

**WAC 260-84-090 Equine medication and prohibited substances—Penalties—Guidelines.** (1) Upon a finding of a violation of the medication and prohibited substances rules in chapter 260-70 WAC, the stewards will consider the classification level of the medication, drug or substance prior to imposing a penalty. The stewards will also consult with an official veterinarian to determine the nature and seriousness of the laboratory finding or the medication violation and whether the violation was a result of the administration of a therapeutic medication as documented in a veterinarian's report received per WAC 260-70-540.

(2) Upon the finding of the laboratory of a positive test, the equine medical director shall prepare, for presentation at the steward's conference, testimony to assist the stewards in determining the seriousness of the violation. Industry experts should be contacted to assist with the research as to whether the reported violation is of a nature that may have affected the outcome of the race. The finding of the equine medical director may be considered as mitigating or aggravating circumstances.

Based upon the finding of fact, if the quantification of a therapeutic substance is considered by the stewards and equine medical director to be of no significance, the trainer and veterinarian of record will be contacted for administration details, but a formal hearing notice may be waived.

(3) A lesser penalty than that established in WAC 260-84-110 may be imposed if a majority of the stewards determine that mitigating circumstances warrant a lesser penalty. If a majority of the stewards determine a greater penalty is appropriate or that a penalty in excess of the authority granted them is appropriate, they may impose the maximum penalty authorized and refer the matter to the commission with specific recommendations for further action. In determining if there are mitigating circumstances surrounding a medication violation for substances referred to in chapter 260-70 WAC, at least the following will be considered:

- (a) The past record of the trainer and/or veterinarian in medication/drug cases;
- (b) The potential of the medication/drug to influence a horse's racing performance;
- (c) The availability of the medication/drug;
- (d) Whether there is reason to believe the responsible party knew of the administration of the medication/drug used;
- (e) The steps taken by the trainer to safeguard the horse;
- (f) The probability of environmental contamination or inadvertent exposure due to human drug use;
- (g) The purse of the race;
- (h) Whether the medication found was one for which the horse was receiving a treatment as determined by the veterinarian report(s);
- (i) Whether there was any suspicious betting pattern in the race;
- (j) Whether the presence of the medication/drug in urine was confirmed in serum or plasma; and
- (k) The level of the overage and its probability to affect the outcome of the race.

(4) If a majority of the stewards determine a penalty greater than established in these rules is appropriate, they may impose the maximum penalty authorized and refer the matter to the commission with specific recommendations for further action.

(5) If the penalty is not otherwise established for a violation of chapter 260-70 WAC, the penalty will be determined by the board of stewards.

(6) Equine medication violations from Washington and all recognized racing jurisdictions will be considered when assessing penalties.

[Statutory Authority: RCW 67.16.020. WSR 15-07-058, § 260-84-090, filed 3/16/15, effective 4/16/15. Statutory Authority: RCW 67.16.020 and 67.16.040. WSR 08-05-086, § 260-84-090, filed 2/15/08, effective 3/17/08; WSR 06-07-058, § 260-84-090, filed 3/10/06, effective 4/10/06; WSR 05-07-064, § 260-84-090, filed 3/11/05, effective 4/11/05.]