated by the trainer or owner of the horse.

(2) No prescription drug may be administered except as prescribed by an attending veterinarian.

(3) The trainer and veterinarian are both responsible to ensure compliance with these limitations on drug treatments of horses, except the medical judgment to recommend a drug treatment or to prescribe a drug is the responsibility of the veterinarian and the decision to proceed with a drug treatment that has been so recommended is the responsibility of the horse owner (who may be represented by the trainer or other agent).

C. Treatment Restrictions

(1) Only Licensed Trainers, Licensed Owners, or their designees shall be permitted to authorize veterinary medical treatment of horses under their care, custody, and control at locations under the jurisdiction of the relevant commission.

(2) Except as otherwise provided by this subsection, no person other than a veterinarian licensed to practice veterinary medicine in this jurisdiction and licensed by the Commission may administer a prescription or controlled medication, drug, chemical or other substance (including any medication, drug, chemical or other substance by injection) to a horse at any location under the jurisdiction of the Commission.

(3) This subsection does not apply to the administration of the following substances except in approved quantitative levels, if any, present in post-race samples or as they may interfere with post-race testing:

(a) A recognized non-injectable nutritional supplement or other substance approved by the official veterinarian;

(b) A non-injectable substance on the direction or by prescription of a licensed veterinarian; or

(c) A non-injectable non-prescription medication or substance.

(4) No person shall possess a hypodermic needle, syringe capable of accepting a needle or injectable of any kind on association grounds, unless otherwise approved by the Commission. At any location under the jurisdiction of the Commission, veterinarians may use only one-time disposable syringe and needle, and shall dispose of both in a manner approved by the Commission. If a person has a medical condition which makes it necessary to have a syringe at any location under the jurisdiction of the Commission, that person may request permission of the stewards and/or the Commission in writing, furnish a letter from a licensed physician explaining why it is necessary for the person to possess a syringe, and must comply with any conditions and restrictions set by the stewards and/or the Commission.

(5) Practicing Veterinarians shall not have contact with an entered horse within 24 hours before the scheduled post time of the race in which the horse is scheduled to compete except for the administration of furosemide under the guidelines set forth in ARCI-011-020 F.) unless approved by the official veterinarian. Any unauthorized contact may result in the horse being scratched from the race in which it was scheduled to compete and may result in further disciplinary action by the stewards.

(6) Any horse entered for racing must be present on the grounds 5 hours prior to the post time of the race they are entered in.

D. Veterinarians' Reports

(1) Every veterinarian who treats a racehorse at a facility under the jurisdiction of the Racing Authority shall submit a Veterinarian's Medication Report Form to the official veterinarian or other Regulatory Authority designee in a manner specified by the Regulatory Authority and in an approved format which includes:

a) The name of the horse treated;

b) Any medication, drug, substance, or procedure administered or prescribed;

c) The name of the trainer of the horse;

d) The date and time of treatment; and

e) Any other information requested by the official veterinarian.

(2) The Veterinarian's Medication Report Form shall be signed by the practicing veterinarian, or, where reported electronically, shall be submitted by the practicing veterinarian.

(3) The Veterinarian's Medication Report Form must be filed by the treating veterinarian not later than the time designated by the Regulatory Authority on the next race date following administration or prescription of any medication, drug, substance, or procedure.

(4) Any such report is confidential to the extent allowed by state law. Access to a report is limited to the regulatory veterinarians and its contents shall not be disclosed except in the course of an investigation of a possible violation of these rules or in a proceeding before the Stewards or the Regulatory Authority, or to the trainer or owner of record at the time of treatment.

(5) A timely and accurate filing of a Veterinarian's Medication Report Form that is consistent with the analytical results of a positive test may be used as a mitigating factor in determining the nature and extent, if any, of a rules violation.

ARCI-011-015 Prohibited Practices

(1) No person may possess or use a drug, substance or medication on the premises of a facility under the jurisdiction of the Commission for which

(a) a recognized analytical method has not been developed to detect and confirm the administration of such substance; or

(b) the use of which may endanger the health and welfare of the horse or endanger the safety of the rider or driver; or

(c) the use of which may adversely affect the integrity of racing; or,

(d) no generally-accepted use in equine care exists.

(2) Prohibited Substances and Methods:

(a) The substances and methods listed in the annexed Prohibited List may not be used at any place or time, and may not be possessed on the premises of a racing or training facility under the jurisdiction of the Commission, except as a restricted therapeutic use.

(b) *Restricted Therapeutic Use.* A limited number of medication on the Prohibited List shall be exempted when the administration occurs in compliance with the annexed Required Conditions for Restricted Therapeutic Use:

(i) *Report When Sampled* means the administration of the substance must be reported to the commission when the horse is next sampled, if the horse is sampled within 24 hours after the administration;

(ii) *Pre-File Treatment Plan* means that if the commission where the horse is located requires the filing of treatment plans, then a treatment plan for the substance must be filed by the time of administration in a manner approved by such commission;

(iii) *Written Approval from Commission* means the commission has granted written approval of a written treatment plan before the administration of the substance;

(iv) *Emergency Use (report)* means the substance had to be administered due to an acute emergency involving the life or health of the horse, provided the emergency use is reported to the commission as soon as practicable after the treatment occurs;

(v) *Prescribed by Veterinarian* means the substance has been prescribed by an attending veterinarian, in compliance with ARCI 011-010 Veterinary Practices, and recorded in the veterinary records in the manner required by the commission;

(vi) *Report Treatment* means the treatment must be reported to the commission by the trainer at the time of administration to provide the commission with information for the Veterinarian's List. The trainer may delegate this responsibility to the treating veterinarian, who shall make the report when so designated; and

(vii) *Other Limitations* means additional requirements that apply, such as a substance may be used in only fillies or mares or a horse that is administered a substance shall be reported immediately to the commission and placed on the Veterinarian's List for a specific minimum period of time.

The use of the substance must comply with other applicable rules of the Commission.

(c) No person shall at any time administer any other doping agent to a horse except pursuant to a valid therapeutic, evidence-based treatment plan.

(i) *Other doping agent* means a substance that is not listed in the annexed Prohibited List, has a pharmacologic potential to alter materially the performance of a horse, has no generally accepted medical use in the horse when treated, and is:

(A) capable at any time of causing an action or effect, or both, within one or more of the blood, cardiovascular, digestive, endocrine, immune, musculoskeletal, nervous, reproductive, respiratory, or urinary mammalian body systems; including but not limited to endocrine secretions and their synthetic counterparts, masking agents, oxygen carriers, and agents that directly or indirectly affect or manipulate gene expression; but

(B) not a substance that is considered to have no effect on the physiology of a horse except to improve nutrition or treat or prevent infections or parasite infestations.

(ii) The commission may publish advisory warnings that certain substances or administrations may constitute a violation of this rule.

(iii) *Therapeutic, evidence-based treatment plan* means a planned course of treatment written and prescribed by an attending veterinarian before the horse is treated that:

(A) describes the medical need of the horse for the treatment, the evidence-based scientific or clinical justification for using the doping agent, and a determination that recognized therapeutic alternates do not exist; and

(B) complies with ARCI 011-010 Veterinary Practices, meets the standards of veterinary practice of the jurisdiction, and is developed in good faith to treat a medical need of the horse.

(iv) Such plans shall not authorize the possession of a doping agent on the premises of a racing or training facility under the jurisdiction of the commission.

(3) The possession and/or use of the following substances or of blood doping agents, including but not limited to those listed below, on the premises of a facility under the jurisdiction of the Commission is forbidden:

(a) Aminoimidazole carboxamide ribonucleotide (AICAR)

(b) Darbepoetin

(c) Equine Growth Hormone

(d) Erythropoietin

(e) Hemopure ®

(f) *Myo*-Inositol Trispyprophosphate (ITPP)

(g) Oxyglobin®

(h) Thymosin beta

(i) Venoms or derivatives thereof

(j) Thymosin beta

(4) The use of Extracorporeal Shock Wave Therapy or Radial Pulse Wave Therapy shall not be permitted unless the following conditions are met:

(a) Any Extracorporeal Shock Wave Therapy or Radial Pulse Wave Therapy machine, whether in operating condition or not, must be registered with and approved by the Commission or its designee before such machine is brought to or possessed on any racetrack or training center within the jurisdiction of the commission;

(b) The use of Extracorporeal Shock Wave Therapy or Radial Pulse Wave Therapy within the jurisdiction:

1. shall be limited to veterinarians licensed to practice by the commission;
2. may only be performed with machines that are:
   (i) registered and approved for use by the commission; and
   (ii) used at a previously-disclosed location that is approved by the commission
3. must be reported within 24-hours prior to treatment on the prescribed form to the official veterinarian.

(c) Any treated horse shall not be permitted to race or breeze for a minimum of 10 days following treatment;

(d) Any horse treated with Extracorporeal Shock Wave Therapy or Radial Pulse Wave Therapy shall be added to a list of ineligible horses. This list shall be kept in the race office and accessible to the jockeys and/or their agents during normal business hours and be made available to other regulatory jurisdictions.

(e) A horse that receives any such treatment without full compliance with this section and similar rules in any other jurisdiction in which the horse was treated shall be placed on the Steward's List.

(f) Any person participating in the use of ESWT and/or the possession of ESWT machines in violation of this rule shall be considered to have committed a Prohibited Practice and is subject to a Class A Penalty.

(5) The use of a nasogastric tube (a tube longer than six inches) for the administration of any substance within 24 hours prior to the post time of the race in which the horse is entered is prohibited without the prior permission of the official veterinarian or his/her designee.

Annexed Materials

For ARCI-011-015

- **Annex I: Prohibited List**
- **Annex II: Restricted Therapeutic Use requirements**

Annex I

PROHIBITED SUBSTANCES

All substances in the categories below shall be strictly prohibited unless otherwise provided in accordance with ARCI-011-015 or ARCI-025-015. Any reference to substances in this section does not alter the requirements for testing concentrations in race day samples.

Nothing in this list shall alter the requirements of post-race testing.

S0. NON-APPROVED SUBSTANCES

Any pharmacologic substance that is not approved by any governmental regulatory health authority for human or veterinary use within the jurisdiction is prohibited. This prohibition includes drugs under pre-clinical or clinical development, discontinued drugs, and designer drugs (a synthetic analog of a drug that has been altered in a manner that may reduce its detection); but does not include vitamins, herbs and supplements for nutritional purposes that do not contain any other prohibited substance, or the administration of a substance with the prior approval of the commission in a clinical trial for which an FDA or similar exemption has been obtained.

S1. ANABOLIC AGENTS

Anabolic agents are prohibited.

1. Anabolic Androgenic Steroids (AAS)

1.1. Exogenous AAS, including:

1-androstenediol (5α-androst-1-ene-3β,17β-diol); 1-androstenedione (5α- androst-1-ene-3,17-dione); bolandiol (estr-4-ene-3β,17β-diol); bolasterone; boldenone; boldione (androsta-1,4-diene-3,17-dione); calusterone; clostebol; danazol ([1,2]oxazolo[4',5':2,3]pregna-4-en-20-yn-17α-ol);dehydrochlormethyltestosterone (4-chloro-17β-hydroxy-17α-methylandrosta- 1,4-dien-3-one); desoxymethyltestosterone (17α-methyl-5α-androst-2-en- 17β-ol); drostanolone; ethylestrenol (19-norpregna-4-en-17α-ol); fluoxymesterone; formebolone; furazabol (17α-

methyl[1,2,5]oxadiazolo[3',4':2,3]-5α-androstan-17β-ol); gestrinone; 4- hydroxytestosterone (4,17β-dihydroxyandrost-4-en-3-one); mestanolone; mesterolone; metandienone (17β-hydroxy-17α-methylandrosta-1,4-dien-3- one); metenolone; methandriol; methasterone (17β-hydroxy-2α,17α- dimethyl-5α-androstan-3-one); methyldienolone (17β-hydroxy-17α- methylestra-4,9-dien-3-one); methyl-1-testosterone (17β-hydroxy-17α-methyl-5α-androst-1-en-3-one); methylnortestosterone (17β-hydroxy-17α-methylestr-4-en-3-one); methyltestosterone; metribolone (methyltrienolone, 17β-hydroxy-17α-methylestra-4,9,11-trien-3-one); mibolerone; nandrolone; 19-norandrostenedione (estr-4-ene-3,17-dione); norboletone; norclostebol; norethandrolone; oxabolone; oxandrolone; oxymesterone; oxymetholone; prostanozol (17β-[(tetrahydropyran-2-yl)oxy]-1'H-pyrazolo[3,4:2,3]-5α- androstane); quinbolone; stanozolol; stenbolone; 1-testosterone (17β- hydroxy-5α-androst-1-en-3-one); tetrahydrogestrinone (17-hydroxy-18a- homo-19-nor-17α-pregna-4,9,11-trien-3-one); trenbolone (17β-hydroxyestr- 4,9,11-trien-3-one); and other substances with a similar chemical structure or similar biological effect(s).

1.2. Endogenous AAS or their synthetic esters when administered exogenously:

androstenediol (androst-5-ene-3β,17β-diol); androstenedione (androst-4-ene-3,17-dione); dihydrotestosterone (17β-hydroxy-5α-androstan-3-one); prasterone (dehydroepiandrosterone, DHEA, 3β-hydroxyandrost-5-en-17-one); testosterone;

and their metabolites and isomers, including but not limited to:

5α-androstane-3α,17α-diol; 5α-androstane-3α,17β-diol; 5α-androstane-3β,17α-diol; 5α-androstane-3β,17β-diol; 5β-androstane-3 α, 17β-diol, androst-4-ene-3α,17α-diol; androst-4-ene-3α,17β-diol; androst-4-ene-3β,17α-diol; androst-5-ene-3α,17α-diol; androst-5-ene-3α,17β-diol; androst-5-ene-3β,17α-diol; 4-androstenediol (androst-4-ene-3β,17β-diol); 5-androstenedione (androst-5- ene-3,17-dione); androsterone (3 β-hydroxy-5 α – androstan-17-one); epi-dihydrotestosterone; epitestosterone; etiocholanolone; 7α-hydroxy-DHEA ; 7β-hydroxy-DHEA; 7-keto-DHEA;19-norandrosterone; 19-noretiocholanolone.

2. <u>Other Anabolic Agents, including but not limited to:</u>

Clenbuterol, selective androgen receptor modulators (SARMs e.g., andarine and ostarine), ractopamine, tibolone, zeranol, zilpaterol.

<u>S2. PEPTIDE HORMONES, GROWTH FACTORS AND RELATED SUBSTANCES</u>

The following substances, and other substances with similar chemical structure or similar biological effect(s), are prohibited:

1. Erythropoietin-Receptor agonists:
   - 1.1 Erythropoiesis-Stimulating Agents (ESAs) including, e.g., darbepoetin (dEPO); erythropoietins (EPO); EPO-Fc; EPO-mimetic peptides (EMP), e.g., CNTO 530 and peginesatide; and methoxypolyethylene glycol-epoetin beta (CERA); and
   - 1.2 Non-erythropoietic EPO-Receptor agonists, e.g., ARA-290, asialo EPO and carbamylated EPO;
2. Hypoxia-inducible factor (HIF) stabilizers, e.g., cobalt (when found in excess of

regulatory authority limits) and roxadustat (FG-4592); and HIF activators, (e.g., argon, xenon);

3. Chorionic Gonadotropin (CG) and Luteinizing Hormone (LH) and their releasing factors, in males;
4. Corticotrophins and their releasing factors;
5. Growth Hormone (GH) and its releasing factors including Growth Hormone Releasing Hormone (GHRH) and its analogues, e.g., CJC-1295, sermorelin and tesamorelin; Growth Hormone Secretagogues (GHS), e.g., ghrelin and ghrelin mimetics, e.g., anamorelin and ipamorelin; and GH-Releasing Peptides (GHRPs), e.g., alexamorelin, GHRP-6, hexarelin and pralmorelin (GHRP-2);
6. Venoms and toxins including but not limited to venoms and toxins from sources such as snails, snakes, frogs, and bees as well as their synthetic analogues such as ziconotide.
7. In addition, the following growth factors are prohibited:

Fibroblast Growth Factors (FGFs), Hepatocyte Growth Factor (HGF), Insulin-like Growth Factor-1 (IGF-1) and its analogues, Mechano Growth Factors (MGFs), Platelet-Derived Growth Factor (PDGF), Vascular-Endothelial Growth Factor (VEGF) and any other growth factor affecting muscle, tendon or ligament protein synthesis/degradation, vascularization, energy utilization, regenerative capacity or fiber type switching.

S3. BETA-2 AGONISTS

All beta-2 agonists, including all optical isomers (i.e. *d*- and *l*-) where relevant, are prohibited.

S4. HORMONE AND METABOLIC MODULATORS

The following are prohibited:

1. Aromatase inhibitors, including but not limited to: aminoglutethimide, anastrozole, androsta-1,4,6-triene-3,17-dione (androstatrienedione), 4-androstene-3,6,17 trione (6-oxo), exemestane, formestane, letrozole, testolactone;
2. Selective estrogen receptor modulators (SERMs), including but not limited to: raloxifene, tamoxifen, toremifene;
3. Other anti-estrogenic substances, including but not limited to: clomiphene, cyclofenil, fulvestrant;
4. Agents modifying myostatin function(s), including but not limited to: myostatin inhibitors;
5. Metabolic modulators:
   - 5.1. Activators of the AMP-activated protein kinase (AMPK), e.g., AICAR, and Peroxisome Proliferator Activated Receptor δ (PPARδ) agonists (e.g., GW 1516);
   - 5.2 Insulins;
   - 5.3 Trimetazidine; and
   - 5.4. Thyroxine and thyroid modulators/hormones, including but not limited to those containing T4 (tetraiodothyronine/thyroxine), T3 (triiodothyronine), or combinations thereof.

S5. DIURETICS AND OTHER MASKING AGENTS

The following diuretics and masking agents are prohibited, as are other substances with similar chemical structure or similar biological

effect(s): acetazolamide, amiloride, bumetanide, canrenone, chlorthalidone, desmorpressin, etacrynic acid, indapamide, metolazone, plasma expanders (e.g. glycerol; intravenous administration of albumin, dextran, hydroxyethyl starch and mannitol), probenecid, spironolactone, thiazides (e.g. bendroflumethiazide, chlorothiazide, hydrochlorothiazide), torsemide, triamterene, and vasopressin receptor antagonists or vaptans (e.g., tolvaptan).

Furosemide and trichlormethiazide may be administered only in a manner permitted by other rules of the commission.

PROHIBITED METHODS

M1. MANIPULATION OF BLOOD AND BLOOD COMPONENTS

The following are prohibited:

1. The administration or reintroduction of any quantity of autologous, allogenic (homologous) or heterologous blood or red blood cell products of any origin into the circulatory system.
2. Artificially enhancing the uptake, transport or delivery of oxygen, including, but not limited to, perfluorochemicals, efaproxiral (RSR13) and modified hemoglobin products (e.g. hemoglobin-based blood substitutes, microencapsulated hemoglobin products), excluding supplemental oxygen.
3. Any form of intravascular manipulation of the blood or blood components by physical or chemical means.

M2. CHEMICAL AND PHYSICAL MANIPULATION

Tampering, or attempting to tamper, in order to alter the integrity and validity of samples collected by the commission, is prohibited. These methods include but are not limited to urine substitution or adulteration (e.g., proteases).

M3. GENE DOPING

The following, with the potential to enhance sport performance, are prohibited:

1. The transfer of polymers of nucleic acids or nucleic acid analogues.
2. The use of normal or genetically modified hematopoietic cells.

Annex II
Restricted Therapeutic Use Requirements

Prohibited Substance	Required Conditions for Therapeutic Use Exemption						
	Report When Sampled	Pre-file Treatment Plan	Written Approval from Commission	Emergency Use (Report)	Prescribed by Veterinarian	Veterinary Record	Other Limitations
Adrenocorticotropic Hormone (ACTH)		X			X	X	
Albuterol					X	X	
Altrenogest					X	X	Fillies/Mares only
Autologous Conditioned Plasma (IRAP)							
Blood Replacements	X			X	X	X	
Boldenone		X			X	X	6-month Vet List
Clenbuterol		X			X	X	6-month Vet List[4]
Chorionic Gonadotropin		X	X[1]		X	X	60-day Vet List
Furosemide	X				X	X	
Lutenizing Hormone		X	X[1]		X	X	60-day Vet List
Nandrolone		X			X	X	6-month Vet List
Nucleic Polymer Transfers		X	X				
Platelet Rich Plasma (PRP)	X				X	X	
Stanozolol		X			X	X	6-month Vet List
S0 (not FDA approved)			X[2]		X	X	
Testosterone		X			X	X	6-month Vet List
Thyroxine (T4)		X	X[3]		X	X	
Trichlormethiazide	X				X	X	
Other Diuretics	X			X	X	X	

1: The approved treatment plan mush show a specific treatment of a specific individual horse for an undescended testicle condition.

2: The approved treatment plan must show: (A) the substance has a generally accepted veterinary use; (B) the treatment provides a significant health benefit for the horse; (C) there is no reasonable therapeutic alternative; and (D) the use of the substance is highly unlikely to produce any additionalenhancement of performance beyond what might be anticipated by a return to the horse's normal state of health, not exceeding the level of performance of the horse prior to the onset of the horses's medical

3: The approved treatment plan must show: (A) the thyroxine is prescribed to a specific individual horse for a specific period of time; (B) the diagnosis and basis for prescribing such drug, the dosage, and the estimated last administration date; and (C) that any container of such drug on licensed premises shall be labeled with the foregoing information and contain no more thyroxine than for the treatment of the specific individual horse, as prescribed.

4: Vet list requirement applies to Quarter Horses only

ARCI-011-020 Medications and Prohibited Substances

Upon a finding of a violation of these medications and prohibited substances rules, the stewards shall consider the classification level of the violation as listed in at the time of the violation in the Uniform Classification Guidelines of Foreign Substances as promulgated by the Association of Racing Commissioners International and impose penalties and disciplinary measures consistent with the recommendations contained therein. The stewards shall also consult with the official veterinarian to determine if the violation was a result of the administration of a therapeutic medication as documented in a veterinarian's Medication Report Form received per ARCI-011-010 (C). The stewards may also consult with the laboratory director or other individuals to determine the seriousness of the laboratory finding or the medication violation Penalties for all medication and drug violations shall be investigated and reviewed on a case by case basis. Extenuating factors include, but are not limited to:

(1) The past record of the trainer, veterinarian and owner in drug cases;

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

(3) The legal availability of the drug;

(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 probability of environmental contamination or inadvertent exposure due to human drug use;

(7) The purse of the race;

(8) Whether the drug found was one for which the horse was receiving a treatment as determined by the Medication Report Form;

(9) Whether there was any suspicious betting pattern in the race, and;

(10) Whether the licensed trainer was acting on the advice of a licensed veterinarian.

As a result of the investigation, there may be mitigating circumstances for which a lesser or no penalty is appropriate for the licensee and aggravating factors, which may increase the penalty beyond the minimum.

A. Uniform Classification Guidelines

The following outline describes the types of substances placed in each category. This list shall be publicly posted in the offices of the official veterinarian and the racing secretary.

(1) Class 1

Opiates, opium derivatives, synthetic opioids, psychoactive drugs, amphetamines, all United States Drug Enforcement Agency (DEA) Schedule I drugs and many Schedule II drugs. Also found in this class are drugs that are potent stimulants of the central nervous system. Drugs in this class have no generally accepted medical use in the racing horse and their pharmacologic potential for altering the performance of a racing horse is very high.

(2) Class 2

Drugs placed in this category have a high potential for affecting the outcome of a race. Most are not generally accepted as therapeutic agents in the racing horse. Many are products intended to alter consciousness or the psychic state of humans, and have no approved or indicated use in the horse. Some, such as injectable local anesthetics, have legitimate use in equine medicine, but should not be found in a racing horse. The following groups of drugs placed are in this class:

(a) Opiate partial agonists, or agonist-antagonists;

(b) Non-opiate psychotropic drugs. These drugs may have stimulant, depressant, analgesic or neuroleptic effects;

(c) Miscellaneous drugs which might have a stimulant effect on the central nervous system (CNS);

(d) Drugs with prominent CNS depressant action;

(e) Antidepressant and antipsychotic drugs, with or without prominent CNS stimulatory or depressant effects;

(f) Muscle blocking drugs that have a direct neuromuscular blocking action;

(g) Local anesthetics that have a reasonable potential for use as nerve blocking agents (except procaine); and

(h) Snake venoms and other biologic substances, which may be used as nerve blocking agents.

(3) Class 3

Drugs placed in this class may or may not have an accepted therapeutic use in the horse. Many are drugs that affect the cardiovascular, pulmonary and autonomic nervous systems. They all have the potential of affecting the performance of a racing horse. The following groups of drugs are placed in this class:

(a) Drugs affecting the autonomic nervous system that do not have prominent CNS effects, but which do have prominent cardiovascular or respiratory system effects. Bronchodilators are included in this class;

(b) A local anesthetic that has nerve blocking potential but also has a high potential for producing urine residue levels from a method of use not related to the anesthetic effect of the drug (procaine);

(c) Miscellaneous drugs with mild sedative action, such as the sleep inducing antihistamines;

(d) Primary vasodilating/hypotensive agents;

(e) Potent diuretics affecting renal function and body fluid composition; and

(f) Anabolic and/or androgenic steroids and other drugs

(4) Class 4

Drugs in this category comprise primarily therapeutic medications routinely used in racing horses. These may influence performance, but generally have a more limited ability to do so. Groups of drugs assigned to this category include the following:

(a) Non-opiate drugs that have a mild central analgesic effect;

(b) Drugs affecting the autonomic nervous system that do not have prominent CNS, cardiovascular or respiratory effects

(A) Drugs used solely as topical vasoconstrictors or decongestants

(B) Drugs used as gastrointestinal antispasmodics

(C) Drugs used to void the urinary bladder

(D) Drugs with a major effect on CNS vasculature or smooth muscle of visceral organs.

(E) Antihistamines which do not have a significant CNS depressant effect (This does not include H1 blocking agents, which are listed in Class 5);

(c) Antihistamines that do not have a significant CNS depressant effect. This does not include H2 blocking agents, which are in Class 5.

(d) Mineralocorticoid drugs;

(e) Skeletal muscle relaxants;

(f) Anti-inflammatory drugs. These drugs may reduce pain as a consequence of their anti-inflammatory action.

(A) Non-Steroidal Anti-Inflammatory Drugs (NSAIDs;

(B) Corticosteroids (glucocorticoids); and

(C) Miscellaneous anti-inflammatory agents.

(g) Less potent diuretics;

(h) Cardiac glycosides and antiarrhythmic agents.

(A) Cardiac glycosides;

(B) Antiarrhythmic agents (exclusive of lidocaine, bretylium and propranolol); and

(C) Miscellaneous cardiotonic drugs.

(i) Topical Anesthetics--agents not available in injectable formulations;

(j) Antidiarrheal drugs;

(k) Miscellaneous drugs.

(A) Expectorants with little or no other pharmacologic action;

(B) Stomachics; and

(C) Mucolytic agents.

(5) Class 5

Drugs in this category are therapeutic medications for which concentration limits have been established by the racing jurisdictions as well as certain miscellaneous agents. Included specifically are agents that have very localized actions only, such as anti-ulcer drugs and certain antiallergenic drugs. The anticoagulant drugs are also included.

B. 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 penalty guidelines schedule contained in these rules 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 RCI *Uniform Classification Guide lines for Foreign*, the identity of the drug shall be forwarded to the official veterinarian to be forwarded to the Drug Testing Standards and Practices Committee of the Association of Racing Commissioners International for classification.

(4) Any drug or metabolite thereof found to be presenting a pre- or post-race sample which is not classified in the most current RCI *Uniform Classification Guidelines for Foreign Substances* shall be assumed to be a RCI Class 1 Drug and the trainer and owner shall be subject to those penalties as set forth in schedule "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 on the following criteria:

(a) Whether the drug is approved by the U.S. Food and Drug Administration for use in the horse;

(b) Whether the drug is approved by the U.S. Food and Drug Administration for use in any species;

(c) Whether the drug has any legitimate therapeutic application in the equine athlete;

(d) Whether the drug was identified as "necessary" by the RMTC Veterinary Advisory Committee;

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

(f) The current RCI Classification of the drug.

(6) The penalty categories "A", "B" and "C" and their related schedules for Trainers and Owners are shown in the following tables.

The following are recommended penalties for violations due to the presence of a drug carrying a **Category "A" penalty** and for violations of ARCI-011-015: Prohibited Practices:

LICENSED TRAINER:		
1st offense	**2nd LIFETIME offense in any jurisdiction**	**3rd LIFETIME offense in any jurisdiction**
◦ Minimum one-year suspension absent mitigating circumstances. The presence of aggravating factors could be used to impose a maximum of a three-year suspension. **AND** ◦ Minimum fine of $10,000 or 10% of total purse (greater of the two) absent mitigating circumstances. The presence of aggravating factors could be used to impose a maximum of $25,000 or 25% of purse (greater of the two). **AND** ◦ May be referred to the Commission for any further action deemed necessary by the Commission.	◦ Minimum three-year suspension absent mitigating circumstances. The presence of aggravating factors could be used to impose a maximum of license revocation with no reapplication for a three-year period. **AND** ◦ Minimum fine of $25,000 or 25% of total purse (greater of the two) absent mitigating circumstances. The presence of aggravating factors could be used to impose a maximum of $50,000 or 50% of purse (greater of the two). AND ◦ May be referred to the Commission for any further action deemed necessary by the Commission.	◦ Minimum five-year suspension absent mitigating circumstances. The presence of aggravating factors could be used to impose a maximum of license revocation with no reapplication for a five-year period. **AND** ◦ Minimum fine of $50,000 or 50% of total 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). AND ◦ May be referred to the Commission for any further action deemed necessary by the Commission.
LICENSED OWNER:		
1st offense	**2nd LIFETIME offense in owner's stable in any jurisdiction**	**3rd LIFETIME offense in owner's stable in any jurisdiction**
◦ Disqualification and loss of purse. **AND** ◦ 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.	◦ Disqualification and loss of purse. **AND** ◦ 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.	◦ Disqualification, loss of purse and $50,000 fine. **AND** ◦ 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.

Version 7.0 to 8.0, ARCI Board, April 2017, changed recommended veterinarian's list time to 180 Days for 1st and 2nd offense.

The following are recommended penalties for violations due to the presence of a drug carrying a **Category "B" penalty**, for the presence of more than one NSAID in a plasma/serum sample, subject to the provisions set forth in ARCI-011-020(E) and for violations of the established levels for total carbon dioxide:

LICENSED TRAINER:		
1st offense	**2nd offense (365-day period) in any jurisdiction**	**3rd offense (365-day period) in any jurisdiction**
◦ Minimum 15-day suspension absent mitigating circumstances. The presence of aggravating factors could be used to impose a maximum of a 60-day suspension. **AND** ◦ Minimum fine of $500 absent mitigating circumstances. The presence of aggravating factors could be used to impose a maximum of $1,000.	◦ Minimum 30-day suspension absent mitigating circumstances. The presence of aggravating factors could be used to impose a maximum of a 180-day suspension. **AND** ◦ Minimum fine of $1,000 absent mitigating circumstances. The presence of aggravating factors could be used to impose a maximum of $2,500.	◦ Minimum 60-day suspension absent mitigating circumstances. The presence of aggravating factors could be used to impose a maximum of a one-year suspension. **AND** ◦ Minimum fine of $2,500 absent mitigating circumstances. The presence of aggravating factors could be used to impose a maximum of $5,000 or 5% of 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	**2nd offense in stable (365-day period) in any jurisdiction**	**3rd offense in stable (365-day period) in any jurisdiction**
◦ Disqualification and loss of purse [in the absence of mitigating circumstances] * **AND** ◦ Horse must pass a commission-approved examination before becoming eligible to be entered.	◦ Disqualification and loss of purse [in the absence of mitigating circumstances] * **AND** ◦ Horse must pass a commission-approved examination before becoming eligible to be entered.	◦ Disqualification and loss of purse, and a $5,000 fine.* **AND** ◦ Horse shall be placed on the veterinarian's list for 45 days and must pass a commission-approved examination before becoming eligible to be entered.

The following are recommended penalties for violations due to the presence of a drug carrying a Category "C" penalty and overages for permitted NSAIDs and furosemide: (***All concentrations are for measurements in serum or plasma.)***

LICENSED TRAINER	**Phenylbutazone (>2.0-5.0 mcg/ml) Flunixin (>20-100 ng/ml) Ketoprofen (>2-50 ng/ml) Furosemide (>100 ng/ml) and no furosemide when identified as administered****	**Phenylbutazone (>5.0 mcg/ml) Flunxin (>100 ng/ml) Ketoprofen (>50 ng/ml) and CLASS C Violations**
1st Offense (365-day period) in any jurisdiction	Minimum fine of a written warning to a maximum fine of $500	Minimum fine of $1,000 absent mitigating circumstances
2nd Offense (365-day period) in any jurisdiction	Minimum fine of a written warning to a maximum fine of $750	Minimum fine of $1,500 and 15-day suspension absent mitigating circumstances
3rd Offense (365-day period) in any jurisdiction	Minimum fine of $500 and to a maximum fine of $1,000	Minimum fine of $2,500 and 30-day suspension absent mitigating circumstances
LICENSED OWNER	**Phenylbutazone (>2.0-5.0 mcg/ml) Flunixin (>20-100 ng/ml) Ketoprofen (>2-50 ng/ml) Furosemide (>100 ng/ml) and no furosemide when identified as administered****	**Phenylbutazone (>5.0 mcg/ml) Flunixin (>100 ng/ml) Ketoprofen (>50 ng/ml) AND CLASS C VIOLATIONS**
1st Offense (365-day period) in any jurisdiction	Horse may be required to pass commission-approved examination before being eligible to run.	Loss of purse [in the absence of mitigating circumstances]. Horse must pass commission-approved examination before being eligible to run
2nd Offense (365-day period) in any jurisdiction	Horse may be required to pass commission-approved examination before being eligible to run	Loss of purse. If same horse, placed on veterinarian's list for 45 days, must pass commission-approved examination before being eligible to run
3rd Offense (365-day period) in any jurisdiction	Disqualification and loss of purse. Horse must pass commission-approved examination before being eligible to run	Loss of purse. Minimum $5,000 fine. If same horse, placed on veterinarian's list for 60 days, must pass commission-approved examination before being eligible to run

*If the trainer has not had more than one violation within the previous two years, the Stewards/Judges are encouraged to issue a warning in lieu of a fine provided the reported level is below 3.0 mcg/ml, absent of aggravating factors.

After a two year period, if the licensee has had no further violations, any penalty due to an overage in the 2.0 – 5.0 category will be expunged from the licensee's record for penalty purposes.

(7) 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 and/or suspensions

(8) Any licensee of the commission, including veterinarians, found to be 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.

(9) 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.

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

(11) 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 in no way prohibits a prosecution for criminal acts committed, nor does a potential criminal prosecution stall administrative action by the stewards or the commission.

(12) 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 licensed family members.

(13) Multiple Medication Violations (MMV)

(a) A trainer who receives a penalty for a medication violation based upon a horse testing positive for a Class 1-5 medication with Penalty Class A-C, as provided in the most recent version of the ARCI Uniform Classification Guidelines for Foreign Substances, or similar state regulatory guidelines, shall be assigned points as follows:

Penalty Class	Points If Controlled Therapeutic Substance	Points If Non-Controlled Substance
Class A	N/A	6
Class B	2	4
Class C	½ for first violation with an additional ½ point for each additional violation within 365 days[1]	1 for first violation with an additional ½ point for each additional violation within 365 days
Class D	0	0

[1] *Points for NSAID violations only apply when the primary threshold of the NSAID is exceeded. Points are not to be separately assigned for a stacking violation.*

If the Stewards or Commission determine that the violation is due to environmental contamination, they may assign lesser or no points against the trainer based upon the specific facts of the case.

(b) The points assigned to a medication violation by the Stewards or Commission ruling shall be included in the ARCI official database. The ARCI shall record points consistent with Section 13(a) including when appropriate, a designation that points have been suspended for the medication violation. Points assigned by such regulatory

ruling shall reflect, in the case of multiple positive tests as described in paragraph (d), whether they constitute a single violation. The Stewards' or Commission Ruling shall be posted on the official website of the Commission and within the official database of the Association of Racing Commissioners International. If an appeal is pending, that fact shall be noted in such Ruling. No points shall be applied until a final adjudication of the enforcement of any such violation.

(c) A trainer's cumulative points for violations in all racing jurisdictions shall be maintained by the ARCI. Once all appeals are waived or exhausted, the points shall immediately become part of the trainer's official ARCI record and shall be considered by the Commission in its determination to subject the trainer to the mandatory enhanced penalties by the Stewards or Commission as provided in this regulation.

(d) Multiple positive tests for the same medication incurred by a trainer prior to delivery of official notice by the commission may be treated as a single violation. In the case of a positive test indicating multiple substances found in a single post-race sample, the Stewards may treat each substance found as an individual violation for which points will be assigned, depending upon the facts and circumstances of the case.

(e) The official ARCI record shall be used to advise the Stewards or Commission of a trainer's past record of violations and cumulative points. Nothing in this administrative regulation shall be construed to confer upon a licensed trainer the right to appeal a violation for which all remedies have been exhausted or for which the appeal time has expired as provided by applicable law.

(f) The Stewards or Commission shall consider all points for violations in all racing jurisdictions as contained in the trainer's official ARCI record when determining whether the mandatory enhancements provided in this regulation shall be imposed.

(g) In addition to the penalty for the underlying offense, the following enhancements shall be imposed upon a licensed trainer based upon the cumulative points contained in his/her official ARCI record:

Points	Suspension in days
5-5.5	15 to 30
6-8.5	30 to 60
9-10.5	90 to 180
11 or more	180 to 360

MMV penalties are not a substitute for the current penalty system and are intended to be an additional uniform penalty when the licensee:

(i) Has had more than one medication violation for the relevant time period, and

(ii) Exceeds the permissible number of points.

The Stewards and Commission shall consider aggravating and mitigating circumstances, including the trainer's prior record for medication violations, when determining the

appropriate penalty for the underlying offense. The MMP is intended to be a separate and additional penalty for a pattern of violations.

(h) The suspension periods as provided in Section 13(g) shall run consecutive to any suspension imposed for the underlying offense.

(i) The Stewards' or Commission Ruling shall distinguish between the penalty for the underlying offense and any enhancement based upon a Stewards or Commission review of the trainer's cumulative points and regulatory record, which may be considered an aggravating factor in a case.

(j) Points shall expire as follows:

Penalty Classification	Time to Expire
A	3 years
B	2 years
C	1 year

In the case of a medication violation that results in a suspension, any points assessed expire on the anniversary date of the date the suspension is completed.

C. Medication Restrictions

(1) A finding by the commission approved laboratory of a prohibited drug, chemical or other substance in a test specimen of a horse is prima facie evidence that the prohibited drug, chemical or other substance was administered to the horse and, in the case of a post-race test, was present in the horse's body while it was participating in a race. Prohibited substances include:

(a) Drugs or medications for which no acceptable threshold concentration has been established;

(b) Controlled therapeutic medications in excess of established threshold concentrations or administration within the restricted time period as set forth in the ARCI Controlled Therapeutic Medication Schedule, Version 2.2,;

(c) Substances present in the horse in excess of concentrations at which such substances could occur naturally; and

(d) Substances foreign to a horse at concentrations that cause interference with testing procedures.

(2) Except as otherwise provided by this chapter, a person may not administer or cause to be administered by any means to a horse a prohibited drug, medication, chemical or other substance, including any restricted medication pursuant to this chapter during the 24-hour period before post time for the race in which the horse is entered.

D. Medical Labeling

(1) No person on association grounds where horses are lodged or kept, excluding licensed veterinarians, shall have in or upon association grounds which that person occupies or has the right to occupy, or in that person's personal property or effects or vehicle in that person's care, custody or control, a drug, medication, chemical, foreign substance or

other substance that is prohibited in a horse on a race day unless the product is labeled in accordance with this subsection.

(2) All allowable medications must have a prescription label which is securely attached to the medication container and clearly ascribed to show the following:

(a) name, address, and telephone number of the pharmacy or veterinarian dispensing the medication;

(b) prescription number when dispensed by a pharmacy if required by law;

(c) date prescription filled;

(d) name of the prescribing veterinarian;

(e) name of the horse for whom the medication is prescribed or dispensed;

(f) name of the trainer or owner of the horse for whom the product was dispensed;

(g) dose, dosage, route of administration, and duration of treatment of the prescribed product (instructions for use);

(h) name, active ingredient, quantity prescribed, expiration date (if applicable), beyond use date (if applicable), and lot number (if applicable); and

(i) cautionary statements (if any), and if applicable, withdrawal time.

(3) The use of an expired medication is considered a violation of this rule.

(4) Any medication that has a label that is missing, illegible, tampered with or altered, or in any other way does not comply with this section shall be considered a violation of these rules.

(5) Any licensee that voluntarily surrenders any non-compliant medication shall not be considered to be in violation of the medication rules described in this section and/or ARCI-011-020(D). A surrender shall not be deemed voluntary after a licensee has been advised or it is apparent that an investigatory search has commenced.

E. Non-Steroidal Anti-Inflammatory Drugs (NSAIDs)

(1) The use of NSAIDs shall be governed by the following conditions:

(a) (Blank)

(b) NSAIDs included in the ARCI Controlled Therapeutic Medication Schedule, Version 2.2, are not to be used in a manner inconsistent with the restrictions contained therein. NSAIDs not included on the ARCI Controlled Therapeutic Medication Schedule, Version 2.2, are not be present in a racing horse biological sample at the laboratory concentration of detection.

(c) The presence of more than one NSAID may constitute a NSAID stacking violation consistent with the following restrictions:

A. A Class 1 NSAID Stacking Violation (Penalty Class B) occurs when:

i. Two non-steroidal anti-inflammatory drugs are found at individual levels determined to exceed the following restrictions:

a. Diclofenac – 5 nanograms per milliliter of plasma or serum;

b. Firocoxib - 20 nanograms per milliliter of plasma or serum;

c. Flunixin – 20 nanograms per milliliter of plasma or serum;

d. Ketoprofen – 2 nanograms per milliliter of plasma or serum;

e. Phenylbutazone – 2 micrograms per milliliter of plasma or serum; or

f. all other non-steroidal anti-inflammatory drugs – laboratory concentration of detection

ii. Three or more non-steroidal anti-inflammatory drugs are found at individual levels determined to exceed the following restrictions:

a. Diclofenac – 5 nanograms per milliliter of plasma or serum;
b. Firocoxib - 20 nanograms per milliliter of plasma or serum;
c. Flunixin – 3 nanograms per milliliter of plasma or serum;
d. Ketoprofen – 1 nanograms per milliliter of plasma or serum;
e. Phenylbutazone – 0.3 micrograms per milliliter of plasma or serum; or
f. all other non-steroidal anti-inflammatory drugs – laboratory concentration of detection.

B. A Class 2 NSAID Stacking Violation (Penalty Class C) occurs when:

i. Any one substance noted in Subsection (A)(i) above is found in excess of the restrictions contained therein in combination with any one of the following substances at levels below the restrictions so noted but in excess of the following levels:

a. Flunixin – 3 nanograms per milliliter of plasma or serum;
b. Ketoprofen – 1 nanogram per milliliter of plasma or serum; or
c. Phenylbutazone – 0.3 micrograms per milliliter of plasma or serum;

C. A Class 3 NSAID Stacking Violation (Penalty Class C, fines only) occurs when:

i. Any combination of two of the following non-steroidal anti-inflammatory drugs are found at or below the restrictions in Subsection (A)(i)(a through e) above but in excess of the noted restrictions:

a. Flunixin – 3 nanograms per milliliter of plasma or serum;
b. Ketoprofen – 1 nanogram per milliliter of plasma or serum; or
c. Phenylbutazone – 0.3 micrograms per milliliter of plasma or serum;

(2) Any horse to which a NSAID has been administered shall be subject to having a blood and/or urine sample(s) taken at the direction of the official veterinarian to determine the quantitative NSAID level(s) and/or the presence of other drugs which may be present in the blood or urine sample(s).

F. Furosemide

(1) Furosemide may be administered intravenously to a horse, which is entered to compete in a race. Except under the instructions of the official veterinarian or the racing veterinarian for the purpose of removing a horse from the Veterinarian's List or to facilitate the collection of a post-race urine sample, furosemide shall be permitted only after the official veterinarian has placed the horse on the Furosemide List. In order for a horse to be placed on the Furosemide List the following process must be followed.

(a) After the horse's licensed trainer and licensed veterinarian determine that it would be in the horse's best interests to race with furosemide the official

veterinarian or his/her designee shall be notified using the prescribed form, that the horse is to be put on the Furosemide List.

(b) The form must be received by the official veterinarian or his/her designee by the proper time deadlines so as to ensure public notification.

(c) A horse placed on the official Furosemide List must remain on that list unless the licensed trainer and licensed veterinarian submit a written request to remove the horse from the list. The request must be made to the official veterinarian or his/her designee, on the proper form, no later than the time of entry.

(d) After a horse has been removed from the Furosemide List, the horse may not be placed back on the list for a period of 60 calendar days unless it is determined to be detrimental to the welfare of the horse, in consultation with the official veterinarian. If a horse is removed from the official Furosemide List a second time in a 365-day period, the horse may not be placed back on the list for a period of 90 calendar days.

(e) Furosemide shall only be administered on association grounds.

(f) Furosemide shall be the only authorized bleeder medication

(2) The use of furosemide shall be permitted under the following circumstances on association grounds where a detention barn is utilized:

(a) Furosemide shall be administered by the official veterinarian, the racing veterinarian or his/her designee no less than four hours prior to post time for the race for which the horse is entered.

(b) Any veterinarian or vet techs participating in the administration process must be prohibited from working as private veterinarians or technicians on the race track or with participating licensees;

(c) A horse qualified for furosemide administration must be brought to the detention barn within time to comply with the four-hour administration requirement specified above.

(d) The dose administered shall not exceed 500 mg. nor be less than 150 mg.

(e) Furosemide shall be administered by a single, intravenous injection.

(f) After treatment, the horse shall be required by the Commission to remain in the detention barn in the care, custody and control of its trainer or the trainer's designated representative under association and/or Commission security supervision until called to the saddling paddock.

(3) The use of furosemide shall be permitted under the following circumstances on association grounds where a detention barn is not utilized:

(a) Furosemide shall be administered by the official veterinarian, the racing veterinarian or his/her designee no less than four hours prior to post time for the race for which the horse is entered.

(b) Any veterinarian or vet techs participating in the administration process must be prohibited from working as private veterinarians or technicians on the race track on or with participating licensees;

(c) The furosemide dosage administered shall not exceed 500 mg. nor be less than 150 mg.

(d) Furosemide shall be administered by a single, intravenous injection.

(e) After treatment, the horse shall be required by the Commission to remain in the proximity of its stall in the care, custody and control of its trainer or the trainer's designated representative under general association and/or Commission security surveillance until called to the saddling paddock.

(4) Test results must show a detectable concentration of the drug in the post-race serum, plasma or urine sample.

(a) The specific gravity of post-race urine samples may be measured to ensure that samples are sufficiently concentrated for proper chemical analysis. The specific gravity shall not be below 1.010. If the specific gravity of the urine is found to be below 1.010 or if a urine sample is unavailable for testing, quantitation of furosemide in serum or plasma shall be performed;

(b) Quantitation of furosemide in serum or plasma shall be performed when the specific gravity of the corresponding urine sample is not measured or if measured below 1.010. Concentrations may not exceed 100 nanograms of furosemide per milliliter of serum or plasma.

(5) The administering authority or association may assess a fee approved by the commission on licensed owners of treated horses to recoup the reasonable costs associated with the administration of furosemide in the manner prescribed in these rules.

G. Bleeder List

(1) The official veterinarian shall maintain a Bleeder List of all horses, which have demonstrated external evidence of exercise induced pulmonary hemorrhage from one or both nostrils during or after a race or workout as observed by the official veterinarian.

(2) Every confirmed bleeder, regardless of age, shall be placed on the Bleeder List and be ineligible to race for the following time periods:

(a) First incident – 14 days;

(b) Second incident within 365 day period – 30 days;

(c) Third incident within 365 day period –180 days;

(d) Fourth incident within 365-day period – barred for racing lifetime.

(3) For the purposes of counting the number of days a horse is ineligible to run, the day the horse bled externally is the first day of the recovery period.

(4) The voluntary administration of furosemide without an external bleeding incident shall not subject the horse to the initial period of ineligibility as defined by this policy.

(5) A horse may be removed from the Bleeder List only upon the direction of the official veterinarian, who shall certify in writing to the stewards the recommendation for removal.

(6) 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.

H. Environmental Contaminants and Substances of Human Use

(1) Environmental contaminants are either endogenous to the horse or can arise from plants traditionally grazed or harvested as equine feed or are present in equine feed because of contamination during the cultivation, processing, treatment, storage or transportation phases.

(2) Substances of human use and addiction may be found in the horse due to its close association with humans.

(3) If the preponderance of evidence presented in the hearing shows that a positive test is the result of environmental contamination, including inadvertent exposure due to human drug use, or dietary intake, or is endogenous to the horse, those factors should be considered in mitigation of any disciplinary action taken against the affected trainer. Disciplinary action shall only be taken if test sample results exceed the regulatory thresholds in the most recent version of the ARCI Endogenous, Dietary, or Environmental Substances Schedule.

(4) The identification and adoption of these uniform thresholds for certain substances shall not preclude an individual jurisdiction from maintaining thresholds for substances not on this list which predate the adoption of this regulation in such jurisdiction.

I. Androgenic-Anabolic Steroids (AAS)

(1) No AAS shall be permitted in test samples collected from racing horses except for endogenous concentrations of the naturally occurring substances **boldenone, nandrolone,** and testosterone at concentrations less than the indicated thresholds.

(2) Concentrations of these AAS shall not exceed the following free (*i.e.,* not conjugated) steroid concentrations in plasma or serum:

(a) Boldenone – A confirmatory threshold not greater than 25 picograms/milliliter for all horses, regardless of sex;

(b) Nandrolone – A confirmatory threshold not greater than 25 picograms/milliliter for fillies, mares, and geldings; males horses other than geldings shall be tested for Nandrolone in urine (see (2)(b)(B) below);

(c) Testosterone – A confirmatory threshold not greater than 25 picograms/milliliter for fillies, mares, and gelding.

(3) Total concentrations of these AAS shall not exceed the following total concentrations in urine after hydrolysis of conjugates:

(a) Boldenone - A confirmatory threshold not greater than 1 nanogram/milliliter for fillies, mares, and geldings; a confirmatory threshold not greater than 15 nanograms/milliliter in male horses other than geldings;

(b) Nandrolone - A confirmatory threshold not greater than 1 nanogram/milliliter for fillies, mares, and geldings; a confirmatory threshold not greater than 45 nanograms/milliliter (as 5α-estrane-3β,17α-diol) of urine in male horses other than geldings;

(c) Testosterone – A confirmatory threshold of not greater than 55 nanograms/milliliter of urine in fillies and mares (unless in foal); a confirmatory threshold of not less than 20 nanograms/milliliter in geldings

(4) Any other AAS are prohibited in racing horses.

(5) The sex of the horse must be identified to the laboratory on all pre-race and post-race samples designated for AAS testing.

(6) If an anabolic steroid has been administered to a horse in order to assist in its recovery from illness or injury, that horse may be placed on the Veterinarian's List in order to monitor the concentration of the drug or metabolite in urine or blood. After the concentration has fallen below the designated threshold for the administrated AAS, the horse is eligible to be removed from the list.

J. Alkalinizing Substances

The use of agents that elevate the horse's TCO2 or Base excess level above those existing naturally in the untreated horse at normal physiological concentrations is prohibited. The following levels also apply to blood gas analysis:

(1) The regulatory threshold for TCO2 is 37.0 millimoles per liter of plasma/serum or a base excess level of 10.0 millimoles, and;

(2) The decision level to be used for the regulation of TCO2 is 37.0 millimoles per liter of plasma/serum plus the measurement uncertainty of the laboratory analyzing the sample, or a base excess level of 10.4 millimoles per liter of plasma/serum.

K. Compounded Medications on Association Grounds

(1) The possession or use of a drug, substance, or medication on Association Grounds that has not been approved by the appropriate federal agency (e.g., the United States Food and Drug Administration in the United States) for any use in (human or animal) is forbidden without prior permission of the Commission or its designee.

(2) It is a violation of this regulation to possess, use, or distribute a compounded medication on Association Grounds if there is an FDA approved equivalent of that substance available for purchase. A difference in available formulations or concentrations does not alleviate the need to use FDA approved products.

(3) It is a violation of this regulation to possess, use, or distribute a compounded medication on Association Grounds made from bulk substances if an FDA approved equivalent is available for purchase.

(4) Combining two or more substances with pharmacologic effect constitutes the development of a new drug. This may only be done in accordance with state and local laws and must contain FDA approved medications, if available.

(5) Compounded veterinary drugs. Veterinary drugs shall be compounded in accordance with all applicable state and federal laws. Compounded medication shall be dispensed only by prescription issued by a licensed veterinarian to meet the medical needs of a specific horse and for use only in that specific horse

(6) Labels on compounded veterinary drugs. All compounded medications must be labeled in accordance with section ARCI-011-020(D) : Medical Labeling

(7) Possession of an improperly labeled product by any person on Association Grounds is considered a violation of this section.

ARCI-011-022 Out of Competition Testing

(1) Out-of-competition testing authorized. The commission may at a reasonable time on any date take blood, urine or other biologic samples as authorized by commission rules from a horse to enhance the ability of the commission to enforce its medication and anti-doping rules, *e.g.*, the Prohibited List pursuant to ARCI-011-015. The commission shall own such samples. This rule authorizes only the collection and testing of samples and does not independently make impermissible the administration to or presence in any horse of any drug or other

substance. A race day prohibition or restriction of a substance by a commission rule is not applicable to an out-of-competition test unless there is an attempt to race the horse in a manner that violates such rule.

(2) Horses eligible to be tested. Any horse that has been engaging in activities related to competing in horse racing in the jurisdiction may be tested. This includes without limitation any horses that are training outside the jurisdiction to participate in racing in the jurisdiction and all horses that are training in the jurisdiction, but excludes weanlings, yearlings and horses no longer engaged in horse racing (*e.g.*, retired broodmares).

(a) A horse is presumed eligible for out-of-competition testing if:
(i) It is on the grounds at a racetrack or training center under the jurisdiction of the commission;
(ii) It is under the care or control of a trainer licensed by the commission;
(iii) It is owned by an owner licensed by the commission;
(iv) It is entered or nominated to race at a premises licensed by the commission;
(v) It has raced within the previous 12 months at a premises licensed by the commission; or
(vi) It is nominated to a program based on racing in the jurisdiction, including without limitation a state thoroughbred development, breeder's award fund, or standardbred state sires stakes.

(b) Such presumptions are conclusive in the absence of evidence that a horse is not engaged in activities related to competing in horse racing in the jurisdiction.

(3) Selection of horses to be tested.

(a) Horses shall be selected for sampling by a commission Veterinarian, Executive Director, Equine Medical Director, Steward or Presiding Judge or a designee of any of the foregoing.
(b) Horses may be selected to be tested at random, for cause, or as otherwise determined in the discretion of the commission.
(c) Collectors shall for suspicion-less collections of samples abide by a plan that has been approved by a supervisor not in the field and identifies specific horses or provides neutral and objective criteria to follow in the field to determine which horses to sample. Such a supervisor may consider input from persons in the field during the operation of the plan and select additional horses to be sampled.

(4) Cooperation with the commission
(a) Licensees of the commission are required to cooperate and comply fully with the provisions of this rule.
(b) Persons who apply for and are granted a trainer or owner license shall be deemed to have given their consent for access at such premises as their horse may be found for the purpose of commission representatives collecting out-of-competition samples. Licensees shall take any steps necessary to authorize access by commission representatives at such premises.

(c) No other person shall knowingly interfere with or obstruct a sampling.

(5) General procedure for collecting samples

(a) Samples shall be taken under the supervision and direction of a person who is employed or designated by the commission. All blood samples shall be collected by a veterinarian licensed in the state where the sample is collected, or by a veterinary technician who is acting under appropriate supervision of the veterinarian.

(b) Upon request of a representative of the commission, the trainer, owner, or their specified designee shall provide the location of their horses eligible for out-of-competition testing.

(c) The commission need not provide advance notice before arriving at any location, whether or not licensed by the commission, to collect samples.

(d) The trainer, owner, or their specified designee shall cooperate with the person who takes samples for the commission, which cooperation shall include without limitation:

(i) Assist in the immediate location and identification of the horse;

(ii) Make the horse available as soon as practical upon arrival of the person who is responsible for collecting the samples;

(iii) Provide a stall or other safe location to collect the samples;

(iv) Assist the person who is collecting samples in properly procuring the samples; and

(v) Witness the taking of samples including sealing of sample collection containers.

(e) The management and employees of a licensed racetrack or training facility at which a horse may be located shall cooperate fully with a person who is authorized to take samples. The person who collects samples for the commission may require that the collection be done at a specified location on such premises.

(f) The commission, if requested and in its sole discretion, may permit the trainer, owner, or their specified designee to present a horse that is located in the jurisdiction, but not at a racetrack or training center licensed by the commission, to be sampled at a time and location designated by the commission.

(6) Procedure for collecting samples from horses located outside the jurisdiction

(a) The commission may arrange for the sampling of an out-of-state horse by the racing commission or other designated person in the jurisdiction where the horse is located. Such racing commission or other designated person shall follow the relevant provisions of this rule, including paragraph (a) of subdivision five of this rule.

(b) The test results shall be made available, for its regulatory use, to each jurisdiction that has participated in the process of collecting any out-of-competition sample, subject to any restrictions on public disclosure of test results that apply to the commission that selected the horse for sampling.

(c) The commission, if requested and in its sole discretion, may permit the trainer or owner instead to transport the horse into its jurisdiction for sampling at a time and place designated by the commission.

(7) Additional procedures

(a) The person who takes samples for the commission shall provide identification and

disclose the purpose of the sampling to the trainer or designated attendant of the horse.
(b) A written protocol for the collection of samples shall be made generally available.
(c) An owner or trainer does not consent to a search of the premises by making a horse that is not located at a racetrack or training center available for sampling.
(d) If the trainer or other custodian of a selected horse refuses or declines to make the horse available for sampling and the managing owner has previously provided the commission with a means for the commission to give immediate notification to the managing owner in such situation, then the commission shall attempt to notify the managing owner and the eligibility of the horse shall be preserved if the managing owner is able to make the horse available for immediate sampling. The commission is not required to make repeated attempts to notify the managing owner.
(e) The chain of custody record for the sample (including a split sample where appropriate) shall be maintained and made available to the trainer, owner, or their designee when a complaint results from an out-of-competition test.

(8) Analysis of collected samples

(a) The commission may have out-of-competition samples tested to produce information that may enhance the ability of the commission to enforce its medication and anti-doping rules.
(b) Split sample rules and procedures for post-race testing shall apply to out-of-competition testing.
(c) The commission may use any remaining sample for research and investigation.

(9) Penalties for non-cooperation

(a) Willful failure to make a horse available for sampling or other willfully deceptive acts or interference in the sampling process shall carry a minimum penalty of a one year license suspension and referral to the commission in addition to any other authorized penalties.
(b) A selected horse that is not made available for out-of-competition sampling shall be placed on the Steward's List. The horse shall remain on the Steward's List for a minimum of 180 days unless the owner can establish extraordinary mitigating circumstances.
(c) A selected horse that is presumed eligible for out-of-competition testing shall be placed on the Steward's list and be ineligible to race in the jurisdiction for 180 days if the horse is not sampled because the trainer, owner or their designee asserts that the horse is not engaged in activities related to competing in horse racing in the jurisdiction. This restriction shall not apply if the trainer, owner or their designee instead permits voluntarily an immediate collection of such samples from the horse.

(10) Responsible Persons

(a) The trainer of the horse is responsible for the condition of a horse sampled for an out-of-competition test while on the grounds of a licensed training facility or racetrack.
(b) If the horse is sampled while not on the grounds of a licensed training facility or racetrack, then the owner shall be presumed to be the responsible person unless the owner can establish, by substantial evidence, that another licensed person had accepted the responsibility for the care, custody, and control of the horse, making such person the responsible person.

(c) If a horse sampled for an out-of-competition test was claimed, sold, or otherwise transferred during the time the substance giving rise to the positive test may have been administered, then the Commission shall investigate to determine, by a preponderance of the evidence, the identity of the responsible person at the time such substance may have been administered.

(d) If the Commission cannot determine a responsible person, then the Commission may deem the owner responsible and may place the horse on the veterinarian's list for such time as is necessary to protect the integrity of racing.

(e) A claimed horse is ineligible to be subjected to out-of-competition testing in the 48 hours post claim unless the horse was subjected to post race testing.

ARCI-011-023 Testing

A. Reporting to the Test Barn

(1) The official winning horse and any other horse ordered by the Commission and/or the stewards shall be taken to the test barn to have a blood and urine samples taken at the direction of the official veterinarian.

(2) Random or extra testing may be required by the stewards or the Commission at any time on any horse on association grounds.

(3) Unless otherwise directed by the stewards or the official veterinarian, a horse that is selected for testing must be taken directly to the test barn.

(4) A track security guard shall monitor access to the test barn area during and immediately following each racing performance. All persons who wish to enter the test barn area must be a minimum of 18-years-old, be currently licensed by the Commission, display their Commission identification badge and have a legitimate reason for being in the test barn area.

B. Sample Collection

(1) Sample collection shall be done in accordance with the guidelines and instructions provided by the official veterinarian.

(2) The official veterinarian shall determine a minimum sample requirement for the primary testing laboratory.

(a) If the specimen obtained from a horse is less than the minimum sample requirement, the entire specimen shall be sent to the primary testing laboratory.

(b) If a specimen obtained is greater than the minimum sample requirement but less than twice that amount, the portion of the sample that is greater than the minimum sample requirement shall be secured as the split sample.

(c) If a specimen obtained is greater than twice the minimum sample requirement, a portion of the sample approximately equal to the amount provided for the primary testing laboratory shall be secured as the split sample.

(d) Split samples collected for simultaneous determination of TCO2 levels shall be collected and shipped in accordance with C. of this rule.

(e) Blood samples must be collected at consistent time, preferably not later than one hour post-race.

C. Alkalinizing Substances

(1) Pre-race Sampling, Post-race Testing

(a) Blood samples for TCO2 and base excess testing should be collected within one hour pre-race. The samples must be handled in a consistent manner and cannot be frozen.

(b) If a secure detention barn is available, a sample may be obtained prior to furosemide administration and the horse must be kept in the secure detention barn until race time.

(c) The provisions of this rule pertaining to B. Sample Collection and C. Storage and Shipment of Split Samples shall not apply to blood samples drawn for TCO2 analysis.

(d) Split sample analyses of TCO2 must be run in parallel with the official sample at the official laboratory in order to avoid delays in testing that result in lower TCO2 values as a result of sample degradation.

(e) Blood samples must be processed within 120 hours and tested using standardized, reproducible, validated procedures.

(2) Pre-race Sampling, Pre-race Testing

(a) The commission shall adopt standard operating procedures that include but is not limited to calibration procedures, sampling procedures, personnel and notification processes.

(b) If a sample taken pre-race is determined to above the thresholds stated in ARCI-011-020(J)(2) the horse shall be scratched.

(c) Any owner, trainer or other licensed delegate of the owner or trainer who refuses or fails to permit any horse to be tested when a demand for testing has been made by an authorized commission designee shall have the applicable horse scratched.

(3) Post-race Sampling, Post-race Testing

Post-race sampling of thoroughbreds is discouraged.

D. Storage and Shipment of Split Samples

(1) Split samples obtained in accordance with Subsection B, Numbers 2b and 2c above shall be secured and made available for further testing in accordance with the following procedures:

(a) A split sample shall be secured in the test barn under the same manner as the portion of the specimen acquired for shipment to a primary laboratory until such time as specimens are packed and secured for shipment to the primary laboratory. Split samples shall then be transferred to a freezer at a secure location approved by the Commission.

(b) A freezer for storage of split samples shall be equipped with two hasps or other devices to provide for use of two independent locks. One lock shall be the property of the Commission and one lock shall be the property of a representative of the group representing a majority of the horsemen at a race meeting. The locks shall be closed and locked so as to prevent access to the freezer at all times except as specifically provided by these rules.

(c) A freezer for storage of split samples shall be opened only for depositing or removing split samples, for inventory, or for checking the condition of samples.

(d) When a freezer used for storage of split samples is opened, it shall be attended by both a representative of the Commission and the owner, trainer or designee. A log shall be

maintained that shall be used each time a split sample freezer is opened to specify each person in attendance, the purpose for opening the freezer, identification of split samples deposited or removed, the date and time the freezer was opened, and the time the freezer was closed and to verify that both locks were secured prior to and after opening of the freezer.

(e) Any evidence of a malfunction of a split sample freezer or samples that are not in a frozen condition during storage shall be documented in the log and immediately reported to the official veterinarian or a designated Commission representative.

(2) Provisions for split sample testing for TCO2 analysis shall be arranged by the trainer or designee at the time of sampling. The trainer shall be responsible for the cost of split sample testing. The trainer or designee shall make arrangements for payment prior to or at the time of sampling. Split sample analysis of TCO2 must be run in parallel with the official sample at the official laboratory as described in C. of this rule.

(3) A trainer or owner of a horse having been notified that a written report from a primary laboratory states that a prohibited substance has been found in a specimen obtained pursuant to these rules may request that a split sample corresponding to the portion of the specimen tested by the primary laboratory be sent to another laboratory approved by the Commission. The request must be made in writing and delivered to the stewards not later than three (3) business days after the trainer of the horse receives written notice of the findings of the primary laboratory. Any split sample so requested must be shipped within an additional 48 hours.

(4) The owner or trainer requesting testing of a split sample shall be responsible for the cost of shipping and testing. Failure of the owner, trainer or designee to appear at the time and place designated by the official veterinarian shall constitute a waiver of all rights to split sample testing. Prior to shipment, the Commission shall confirm the split sample laboratory's willingness to simultaneously provide the testing requested, the laboratory's willingness to send results to both the person requesting the testing and the Commission, and arrangements for payment satisfactory to the split sample laboratory. If a reference laboratory will accept split samples, that laboratory must be included among the laboratories approved for split sample testing.

(5) Prior to opening the split sample freezer, the Commission shall provide a split sample chain of custody verification form that shall provide a place for recording the following information and such other information as the official veterinarian may require. The form shall be fully completed during the retrieval, packaging, and shipment of the split sample. The split sample chain of custody form requirements are:

(a) The date and time the sample is removed from the split sample freezer;

(b) The sample number;

(c) The address where the split sample is to be sent;

(d) The name of the carrier and the address where the sample is to be taken for shipment;

(e) Verification of retrieval of the split sample from the freezer;

(f) Verification of each specific step of the split sample packaging in accordance with the recommended procedure;

(g) Verification of the address of the split sample laboratory on the split sample package;

(h) Verification of the condition of the split sample package immediately prior to transfer of custody to the carrier; and

(i) The date and time custody of the sample is transferred to the carrier.

(6) A split sample shall be removed from the split sample freezer by a Commission representative in the presence of a representative of the horsemen's association.

(7) The owner, trainer or designee shall pack the split sample for shipment in the presence of the representative of the Commission, in accordance with the packaging procedures recommended by the Commission. A form shall be signed by both the horsemen's representative and the Commission representative to confirm the packaging of the split sample. The exterior of the package shall be secured and identified with initialed tape, evidence tape or other means to prevent tampering with the package.

(8) The package containing the split sample shall be transported in a manner prescribed by the commission to the location where custody is transferred to the delivery carrier charged with delivery of the package to the Commission-approved laboratory selected by the owner or trainer.

(9) The owner, trainer or designee and the Commission representative shall inspect the package containing the split sample immediately prior to transfer to the delivery carrier to verify that the package is intact and has not been tampered with.

(10) The split sample chain of custody verification form shall be completed and signed by the representatives of the Commission and the owner or trainer. A Commission representative shall keep the original and provide a copy for the owner or trainer.

E. Frozen Samples

The commission has the authority to direct the official laboratory to retain and preserve by freezing samples for future analysis. Positive Tests arising from this analysis are subject to penalties in effect on the date of the race. The fact that purse money has been distributed prior to the issuance of a laboratory report from the future analysis of a frozen sample shall not be deemed a finding that no drug substance prohibited by these rules has been administered.

F. Laboratory Minimum Standards

Laboratories conducting either primary or split post-race sample analysis must meet at least the following minimum standards.

(1) A testing laboratory must be accredited by an accrediting body designated by the Association of Racing Commissioners International to standards set forth and required by the Commission or the Association of Racing Commissioners International.

(2) A testing laboratory must have, or have access to, LC/MS instrumentation for screening and/or confirmation purposes.

(3) A testing laboratory must be able to meet minimum standards of detection, which is defined as the specific concentration at which a laboratory is expected to detect the presence of a particular drug and/or metabolite or by the adoption of a regulatory threshold.

ARCI-011-025 Trainer Responsibility

The purpose of this subsection is to identify responsibilities of the trainer that pertain specifically to the health and well being of horses in his/her care.

(1) The trainer is responsible for the condition of horses entered in an official workout or race and is responsible for the presence of any prohibited drug, medication or other substance, including permitted medication in excess of the maximum allowable level, in such horses. A positive test for a prohibited drug, medication or substance, including permitted medication in excess of the maximum allowable concentration, as reported by a Commission-approved laboratory, is prima facie evidence of a violation of this rule. In the absence of substantial evidence to the contrary, the trainer shall be responsible.

(2) A trainer shall prevent the administration of any drug or medication or other prohibited substance that may cause a violation of these rules.

(3) For a horse not on association grounds at the time the drug or medication is prescribed and such medication is not prescribed by a veterinarian licensed by the commission, the trainer shall have 14 days from the time the horse enters association grounds to:

(a) exhaust any supply of medication validly prescribed pursuant to ARCI-011-010(B)(6); or

(b) consult with a veterinarian licensed by the Commission to review the medication(s) in his or her possession to determine:

i. if all medications comply with the medical labeling requirements described in ARCI-011-020(D); and

ii. If the medications are permitted for use in a racehorse under applicable law.

(4) The trainer of the horse that has a medication reviewed in Subsection 3 shall sign a form approved by the Commission certifying that the required review described in Subsection 3 has been undertaken. The form shall be filed with the Commission prior to the expiration of the 14 days described in Subsection 3.

(5) Any medication that does not comply with Subsection 3, Subsection 4, and the medical labeling requirements in ARCI-011-020(D) is considered to be in violation of these rules.

(6) A trainer whose horse has been claimed remains responsible for any violation of rules regarding that horse's participation in the race in which the horse is claimed.

(7) The trainer is responsible for:

(a) Maintaining the assigned stable area in a clean, neat and sanitary condition at all times;

(b) Using the services of those veterinarians licensed by the Commission to attend horses that are on association grounds;

(8) Additionally, with respect to horses in his/her care or custody, the trainer is responsible for:

(a) The proper identity, custody, care, health, condition and safety of horses;

(b) Ensuring that at the time of arrival at locations under the jurisdiction of the Commission a valid health certificate and a valid negative Equine Infectious Anemia

(EIA) test certificate accompany each horse and which, where applicable, shall be filed with the racing secretary;

(c) Having each horse in his/her care that is racing, or is stabled on association grounds, tested for Equine Infectious Anemia (EIA) in accordance with the jurisdiction's law and for filing evidence of such negative test results with the racing secretary;

(d) Using the services of those veterinarians licensed by the Commission to attend horses that are on association grounds;

(e) Immediately reporting the alteration of the sex of a horse to the horse identifier and the racing secretary;

(f) Promptly reporting to the racing secretary and the official veterinarian when a posterior digital neurectomy (heel nerving) is performed and ensuring that such fact is designated on its certificate of registration;

(g) Promptly notifying the official veterinarian of any reportable disease and any unusual incidence of a communicable illness in any horse in his/her charge;

(h) Promptly reporting the serious injury and/or death of any horse at locations under the jurisdiction of the Commission to the stewards and the official veterinarian and compliance with the rules in this chapter governing post-mortem examinations;

(i) Maintaining a knowledge of the medication record and status;

(j) Immediately reporting to the stewards and the official veterinarian knowledge or reason to believe, that there has been any administration of a prohibited medication, drug or substance;

(k) Ensuring the fitness to perform creditably at the distance entered;

(l) Ensuring that every horse he/she has entered to race is present at its assigned stall for a pre-race soundness inspection as prescribed in this chapter;

(m) Ensuring proper bandages, equipment and shoes;

(n) Presence in the paddock at least 20 minutes before post time or at a time otherwise appointed before the race in which the horse is entered;

(o) Personally attending in the paddock and supervising the saddling thereof, unless excused by the stewards; and

(p) Attending the collection of a urine or blood sample or delegating a licensed employee or the owner to do so.

ARCI-011-030 Physical Inspection of Horses

C. Assessment of Racing Condition

(10) Every horse entered to participate in an official race shall be subjected to a veterinary inspection prior to starting in the race for which it is entered.

(11) The inspection shall be conducted by the official veterinarian or the racing veterinarian.

(12) The agency or the association employing the examining veterinarian(s) should provide a staffing level of not less than 2 veterinarians.

(13) 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; 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.

(14) The assessment of a horse's racing condition shall include:

(a) Proper identification of each horse inspected;

(b) Observation of each horse in motion;

(c) Manual palpation and passive flexion of both forelimbs;

(d) Visual inspection of the entire horse and assessment of overall condition;

(e) Clinical observation in the paddock and saddling area, during the parade to post and at the starting gate, during the running of the race, and following the race until the horse has exited the race track; and,

(f) Any other inspection deemed necessary by the official veterinarian and/or the racing veterinarian.

(15) The official veterinarian and/or the racing veterinarian shall maintain a permanent continuing health and racing soundness record of each horse inspected.

(16) The official veterinarian and/or the racing veterinarian are authorized access to any and all horses housed on association grounds regardless of entry status.

(17) 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.

(18) Horses scratched upon the recommendation of the official veterinarian and/or the racing veterinarian are to be placed on the Veterinarian's List.

D. Veterinarian's List

(7) The official veterinarian shall maintain the Veterinarian's List of all horses which are determined to be unfit to compete in a race due to illness, unsoundness, injury, infirmity, heat exhaustion, positive test or overage, administration of a medication invoking a mandatory stand down time, administration of shock-wave therapy, positive out-of-competition test, or any other assessment or determination by the regulatory veterinarian that the horse is unfit to race.

(8) Horses so listed are ineligible to start in a race in any jurisdiction until released by an official veterinarian or racing veterinarian except when there is an unforeseen administrative issue in releasing the horse from the Veterinarian's List of another racing jurisdiction.

(9) A horse may be released from the Veterinarian's List when a minimum of seven days has passed from the time the horse was placed on the Veterinarian's List.

(10) A horse placed on the Veterinarian's List for being unfit to compete in a race due to illness, physical distress, unsoundness, injury, infirmity, heat exhaustion, or any other assessment of determination by the regulatory veterinarian that warrants withdrawal from the race shall be released from the list only after the following has been met:

a. establish or demonstrate to the satisfaction of the official veterinarian or the racing veterinarian that the horse is serviceably sound and in fit physical condition

to exert its best effort in a race or pass the Assessment of Racing Condition by the official veterinarian and/or the racing veterinarian,

b. provide a published work of a minimum of four furlongs at 0:52 for Thoroughbreds (220 yards at 13.3 seconds for Quarter Horses) observed by the official veterinarian and/or the racing veterinarian for horses that are listed as unsound or lame; other listed reasons above may be required to work at the discretion of the official veterinarian. Prior to such work, a declaration in writing must be provided by the attending veterinarian as the fitness of the subject horse, and,

c. submit to a post-work biologic sample collection for laboratory confirmation for compliance with ARCI-011-020 at the expense of the current owner unless otherwise provided in the local jurisdiction. Violations of ARCI-011-020 may result in penalties consistent with ARCI-011 Equine Veterinary Practices, Health, and Medication.

(11) A horse placed on the Veterinarian's List for Positive Test or Overage, administration of a medication invoking a mandatory stand down time, administration of shock-wave therapy, positive out-of-competition test, or any other veterinary administrative withdrawal shall be released from the list only after the following have been met:

a. establish or demonstrate to the satisfaction of the official veterinarian or the racing veterinarian that the horse is serviceably sound and in fit physical condition to exert its best effort in a race or it has passed the Assessment of Racing Condition by the official veterinarian and/or the racing veterinarian, and

b. at the discretion of the official veterinarian, it has provided a published work at a minimum of four furlongs in 0:52 (220 yards in 13.3 seconds for Quarter Horses) observed by the official veterinarian and/or the racing veterinarian and submit to a post-work biologic sample collection for laboratory confirmation for compliance with ARCI-011-020 at the expense of the current owner. Violations of ARCI-011-020 may result in penalties consistent with ARCI-011 Equine Veterinary Practices, Health, and Medication.

(12) Horses having generated a positive finding on a biological sample collected pursuant to this section shall not be released from the vet's list until generating a negative test.

There is a parallel version of these rules with minor changes to reflect matters unique to standardbred racing. They form the basis of the standardbred regulation by the states throughout the country.

For thirty legal medications that, per the American Association of Equine Practitioners (AAEP), have been deemed normal and appropriate for proper equine care, the RMTC has developed and the ARCI has adopted a Controlled Therapeutic Substance schedule with recommended testing thresholds. As noted in the uniformity chart earlier in this testimony, most thoroughbred jurisdictions utilize these recommended thresholds, with minor exception.

In those limited cases where a state may not the difference can best be summarized as to whether a medication should be stopped two or three days prior to the race. Just as some communities adopt a 50mph speed limit and others a 55mph limit, these inconsistencies are relatively minor and in no way can be interpreted as justification for the radical restructuring of racing regulation contained in this proposed legislation.

To the extent any inconsistencies exist we again note that constituencies most affected by any such inconsistencies – the horsemen – are satisfied with the existing system and universally opposed to this legislation.

Equine Experience

The proposed legislation creates a totally new organization whose governance is controlled by an entity with little or no experience with equine care and management, a significant weakness in our opinion.

This legislation envisions creating something that already exists and has been developed painstakingly over many years by the ARCI member regulatory entities in consultation with veterinarians, anti-doping experts, research scientists, interested organizations, and participants in the sport.

Currently, medication related rules originate within the Racing Medication and Testing Consortium, where issues are raised and assigned to a Scientific Advisory Committee. Research is then conducted or existing studies analyzed before making a recommendation to the full RMTC Board, which includes major organizations representing every breed of racing including representatives of the American Association of Equine Practitioners as well as Chair of the ARCI Regulatory Veterinarian Committee and the Equine Medical Directors of Kentucky and California.

RMTC recommendations are submitted to the ARCI where they are “vetted” again, this time by the ARCI Scientific Advisory Group which includes some additional experts not involved with the RMTC process. When this second review is complete, the proposed policy is analyzed by the ARCI Drug Testing Standards and Practices and Model Rules Committees. Proposed rule changes are

published for public comment and all are considered before final action is taken by the ARCI Board of Directors.

In many respects, the ARCI functions in the same way as the proponents of this legislation claim is necessary for a new entity, except the ARCI process has extensive involvement of veterinarians, scientists, affected constituencies, and independent regulators. Why the proponents would reject the extensive experience working with horses and anti-doping policy that is evident in the RMTC/ARCI process in favor of a new entity with no such experience is a mystery.

USADA

The network of state racing commissions view the US Anti-Doping Agency as their sister entity in human sport. USADA has limited experience with equine welfare related matters. Those that seek USADA involvement in anti-doping drug testing in horse racing may not appreciate that there are no impediments to USADA becoming a vendor of a state racing commission. In fact two States, New Jersey and Nevada, have in the past year invited USADA to submit proposals to operate their drug testing programs. USADA did not submit a proposal to either state and other vendors were ultimately chosen.

We are concerned that the proposed legislation is an attempt to bypass the competitive procurement statutes of the states. If USADA is interested in entering the market for horse racing's anti-doping program (testing or administration), they should approach states individually and attempt to secure the business in an open and transparent way. I firmly believe if USADA can do a superior job, it will be noticed and they will earn the business of other states by way of their performance.

There is an enormous gap in the size of the drug testing program operated by USADA and those operated by the states for horseracing. In 2016, USADA performed 12,756 drug tests on athletes, per their annual report published on their website. By comparison the state racing commissions collectively performed over 354,000 tests. The size of the USADA program is equivalent to 4% of the program operated by the States in horseracing.

The standards enforced by USADA are contained in the World Anti-Doping Agency Code. But there is a significant difference between the ARCI Model Rule

standards and the WADA Code in that horseracing does not permit athletes to compete under the influence of a prohibited substance with the granting of a therapeutic use exemption, as noted in Section 4.4 of the WADA Code.

The WADA Code specifically states:

> 4.4.1 The presence of a *Prohibited Substance* or its *Metabolites* or *Markers*, and/or the *Use* or *Attempted Use*, *Possession* or *Administration* or *Attempted Administration* of a *Prohibited Substance* or *Prohibited Method* shall not be considered an anti-doping rule violation if it is consistent with the provisions of a *TUE* granted in accordance with the International Standard for Therapeutic Use Exemptions.

The WADA Code is applicable to substances administered during training and in competition. A TUE allows an athlete to compete in competition under the influence of an otherwise banned performance enhancing substance. There is no corresponding exemption in horseracing, although some argue that the regulated and publicly disclosed raceday administration of furosemide is a form of TUE.

In any event, human sport does not identify the athlete, the drug, or the event where a TUE has been granted. The lack of transparency in this system will become troublesome as States begin to authorize sports betting on human events.

The following charts, contained in the USADA 2016 Annual Report demonstrate that of the applications received for a TUE, the USADA approved 81% of them. You will also see the categories for the drugs that were approved. All of the substances approved, with perhaps the exclusion of the publicly disclosed raceday administration of the diuretic furosemide, would never – ever – be permitted to be in a horse when it races. Again, the ARCI Standards for horseracing are more stringent.

TUE Application Outcomes

	U.S. ITP/RTP	U.S. Non-National	Total
Granted	128	270	398
Denied	19	77	96
Totals	147	347	494

2016

TUEs Granted by Prohibited List and Athlete Competition Level

This table represents TUEs granted to U.S. athletes by either USADA or their respective International Federation.

2016 WADA Prohibited List Category	U.S. ITP/RTP	U.S. Non-National
S1 - Anabolic Agents	3	15
S2 - Peptide Hormones, Growth Factors, Related Substances, and Mimetics	2	20
S3 - Beta-2 Agonists	5	7
S4 - Hormone and Metabolic Modulators	2	34
S5 - Diuretics and other Masking Agents	11	21
S6 - Stimulants	27	111
S7 - Narcotics	11	5
S8 - Cannabinoids	2	0
S9 - Glucocorticoids	44	38
M1 & M2 - Prohibited Methods	20	17
P2 - Beta Blockers	1	2
Totals	**128**	**270**

ITP = International Testing Pool
RTP = Registered Testing Pool
Non-National = All other athletes not in a Registered Testing Pool

We believe the extent to which performance enhancing drugs are allowed in human sport competition is a little-known fact and will be of greater importance as sports betting expands in the United States.

It is not commonly known that Major League Baseball had granted a TUE to Alex Rodriguez. Rodriguez would ultimately become baseball's public enemy #1 when it came to doping, but in one instance, he was actually quietly granted permission. On July 2, 2014 the Newark Star Ledger reported:

> Major League Baseball allowed Alex Rodriguez to use performance-enhancing drugs during his MVP season in 2007 and again in 2008, according to an excerpt of *Blood Sport: Alex Rodriguez, Biogenesis, and the Quest to End Baseball's Steroid Era*. The book's authors, Tim Elfrink and Gus Garcia-Roberts, report Rodriguez requested a therapeutic use exemption (TUE) to use testosterone, which was banned in 2003, in 2007 and MLB granted the permission on February 16, 2007, two days before the start of spring training.

There is no backdoor way to obtain permission to compete in a horse race with a performance enhancing drug. With the exception of the equine welfare administration of raceday furosemide, state horse racing commissions are consistent in their policy of not allowing performance enhancing drugs to be in a horse when it races. If there is a condition in the horse requiring medication treatment the current policy is that the horse should not run if the substance is still active. It is not unusual for an attending veterinarian to remove a horse from competition due to a medical concern. Such voluntary actions are called "vet scratches". As noted in the above mentioned Model Rules, the Official Veterinarian can also exclude a horse from competition under the authority of the regulatory agency.

It has also come to light that TUE's may be granted retroactively by the USADA. This policy means that if an athlete has a bad test the violation can be wiped away through the granting of a retroactive TUE. No such mechanism exists in horse racing.

This little-known policy was highlighted in a September 10, 2015 news report on SB Nation concerning USADA's granting of a retroactive TUE for professional fighter Floyd Mayweather:

> **USADA gave Mayweather retroactive OK to use banned IV for Pacquiao fight**
> By Mookie Alexander @mookiealexander on Sep 10, 2015, 1:32p 45
>
> "Floyd Mayweather Jr. reportedly was given USADA exemption to use a WADA-banned IV injection on the eve of his superfight with Manny Pacquiao.

“To the UFC fan, the US Anti-Doping Agency (USADA) is here to provide a needed regulatory body to "clean up" the sport's PED problem. It sounds like a good deal at face value, but as long-time boxing journalist Thomas Hauser uncovered in an SB Nation longform, USADA is dealing with its own major credibility issues in boxing. Far and away the biggest controversy that has made the rounds on sports media is the IV use of Floyd Mayweather the night before his mega-fight with Manny Pacquiao back in May.

“Here's the meat of the (very long) story regarding what USADA found when they performed an unannounced drug test at Mayweather's home in Las Vegas after the weigh-ins were finished: The collection agents found evidence of an IV being administered to Mayweather.

“Bob Bennett, the executive director of the Nevada State Athletic Commission, which had jurisdiction over the fight, says that USADA did not tell the commission whether the IV was actually being administered when the agents arrived. USADA did later advise the NSAC that Mayweather's medical team told its agents that the IV was administered to address concerns related to dehydration….

“The mixes themselves are not prohibited by the World Anti-Doping Agency (WADA), which sets the standards that USADA purports to follow. However, their intravenous administration is prohibited by WADA.

“WADA prohibits these IV injections or infusions "of more than 50 ml per 6 hour period" at all times when an athlete is subject to testing, and the concern over using IVs to dilute or mask other substances in one's system is essentially the same in boxing as it will soon be in the UFC.

“Supposedly, when the drug testing part of the contract was ironed out between Mayweather and Pacquiao, this was the wording regarding camp notifications and applying for TUEs for substances and/or IV injections that are otherwise prohibited by WADA:

> "Mayweather and Pacquiao agree that USADA shall notify both athletes within 24 hours of any of the following occurrences: (1) the approval by USADA of a TUE application submitted by either athlete; and/or (2) the existence of and/or any modification to an existing approved TUE.
>
> “Notification pursuant to this paragraph shall consist of and be limited to: (a) the date of the application; (b) the prohibited substance(s) or method(s) for which the TUE is sought; and (c) the manner of use for the prohibited substance(s) or method(s) for which the TUE is sought."

“Pay attention closely to that, because the story gets zanier from there. **Not only did USADA reportedly not notify the Nevada Athletic Commission about the procedure until 3 weeks after the fact, they granted Mayweather a retroactive TUE that wasn't even requested until May 19th.** (emphasis provided)

> "For 20 days after the IV was administered, USADA chose not to notify the Nevada State Athletic Commission about the procedure. Finally, on May 21, USADA sent a letter to Francisco Aguilar and Bob Bennett (respectively, the chairman and executive director of the NSAC) with a copy to Top Rank (Pacquiao's promoter) informing them that a retroactive therapeutic use exemption had been granted to Mayweather. The letter did not say when the request for the retroactive TUE was made by Mayweather or when it was granted by USADA.
>
> "Subsequent correspondence in response to requests by the NSAC and Top Rank for further information revealed that the TUE was not applied for until May 19 and was granted on May 20. In other words, 18 days after the fight, USADA gave Mayweather a retroactive therapeutic use exemption for a procedure that is on the WADA Prohibited Substances and Methods List. And because of a loophole in its drug-testing contract, USADA wasn't obligated to notify the Nevada State Athletic Commission or Pacquiao camp regarding Mayweather's IV until after the retroactive TUE was granted.
>
> "Meanwhile, on May 2 (fight night), Pacquiao's request to be injected with Toradol (a legal substance) to ease the pain caused by a torn rotator cuff was denied by the Nevada State Athletic Commission because the request was not made in a timely manner.
>
> "NAC executive director Bob Bennett was not pleased with USADA's handling of the situation, particularly the decision to retroactively grant Mayweather's TUE: "The TUE for Mayweather's IV - and the IV was administered at Floyd's house, not in a medical facility, and wasn't brought to our attention at the time - was totally unacceptable. I've made it clear to Travis Tygart that this should not happen again. We have the sole authority to grant any and all TUEs in the state of Nevada. USADA is a drug-testing agency. USADA should not be granting waivers and exemptions. Not in this state. We are less than pleased that USADA acted the way it did."
>
> ***"So to recap - Mayweather takes illegal IV injection, gets TUE after the fact. Pacquiao asks for legal injection on fight night, but is denied due to time".*** (emphasis provided).

We do not reference this report for any other purpose than to underscore public credibility issues associated with the granting of TUEs, let alone retroactive TUEs.

The USADA is not a government agency and its employees are not subject to ethics restrictions, financial disclosure requirements, public misconduct investigations, or the normal checks and balances provided for oversight of state racing commissions and their employees.

The lack of transparency associated with the granting of retroactive TUEs should be a cause of concern, especially since federal funds are involved and betting on human sport is anticipated to be expanded throughout the country. Even though the USADA receives a significant amount of its funding from the federal

government, I am not aware of any independent programmatic audit or review that has ever been conducted. Given the money involved with major sporting events, in my humble opinion the lack of real and independent oversight over the granting of retroactive TUE's creates an integrity vulnerability that should be addressed.

Independence of Horse Racing's Anti-Doping Program:

The construct of each State Racing Commission is determined by the governing statute in that state. In most cases, the State Racing Commission is an independent regulatory authority or part of an independent regulatory authority, usually a Gaming Commission. This is the case in New York, Iowa, Michigan, and South Dakota. In some cases, it is a branch of a State's law enforcement network, as in New Jersey and Idaho. In California, the California Horse Racing Board is an independent regulatory commission within the Department of Business, Consumer Services and Housing Agency.

Some states have determined that in the making of public policy affecting horse racing, individuals with experience in or involved with the industry should be mandated to be included on the racing commission. This is the case in Pennsylvania and Arizona. In other states, like New York, no sitting commissioners can have any interest in the regulated industry.

In all cases, sitting commissioners are public officials regardless of whether they have or had any interest in the industry. As such they are subject to public ethics laws, financial disclosure, and strict conflict of interest requirements that would require recusal if a matter posing a potential conflict were to come before them.

The state racing regulatory agencies are managed by a Director. Racing Commission Directors are uniformly prohibited from having any financial interest in any aspect of the sport and they are subject to strict ethics restrictions required of public employees within their state.

Those who claim that the state racing commissions are not sufficiently independent in order to operate an anti-doping program may not appreciate the checks and balances, oversight, transparency, and public accountability requirements associated with being a public official or public employee.

We do not believe the inclusion of a representative from the industry as a member of the rulemaking entity automatically violates the independence of the regulatory entity or its enforcement program. In some cases a commission's understanding of the practical effect of its regulations on the day to day operation of a horse racing related enterprise is enhanced by the presence of a veterinarian, horse owner, breeder, or trainer on the commission itself.

On the other hand as has been previously noted in this testimony, a private organization is not subject to the levels of transparency and accountability that are required of state racing commissions and their employees or agents. Given that this is a gambling enterprise, the lack of such oversight creates vulnerabilities that would be contrary to the public interest.

ARCI Position on H.R.2651

The Association of Racing Commissioners International (ARCI) normally does not take a formal position on pending legislation. We have in this case.

The ARCI is opposed to H.R.2651 because it is a radical and unnecessary federalization of a state responsibility that is exercised effectively in the United States.

We also do not believe it wise to put equine medication policy in the hands of a private organization with no or minimal equine welfare experience or a federal agency with not one veterinarian on staff. We also are concerned about denying a horse a legal and helpful medication that can protect its health.

While we do not agree with the policy of granting therapeutic use exemptions, we note that the Congress has funded implementation of that policy through the federal government's annual $9.5 million grant to the US Anti-Doping Agency. That WADA crafted policy does not deny a human a drug that a medical professional has determined appropriate. Yet, H.R.2651 would deny a medication proven to be helpful to the horse from being administered three hours prior to a race to safeguard against or mitigate the effects of EIPH.

This bill would deny a consideration now given to the horse than is given to human athletes. We do not agree and note that with this one equine welfare

exception of permitting a furosemide treatment, horses requiring medication in order to run the race do not run in a race as proven by the testing results and the reality of voluntary veterinarian scratches to remove a horse from competition.

H.R. 2651 represents a radical restructuring of horse racing's anti-doping and medication policy development and adoption processes and removes that authority from the individual States.

It puts the program into an entity controlled by the US Anti-Doping Agency with minimal oversight or accountability. The new "program" essentially mirrors the existing program, except that it will be the US Federal Trade Commission that will formally adjudicate and adopt rules and consider medication violation appeals.

The new entity will determine its own budget. With a majority of the Board being USADA directors or officers and the remaining seats appointed by USADA, virtually no limitations will exist on the budget despite statutory requirements of a two-thirds vote for year to year increases in excess of 5%. This is a "blank check" with far less oversight and accountability than exists under the current system.

The proposal does not differentiate between policies affecting different breeds as is currently being advanced by the ARCI. This creates a conflict which may eliminate the AQHA's desire to prohibit clenbuterol and return to a 14-day threshold. Or, it could mean that clenbuterol would be completely prohibited in thoroughbred and standardbred racing as well. Either way, this proposal appears to treat all horses equally, regardless of breed.

Equine welfare considerations appear to be relegated to a back seat as the controlling private and government entities have no involvement or experience with equine welfare matters.

The bill also outlaws the only legal and publicly disclosed therapeutic medication that is permitted on raceday that has been scientifically proven to safeguard horses engaged in rigorous exercise and competition. This bill does not extend the health considerations afforded human athletes in the WADA code to race horses in order to withhold a medication that mitigates exercise induced pulmonary hemorrhage.

As the existing anti-doping programs are financed by a variety of state funding mechanisms, the option of assessing fees directly by the new "Authority" means that the proceeds of existing racing related revenues previously used to fund anti-doping programs and testing may be diverted to other state functions that may or may not have anything to do with horse racing. In those instances where this happens the racing industry participants, particularly owners and race tracks, will effectively be forced to pay an additional federally required assessment to offset the costs of the authority and its program.

Conspicuous by its absence is any provision for federal funding as is provided for human sport testing. Federal anti-doping funds have historically been appropriated by Congress through the White House Office of National Drug Control Policy and granted to USADA to help finance their drug tests in human sport. There is nothing in this proposal for horse racing.

Section Specific Comments:
H,R, 2651 - Horse Racing Integrity Act of 2017

Section 3(2) defines "Commission" as the U.S. Federal Trade Commission. As the FTC's primary mission is to "protect consumers and promote competition" it is unclear why the proponents of this proposal abandoned equine welfare considerations by not selecting a federal agency that deals with animal welfare matters, i.e. Department of Agriculture or the Department of Health and Human Services' Food and Drug Administration. The existing state regulatory entities have extensive experience with equine welfare matters deploying a network of regulatory veterinarians and, in some cases, being housed within a state's Department of Agriculture.

Section 3(6) identifies the State Racing Commissions as an "equine constituency". State Racing Commissions are independent regulatory bodies and are not part of the racing industry. They are created by statute and accountable to the public. Their members and employees are subject to all ethics, conflict of interest, financial disclosure, open meetings, and public records statutes applicable in their jurisdiction. In addition, their performance and budget are subject to independent audit and legislative oversight.

Section 4(C) assigns jurisdiction over all horse racing anti-doping and medication control matters to the "Commission", identified previously as the Federal Trade Commission. In those instances where a state opts not to participate in the execution of the program, funds the racing industry and its participants now pay for anti-doping and medication programs may be shifted to other purposes by individual States should this proposal be enacted, notwithstanding the language contained in Section 11(e)(4).

Section 5 creates the private, not for profit entity ("The Authority") and grants it parallel and redundant responsibilities as those currently assigned to the state racing commissions by state statutes.

Section 5(b) mandates that the "Authority" be governed by a thirteen-member Board. A clear majority of the Board are either current Directors of or the President of the U.S. Anti-Doping Agency (USADA). The remaining six members are selected from the racing industry by USADA. This effectively turns control over to an entity with no equine experience although provisions for input from those familiar with equines and equine sport are provided in a limited way.

Section 5(f) creates committees, replicating the structure that already exists and is relied upon by the states in developing common regulatory standards. Current policies are formulated by the Racing Medication and Testing Consortium and "vetted" for the regulators by the Association of Racing Commissioners International. There has been universal support within the industry as well as the regulatory agencies for the system as it exists now. In fact, some states have moved to adopt the ARCI Model Medication Rules and policies by reference in statute or rule. It is unclear why the proponents propose starting from scratch as if none of this already exists.

In Section 5(f)(5) Committee members are exempted from compliance with the conflict of interest requirements. This is a departure from the current system where voting committee members of the Association of Racing Commissioners International are members or employees of the independent state regulatory entities and subject to state ethics, financial disclosure, and conflict of interest statutes.

Section 5(g) deals with the administration of the authority and duplicates the system already in place in the individual state regulatory entities.

Section 5(h) articulates that the "Authority" will propose rules to the "Commission", which ultimately determines as to whether to adopt, reject or modify. Anti-doping and medication rules currently originate within the Racing Medication and Testing Consortium, are vetted centrally by regulators in the ARCI, and promulgated locally by the individual commissions. It is unclear why the authors of this proposal opted to not empower the current RMTC/ARCI process and felt it necessary to create an entire new entity. This section does, however, limit the time the "Commission" may consider a proposed rule once formulated to 45 days.

Section 5(i) articulates how those charged with a rule violation by the "Authority" may appeal to the "Commission". The "Commission" is empowered to appoint one or more administrative law judges to consider appeals which are to be decided within 60 days following the hearing. Further appeals can be made to the Commission itself. Under this approach, the "Authority" performs the function now performed by the Stewards. Under the current system, a Stewards' decision may be appealed to the state racing commission. Further appeals go to state courts.

Under this proposal there are two regulatory appeal levels - one to the administrative law judge and a second to the full Commission itself. Decisions of the Commission may be appealed into the federal court system, where according to the Federal Court Management Statistics, March 2018, the median time for a civil appeal hearing is 26.3 months.

There is the very real possibility that the process proposed in this bill may actually increase the time it takes to finalize a decision in some matters.

Some have complained that punishments are sometimes delayed while a matter is under appeal. It is important to note that due process rights will exist for the accused regardless of the structure of the appeals process. H.R. 2651 grants the Federal Trade Commission and administrative law judge the same authority to stay imposition of a penalty that now exists within the individual states.

Section 6 articulates the required elements of the proposed Horse Racing Anti-Doping and Medication Control Program. With the exception of Section 6(b)(3) one can argue that all of these currently exist within individual state regulatory entities.

Section 6(b)(3) terminates a thirty-year equine welfare program to permit a horse to be administered a legal therapeutic medication - furosemide - under regulatory controls four hours prior to participating in a race. This medication has been scientifically proven to protect the health of horses engaged in rigorous exercise or competition from the effects of exercise induced pulmonary hemorrhage, a condition recently elevated in its degree of seriousness by the American College of Veterinary Internal Medicine.

Existing state racing regulatory policy strictly prohibits any performance enhancing drug or substance to be in a horse when it participates in a race. Because of its ability to mitigate or eliminate the effects of EIPH, an exception was made to permit this one medication. Its use is regulated and disclosed to the public in the racing program. Today almost every horse is given this treatment as a protection, even those that are owned by individuals who claim to be opposed to its use, but choose to use it anyway to protect the health of their horses.

This repeal is a radical departure from the standards contained in the World Anti-Doping Code which permit human athletes to train and compete under a wide array of otherwise prohibited drugs if granted a "Therapeutic Use Exemption" (TUE). Per the USADA 2016 annual report, 81% of the TUE requests considered are approved. The proponents of this legislation would deny horses the same consideration human athletes are granted. This raises significant moral questions as to the motivation to deny a horse a legal medication that is protective of its health and does not mask pain or injury that might result in catastrophic injury.

Section 6(e) requires the proposed program to take into consideration international anti-doping and medication control standards as well as the World Anti-Doping Code. There are numerous international standards pertaining to equine sports, including those adopted by International Federation of Equine Sports (FEI), the Association of Racing Commissioners International (ARCI), and the International Federation of Horse Racing Authorities (IFHA). All standards are similar, but not identical. For instance, the ARCI standards have been

developed and are relied upon in North America, Mexico, parts of the Caribbean, and now Saudi Arabia.

Section 6(g) requires the new "Authority" to replicate standards that already exist with regard to lists of prohibited substances. If the goal of this legislation is to foster international harmonization of racing rules, the creation of yet another set of standards will only add to the FEI, ARCI and IFHA standards that currently exist. The ARCI Model Rules are the agreed upon standards developed and adopted within ARCI by the regulatory entities in North America, Mexico and parts of the Caribbean. Some ARCI Model Rule standards have been incorporated by statute or rule in Canada and some US States and have the force of law as adopted by the ARCI.

The bill language in this section is also vague with regard to whether the WADA policy of therapeutic use exemptions affecting the usage of drugs and hormones currently prohibited in horse racing competitions should be replicated. Such a move would trigger a significant liberalization of racing's current strict rules prohibiting therapeutic medications that may affect performance on raceday.

Section 6(g)(2) adopts existing standards of the Association of Racing Commissioners International as the base for the program. Going forward, the proponents envision that updates and modifications will be made by the "Authority" thereby creating the possibility of redundant or possibly conflicting updated standards in the future. Section 6(g)(4) provides for periodic review, something that is currently done with the existing RMTC/ARCI standards.

Section 6(h) duplicates policies already in existence.

Section 6(i) duplicates the accreditation program already in place for horse race testing laboratories. This section appears to terminate the current accreditation program of the Racing Medication and Testing Consortium. Usage of RMTC accredited labs is currently the policy of most state racing commissions. The RMTC accreditation program was modeled after the WADA accreditation program requiring ISO 17025 accreditation with certain modifications so as to be applicable to the testing of horses.

Section 6(i)(3) imposes procurement requirements on the states affecting the selection of testing laboratories. In those instances where a state opts not to adhere to these requirements, either as a result of state statutory mandates or public policy considerations, the racing industry and its participants may be forced to pay for redundant regulatory costs should this proposal be enacted and funds now being paid are shifted elsewhere. The usual mechanism used to elicit state compliance with federal mandates, the denial of federal aid, is not applicable as the proponents do not propose any federal assistance for the horse racing anti-doping program.

Section 6(j) duplicates policies already in place by the states.

Section 6(k) addresses sanctions and duplicates policies already in place by the states.

Section 6(l) duplicates existing state policies to require utilization of an accredited testing laboratory. While it accepts current lab accreditation by the Racing Medication and Testing Consortium it seeks the termination and transfer of that program to the "Authority". It is unclear why the proponents would seek the termination of this program in order to transition to a new one.

Section 6(j)(1) and Section 6(j)(2) duplicate the existing program.

Section 6(j)(3) deals with sanctions, which may include a "lifetime ban". Current state regulatory policy is structured differently as license revocations or denials are the mechanism used to exclude certain individuals from participating in the sport. These revocations or denials have system wide effect as the states have existing policies of reciprocity in such matters.

Section 6(m) provides for periodic assessment of the anti-doping program by the U.S. Comptroller General commencing after three years of operation and once every four years thereafter. By contrast, state regulatory bodies are subject to more frequent review by other state agencies, elected officials, or legislative oversight committees. These reviews are usually performed on an annual basis. The U.S. Comptroller General has no record of performing any oversight over anti-doping or equine welfare programs. Given its primary focus on proper use of federal funds and examining the results of federal agency programs, one can

question the possible effectiveness of such oversight in that there is no record of any review of the current federal funds allocated to the U.S. Anti-Doping Agency each year and the effectiveness of their program. As there is no federal funding provided for the horse racing program and the required review will not occur but once every four years, one can question the level of independent oversight and attention that will be given to the proposed program.

Section 7 appears to remove the "hammer" that existed in the previous version of this proposal which limited authority to engage in interstate simulcasting for tracks in non-compliant jurisdictions. Absent that measure or federal funding, it is unclear as to the enticement to the states to abandon existing programs and adhere to the requirements of this proposal should it be enacted. Adoption of this proposal may trigger prolonged battles in state houses across the country in jurisdictions that choose to ignore provisions of the proposal should it be enacted. The prospect is that racing industry participants, particularly horse owners, may have to foot the bill in those instances where there may be regulatory fees assessed that are shifted to other state purposes, racing related or not.

Section 8(a)(1) authorizes the "Authority" to contract with one or more states to implement all or part of the program within its state. It is unclear as to why the proponents would create an entire redundant policymaking and regulatory structure (rather than empower the existing RMTC/ARCI process or an Interstate Compact of States as referenced in Section 4) to achieve a central policy and standard making body that embraces existing RMTC/ARCI standards for a program that may be administered by the same state entities they seek to replace.

Section 8(b) knocks down any barriers between the "Authority" and State and Federal law enforcement agencies with regard to sharing information. Currently State Racing Commissions share information pertaining to possible criminal activities with State and Federal law enforcement agencies. Those agencies do not routinely share criminal investigative information with State Racing Commissions, entities that may not meet the definition of a law enforcement agency.

Section 9 clearly states that the "Authority" does not act on behalf of the Federal Government or any State.

Section 11 deals with funding and eliminates any requirement that the federal government appropriate funds or guarantee the debts of the "Authority". It is assumed that federal funds necessary to fund the involvement of the Federal Trade Commission, especially with regard to rule making and appeals, will come from existing appropriations as there is no specific funding identified. Section 11(b) restricts raising the takeout on wagers as a mechanism to fund the "Authority".

Section 11(c) authorizes the "Authority" to borrow money and accept private donations without limitation. There is no restriction on the "Authority" borrowing money or accepting funds from "covered persons" or groups representing "covered persons". Such arrangements are generally not permitted in the current state regulatory scheme where acceptance of monies or loans from a regulated individual or entity would be considered a gross ethics violation and conflict of interest. The absence of restrictions creates an integrity vulnerability where the "Authority" could become financially indebted to an individual or group of individuals actively involved in the sport it purports to independently police.

Section 11(c)(3)(A) requires the "Authority" to communicate to each State Racing Commission the amount necessary to fund the "Authority" and its programs for the coming year and to liquidate any deficit or indebtedness resulting from prior year operations. This is to be calculated on a per racing starter basis.

Section 11(c)(3)(C) gives the "Authority" the ability to set its own budget. Adoption of the initial budget would require a two-thirds vote of the Authority's Board. Subsequent budgets could be adopted upon simple majority vote as long as any increase was less than 5%. Increases larger than 5% would require a two-thirds vote of the Authority Board.

As the construct of the Authority Board contained in Section 5(B) effectively gives control over a majority of the Board and selection of the remaining Members to the U.S. Anti-Doping Agency, these sections taken together effectively give USADA the equivalent of a blank check as to determinations on funding.

Section 11(d) creates the mechanism for the States to collect monies to fund the "Authority". States appear to be free to collect this money by any means consistent with state law, although the restriction on increased take-out applies. States may elect whether to collect fees or not and may withdraw from collecting fees with appropriate notice.

Section 11(e) grants the "Authority" the ability to collect fees directly should a State opt not to. This section envisions the imposition of a per race starter assessment. Such assessment will fall on horse owners, racetracks, or a combination to be determined by the "Authority".

Section 11(e)(4) attempts to restrict States from collecting fees or taxes relating to anti-doping and medication control matters. The existing state taxes and fees that fund the existing anti-doping medication program do not automatically cease in many jurisdictions and will be subject to re-allocation to other racing regulatory purposes or non-racing related state needs.

A Concern for Equine Health

The ARCI Equine Welfare Committee, chaired by noted equine researcher, veterinarian and Pennsylvania Racing Commissioner Dr. Corrine Sweeney,DVM, met via conference call on November 7, 2017 to discuss the use of Bisphosphonates on horses that race or are intended to race. While this class of legal medication has been specifically approved by the US Food and Drug Administration (FDA) to treat navicular disease in older horses, federal law currently does not preclude their use in young horses despite concerns about their safety and research in other mammals showing a link to stress fractures. In horses, stress fractures may contribute to a catastrophic breakdown.

The Committee members were concerned about the use of these drugs in young horses amid reports of their widespread use on yearlings and two-year olds to treat pain or get them ready for the auction ring or private sale.

Some noted that the bones of horses treated with bisphosphonates may falsely appear to be fully developed when subjected to a radiograph prior to sale.

There is sentiment within ARCI to outlaw the use of these drugs in young horses, following the lead of the British Horseracing Authority which has banned their use in horses younger than 3.5 years of age.

Last year, the FDA issued a reference guide for veterinarians using these drugs consistent with existing federal authority… I have included portions of the FDA's warnings so the subcommittee may fully understand why this is so critical to the health and welfare of a racehorse.

> "As a class, bisphosphonates can cause gastrointestinal and renal toxicity. Higher blood plasma levels may increase the risk of toxicity. Because bisphosphonates are excreted by the kidneys, conditions that impair renal function may increase the blood plasma level and lead to more adverse reactions. It is not recommended to use bisphosphonates in horses with impaired renal function. Use caution if you give bisphosphonates along with other potentially nephrotoxic drugs, and be sure to monitor renal function.
>
> "Bisphosphonates can cause signs of colic in horses, including abdominal pain, discomfort, and agitation. These colic signs usually occur shortly after the drug is given and may be associated with altered intestinal motility. Bisphosphonates affect the blood plasma levels of some minerals and electrolytes, such as calcium, magnesium and potassium. The effects are immediate and can last up to several hours. Use caution when you give bisphosphonates to horses with conditions affecting mineral or electrolyte homeostasis (for example, hyperkalemic periodic paralysis or hypocalcemia) or conditions which may be worsened by hypocalcemia (for example, cardiac disease).
>
> "***The safe use of either TILDREN or OSPHOS has not been evaluated in horses less than 4 years of age. The effect of bisphosphonates on the skeleton of growing horses has not been studied. Because bisphosphonates inhibit osteoclast activity and decrease bone turnover, these drugs may affect bone growth."*** *(Emphasis provided).*
> "The safe use of either TILDREN or OSPHOS has not been evaluated in breeding horses or pregnant or lactating mares. Bisphosphonates have been shown to cause abnormal fetal development in laboratory animals. The uptake of bisphosphonates into fetal bone may be greater than into maternal bone, creating a possible risk of skeletal or other abnormalities in the fetus. Bisphosphonates may be excreted in milk and absorbed by nursing animals.

> "**Increased bone fragility has been seen in animals given bisphosphonates at high doses or for long periods of time. Because bisphosphonates inhibit bone resorption and decrease bone turnover, the body may be unable to repair microdamage within a bone."** **(***Emphasis provided).*

The Unregulated Part of the Racing Business.

H.R. 2651 does nothing to address expanding the government's (either state or federal) regulatory authority over an aspect of the racing industry beyond the jurisdictional reach of the state racing commissions.

Currently young horses bred to be racehorses are beyond the jurisdiction of a state racing commission, which has no ability to set medication policies concerning drugs administered to horses intended for sale as a racehorse. It is only later in the horse's life when it is entered to race or comes under the jurisdiction of a state racing commission, in some cases when it is on the grounds of a state licensed facility.

The then President of the Humane Society of the United States and a member of the coalition advocating for this bill, Wayne Pacelle, wrote in a July 20, 2015 column published on the animal welfare website "thedodo.com" the following:

> "Doping horses for racing is more dangerous today than ever because breeding practices — which select for speed and champagne-glass legs — make the horses less sturdy and more vulnerable to breakdowns than they were even 10 or 20 years ago."

While Mr. Pacelle neglected to note that the racehorse breeding industry is unregulated he does raise an issue pertinent to any discussion involving the adequacy of the regulatory scheme now in place.

Many young horses that have yet to race do not fall under the jurisdiction of any independent government entity. The ARCI believes they should.

Last December, the ARCI Board formally called for an expansion of regulatory authority to include young horses intended to be race horses. This was done because of the concerns associated with the widespread use of drugs that are not known to be safe for young horses as referenced earlier in this testimony.

While the sales companies do have drug policies in place. We note that these policies are more lenient than the restrictions racing regulators impose on horses that race. Many sales companies permit the stacking of non-steroidal anti-inflammatory drugs and corticosteroids to be used on horses going through the auction ring, something racing regulators do not allow.

It is not unreasonable to ask why drugs need to be given to horses that have never raced and have not been injured.

If a state or the federal government were to expand government jurisdiction in this unregulated aspect of the horse racing industry the ARCI would begin working on Model Rules to assist that agency in meeting its legislative mandate.

To date, that has not happened and we remain puzzled as to why the proponents of H.R. 2651 are so focused on outlawing a medication proven to be helpful to and protective of the health of the horse when it races and are silent on finding a way to control the use of drugs on young horses that may make them more susceptible to catastrophic breakdowns as they age.

Concluding Remarks:

The ARCI requests the subcommittee indefinitely table further consideration of H.R. 2651. We believe that as long as the advocates believe that this proposal has a chance of becoming law it will inhibit serious efforts within the industry to find a common path forward on the challenges it faces, particularly those aspects of the industry that are unregulated and our concerns about drug use in young horses that may contribute later in life to breakdowns.

We have shared our concerns with the sponsors of this bill and have found those conversations to be constructive. We appreciate the interest of the sponsors, co-sponsors and this subcommittee. We strongly urge you to not advance any legislation that would entirely “tear down the house” of state efforts in this

regard. We urge you to focus instead on the "windows that might need updating".

I have been asked if there was anything the federal government can do to help the state commissions protect horses and combat doping. The answer is yes.

The suggestions I share do not represent the ARCI, but are my personal suggestions based upon twenty-five years in the regulation of this industry. I would hope you would consider them in the same way as the Armed Services Committee might consider suggestions from a Marine field commander who has spent a lifetime on the front lines.

Again, these are my personal opinions and I speak for nobody but myself on the following suggestions. I speak from the heart as someone who loves horses as much as anyone else coming before this subcommittee and one who has a passion for honesty and integrity in this sport.

Here's what the federal government could do to help:

- Require all horses bred to be racehorses to be registered with and come under the jurisdiction of the Department of Agriculture's Animal and Plant Health Inspection Service (APHIS) which would have the ARCI maintain this data for use jointly by APHIS and the state racing commissions;
- Empower APHIS to make rules affecting young horses not yet under the jurisdiction of a state racing commission;
- Direct APHIS to contract with state racing commissions for the purpose of out-of-competition equine welfare examinations to determine adherence to the APHIS rules;
- Authorize APHIS to recover costs for such inspections from the owners of any horse inspected, consistent with state racing commission contracts entered into for this purpose;
- Require that a portion of the existing funds - $9.5 million - appropriated by Congress each year for anti-doping programs through the White House Office of National Drug Policy be available to fund anti-doping research of the Racing Medication and Testing Consortium consistent with anti-doping needs identified by the Organization of Racing Investigators or the ARCI;

- Adopt the ARCI Model Rules affecting equine welfare and medication by reference;
- Require the Federal Bureau of Investigation (FBI) and the Drug Enforcement Agency (DEA) to each dedicate at least one agent for the sole purpose of assisting state racing commissions in the conduct of investigations, particularly those that cross jurisdictional lines. Note: The FDA already has such an investigator assigned.

I would like to thank the subcommittee for the opportunity to present information on this subject. I would encourage each Member and your staff members to utilize the ARCI as a resource should you wish to explore public policy options in this area.

-END-