

## **810 KAR 1:028. Disciplinary measures and penalties.**

RELATES TO: KRS 230.215, 230.225, 230.260, 230.265, 230.290, 230.300, 230.310, 230.320, 230.361

STATUTORY AUTHORITY: KRS 230.215, 230.225, 230.240, 230.260, 230.265, 230.320

NECESSITY, FUNCTION, AND CONFORMITY: KRS 230.260(8) authorizes the commission to promulgate necessary and reasonable administrative regulations under which racing shall be conducted in Kentucky. This administrative regulation establishes the penalty structure for rule violations and also establishes disciplinary powers and duties of the stewards and the commission.

Section 1. Definitions. (1) "Associated person" means the spouse of an inactive person, or a companion, family member, employer, employee, agent, partnership, partner, corporation, or other entity whose relationship, whether financial or otherwise, with an inactive person would give the appearance that the other person or entity would care for or train a horse or perform veterinarian services on a horse for the benefit, credit, reputation, or satisfaction of the inactive person.

(2) "Class A drug" means a drug, medication, or substance classified as a Class A drug, medication, or substance in the schedule.

(3) "Class B drug" means a drug, medication, or substance classified as a Class B drug, medication, or substance in the schedule.

(4) "Class C drug" means a drug, medication, or substance classified as a Class C drug, medication, or substance in the schedule.

(5) "Class D drug" means a drug, medication, or substance classified as a Class D drug, medication, or substance in the schedule.

(6) "Companion" means a person who cohabits with or shares living accommodations with an inactive person.

(7) "Inactive person" means a trainer or veterinarian who has his or her license denied or suspended or revoked for thirty (30) or more days pursuant to 810 KAR Chapter 1 or KRS Chapter 230.

(8) "NSAID" means a non-steroidal anti-inflammatory drug.

(9) "Primary threshold" means the thresholds for phenylbutazone, flunixin, and ketoprofen provided in 810 KAR 1:018, Section 8(1)(a), (b), and (c), respectively.

(10) "Schedule" means the Kentucky Horse Racing Commission Uniform Drug, Medication, and Substance Classification Schedule as provided in 810 KAR 1:040.

(11) "Secondary threshold" means the thresholds for phenylbutazone, flunixin, and ketoprofen provided in 810 KAR 1:018, Section 8(3)(b), (c) and (d), respectively.

(12) "Withdrawal guidelines" means the Kentucky Horse Racing Commission Withdrawal Guidelines Thoroughbred; Standardbred; Quarter Horse, Appaloosa, and Arabian as provided in 810 KAR 1:040.

Section 2. General Provisions. (1) An alleged violation of the provisions of KRS Chapter 230 relating to thoroughbred racing or 810 KAR Chapter 1 shall be adjudicated in accordance with 810 KAR 1:029, KRS Chapter 230, and KRS Chapter 13B.

(2) If a drug, medication, or substance is found to be present in a pre-race or post-race sample or possessed or used by a licensee at a location under the jurisdiction of the commission that is not classified in the schedule, the commission may establish a classification after consultation with either or both of the Association of Racing Commissioners International and the Racing and Medication Testing Consortium or their respective successors.

(3) The stewards and the commission shall consider any mitigating or aggravating circumstances properly presented when assessing penalties pursuant to this administrative regulation. A licensee may provide evidence to the stewards or the commission that the licensee complied fully with the withdrawal guidelines as a mitigating factor.

(4) A licensee whose license has been suspended or revoked in any racing jurisdiction or a horse that has been deemed ineligible to race in any racing jurisdiction, shall be denied access to locations under the jurisdiction of the commission during the term of the suspension or revocation.

(5) A suspension or revocation shall be calculated in Kentucky racing days, unless otherwise specified by the stewards or the commission in a ruling or order.

(6) A person assessed any penalty, including a written warning, pursuant to this administrative regulation shall have his or her name and the terms of his or her penalty placed on the official Web site of the commission and the Association of Racing Commissioners International, or its successor. If an appeal is pending, that fact shall be so noted.

(7) A horse administered a substance in violation of 810 KAR 1:018 may be required to pass a commission-approved examination as determined by the stewards pursuant to 810 KAR 1:012, Section 10, or be placed on the veterinarian's list pursuant to 810 KAR 1:018, Section 18.

(8)(a) A claimed horse may be tested for the presence of prohibited substances if the claimant completes the Request for Post-Race Testing of Claimed Horse form and includes the form in the claim blank envelope, which is deposited in the association's claim box. The request shall not be valid if the form is not filled out completely and included in the claim envelope. The claimant shall bear the costs of the test. The results of the test shall be reported to the chief state steward.

(b) A person who claims a horse may void the claim if the post-race or TCO<sub>2</sub> test indicates a Class A, B, or C drug violation, or a total carbon dioxide (TCO<sub>2</sub>) level exceeding thirty-seven (37.0) millimoles per liter. If the claim is voided, the person claiming the horse shall then be entitled to reimbursement from the previous owner of all reasonable costs associated with the claiming process and the post-race or TCO<sub>2</sub> testing, including the costs of transportation, board, training, veterinary or other medical services, testing, and any other customary or associated costs or fees.

(c) While awaiting test results, a claimant:

1. Shall exercise due care in maintaining and boarding a claimed horse; and
2. Shall not materially alter a claimed horse.

(9) To protect the racing public and ensure the integrity of racing in Kentucky, a trainer whose penalty for a Class A violation or for a Class B third offense violation has not been fully and finally adjudicated may, if stall space is available, be required to house a horse that the trainer has entered in a race in a designated stall for the twenty-four (24) hour period prior to post time of the race in which the horse is entered. If the stewards require the trainer's horse to be kept in a designated stall, there shall be twenty-four (24) hour surveillance of the horse by the association, and the cost shall be borne by the trainer.

(10) In addition to the penalties contained in Section 4 of this administrative regulation for the trainer and owner, any other person who administers, is a party to, facilitates, or is found to be responsible for any violation of 810 KAR 1:018 shall be subject to the relevant penalty as provided for the trainer or other penalty as may be appropriate based upon the violation.

(11) A veterinarian who administers, is a party to, facilitates, or is found to be responsible for any violation of KRS Chapter 230 or 810 KAR Chapter 1 shall be reported to the Kentucky Board of Veterinary Examiners and the state licensing Board of Veterinary Medicine by the stewards.

(12) In accordance with KRS 230.320(6), an administrative action or the imposition of penalties pursuant to this administrative regulation shall not constitute a bar or be considered jeopardy to prosecution of an act that violates the criminal statutes of Kentucky.

(13) If a person is charged with committing multiple or successive overages involving a Class C or D drug, the stewards or the commission may charge the person with only one (1) offense if the person demonstrates that he or she was not aware that overages were being administered because the positive test results showing the overages were unavailable to the person charged. In this case, the person alleging that he or she was not aware of the overages shall bear the burden of proving that fact to the stewards or the commission.

(14) If a penalty for a medication violation requires a horse to be placed on the stewards' list for a period of time, the stewards may waive this requirement if ownership of the horse was legitimately transferred prior to the trainer's notification by the commission of the positive test result.

Section 3. Prior Offenses. A prior offense occurring in Kentucky or any other racing jurisdiction shall be considered by the stewards and by the commission in assessing penalties. The stewards shall attach to a penalty judgment a copy of the offender's prior record containing violations that were committed both inside and outside of Kentucky.

Section 4. Penalties for Class A, B, C, and D Drug Violations and NSAID and Furosemide Violations. (1) Class A drugs.

(a) TRAINER

First offense	Second lifetime offense in any racing jurisdiction	Third lifetime offense in any racing jurisdiction
One (1) to three (3) year suspension;  AND  \$10,000 to \$25,000 fine.	Three (3) to five (5) year suspension;  AND  \$25,000 to \$50,000 fine.	Five (5) year suspension to a lifetime ban;  AND  \$50,000 to \$100,000 fine.

(b) OWNER

First offense	Second lifetime offense in any racing jurisdiction in a horse owned by the same owner	Third lifetime offense in any racing jurisdiction in a horse owned by the same owner

Disqualification and loss of purse;	Disqualification and loss of purse;	Disqualification and loss of purse;
AND	AND	AND
Horse shall be placed on the stewards' list for sixty (60) days and may be required to pass a commission-approved examination before being eligible to enter as determined by the stewards.	Horse shall be placed on the stewards' list for 120 days and may be required to pass a commission-approved examination before being eligible to enter as determined by the stewards.	Ninety (90) day suspension;
		AND
		\$50,000 fine;
		AND
		Horse shall be placed on the stewards' list for 180 days and may be required to pass a commission-approved examination before being eligible to enter as determined by the stewards.

(2)(a) The penalties established in paragraphs (b) and (c) of this subsection shall apply to the following:

1. Class B drugs;
  2. Gamma amino butyric acid in a concentration greater than 110 nanograms per milliliter;
- and
3. Cobalt in a concentration greater than fifty (50) parts per billion.

(b) TRAINER

First offense	Second offense within a 365-day period in any racing jurisdiction	Third offense within a 365-day period in any racing jurisdiction
Thirty (30) to sixty (60) day suspension;	Sixty (60) to 180 day suspension;	180 to 365 day suspension;

pension;  AND  \$500 to \$1,000 fine.	AND  \$1,000 to \$2,500 fine.	AND  \$2,500 to \$5,000 fine.
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(c) OWNER

First offense	Second offense within a 365-day period in any racing jurisdiction in a horse owned by the same owner	Third offense within a 365-day period in any racing jurisdiction in a horse owned by the same owner
<p>Disqualification and loss of purse;</p> <p>Horse may be required to pass a commission-approved examination before being eligible to enter as determined by the stewards;</p> <p>AND</p> <p>For a cobalt violation, the horse shall be placed on the stewards' list until the horse tests below twenty-five (25) parts per billion. The owner shall be</p>	<p>Disqualification and loss of purse;</p> <p>AND</p> <p>Horse may be required to pass a commission-approved examination before being eligible to enter as determined by the stewards.</p>	<p>Disqualification and loss of purse;</p> <p>AND</p> <p>Horse shall be placed on the stewards' list for forty-five (45) days and may be required to pass a commission-approved examination before being eligible to enter as determined by the stewards.</p>

responsible for the cost of testing.		
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(3)(a) The penalties established in paragraphs (b) and (c) of this subsection shall apply to a Class C drug violation and an overage of permitted NSAIDs as follows:

1. Phenylbutazone in a concentration greater than five (5.0) micrograms per milliliter;
2. Flunixin in a concentration greater than 100 nanograms per milliliter; and
3. Ketoprofen in a concentration greater than fifty (50) nanograms per milliliter.

(b) TRAINER

First offense	Second offense within a 365-day period in any racing jurisdiction	Third offense within a 365-day period in any racing jurisdiction
Zero to ten (10) day suspension;  AND  \$500 to \$1,500 fine.	Ten (10) to thirty (30) day suspension;  AND  \$1,500 to \$2,500 fine.	Thirty (30) to sixty (60) day suspension;  AND  \$2,500 to \$5,000 fine.

(c) OWNER

First offense	Second offense within a 365-day period in any racing jurisdiction	Third offense within a 365-day period in any racing jurisdiction
Disqualification and loss of purse;  AND  Horse may be required to pass a commission-approved examination be-	Disqualification and loss of purse;  AND  If same horse as first offense, horse shall be placed on the stewards' list for	Disqualification and loss of purse;  AND  \$5,000 fine;  AND  If same horse as first and

fore being eligible to enter as determined by the stewards.	forty-five (45) days and may be required to pass a commission-approved examination before being eligible to enter as determined by the stewards.	second offenses, horse shall be placed on the stewards' list for sixty (60) days and may be required to pass a commission-approved examination before being eligible to enter as determined by the stewards.
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(4)(a)The penalties established in paragraphs (b) and (c) of this subsection shall apply to the following:

1. Overage of permitted NSAIDs as follows:

- a. Phenylbutazone in a concentration greater than two (2) micrograms per milliliter through five (5) micrograms per milliliter;
- b. Flunixin in a concentration greater than twenty (20) nanograms per milliliter through 100 nanograms per milliliter; and
- c. Ketoprofen in a concentration greater than two (2) nanograms per milliliter through fifty (50) nanograms per milliliter;

2. Overage of furosemide in a concentration greater than 100 nanograms per milliliter;

3. Furosemide not identified when notice made that the horse would run on furosemide; and

4. Cobalt in a concentration greater than twenty-five (25) parts per billion through fifty (50) parts per billion.

(b) TRAINER

First offense	Second offense within a 365-day period in any racing jurisdiction	Third offense within a 365-day period in any racing jurisdiction
Written warning to a \$500 fine.	Written warning to a \$750 fine.	\$500 to \$1,000 fine.

(c) OWNER

First offense	Second of-	Third offense
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	fense within a 365-day period in any racing jurisdiction	within a 365-day period in any racing jurisdiction
Horse may be required to pass a commission-approved examination before being eligible to enter as determined by the stewards;  AND  For a cobalt violation, the horse shall be placed on the stewards' list until the horse tests below twenty-five (25) parts per billion. The owner shall be responsible for the cost of testing.	Horse may be required to pass a commission-approved examination before being eligible to enter as determined by the stewards.	If same horse as first and second offenses, disqualification and loss of purse;  AND  Horse may be required to pass a commission-approved examination before being eligible to enter as determined by the stewards.

(d) If a furosemide violation occurs due solely to the actions or inactions of the commission veterinarian, then the trainer and owner shall not be penalized.

(5) Multiple NSAIDs. Overage of two (2) permitted NSAIDs phenylbutazone, flunixin, and ketoprofen.

(a) TRAINER

	Concentrations of both permitted NSAIDs above the primary thresh-	Concentrations of one (1) permitted NSAID above the primary	Concentrations of both permitted NSAIDs below primary threshold and
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	old.	threshold and one (1) above the secondary threshold.	above secondary threshold.
First offense	Zero to sixty (60) day suspension;  AND  \$500 to \$1,000 fine.	Zero to fifteen (15) day suspension;  AND  \$250 to \$750 fine.	Zero to five (5) day suspension;  AND  \$250 to \$500 fine.
Second offense within a 365-day period in any racing jurisdiction	Sixty (60) to 180 day suspension;  AND  \$1,000 to \$2,500 fine.	Fifteen (15) to thirty (30) day suspension;  AND  \$750 to \$1,500 fine.	Five (5) to ten (10) day suspension;  AND  \$500 to \$1,000 fine.
Third offense within a 365-day period in any racing jurisdiction	180 to 365 day suspension;  AND  \$2,500 to \$5,000 fine.	Thirty (30) to sixty (60) day suspension;  AND  \$1,500 to \$3,000 fine.	Ten (10) to fifteen (15) day suspension;  AND  \$1,000 to \$2,500 fine.

(b) OWNER

	Concentrations of both permitted NSAIDs above the primary threshold.	Concentrations of one (1) permitted NSAID above the primary threshold and one (1) above the secondary threshold.	Concentrations of both permitted NSAIDs below primary threshold and above secondary threshold.
First offense	Disqualification and loss of purse.	Disqualification and loss of purse.	No Penalty.
Second	Disqualification	Disqualification	No Penalty.

offense within a 365-day period in any racing jurisdiction	and loss of purse.	and loss of purse.	
Third offense within a 365-day period in any racing jurisdiction	Disqualification and loss of purse.	Disqualification and loss of purse.	No Penalty.

(6) Class D drugs.

(a) The penalties established in paragraph (b) of this subsection shall apply to a Class D drug violation.

(b) TRAINER

One (1) to four (4) offenses within a 365-day period in any racing jurisdiction	Five (5) or more offenses within a 365-day period in any racing jurisdiction
Zero to five (5) day suspension;	Five (5) to ten (10) day suspension;
AND	AND
\$250 to \$500 fine.	\$500 to \$1,000 fine.

Section 5. TCO2 Penalties. Penalties for violations of 810 KAR 1:018, Section 20(6), (7), or (8) shall be as follows:

(1) TRAINER

First offense	Second offense within a 365-day period in any racing jurisdiction	Third offense within a 365-day period in any racing jurisdiction	Subsequent offenses within a 365-day period in any racing jurisdiction
Zero to ninety (90) day suspension;	Ninety (90) to 180 day suspension;	180 to 365 day suspension;	One (1) year suspension to lifetime ban.
AND	AND	AND	

\$1,000 to \$1,500 fine.	\$1,500 to \$3,000 fine.	\$3,000 to \$5,000 fine.	
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(2) OWNER

First offense	Second offense within a 365-day period in any racing jurisdiction	Third offense within a 365-day period in any racing jurisdiction	Subsequent offenses within a 365-day period in any racing jurisdiction
Disqualification and loss of purse.	Disqualification and loss of purse;  AND  If same horse as first offense, horse shall be placed on the stewards' list from fifteen (15) to sixty (60) days and may be required to pass a commission-approved examination before being eligible to enter as determined by the stewards.	Disqualification and loss of purse;  AND  If same horse as first and second offenses, horse shall be placed on the stewards' list from sixty (60) to 180 days and may be required to pass a commission-approved examination before being eligible to enter as determined by the stewards.	Disqualification and loss of purse;  AND  If same horse as first, second, and third offenses, horse shall be placed on the stewards' list from 180 to 365 days and may be required to pass a commission-approved examination before being eligible to enter as determined by the stewards.

Section 6. Shock Wave Machine and Blood Gas Machine Penalties. Penalties for violations of 810 KAR 1:018, Section 20(5), (9), or (10), shall be as follows:

(1) TRAINER

First offense	Second lifetime offense in any racing jurisdiction	Third lifetime offense in any racing jurisdiction
Thirty (30) to sixty (60)	Sixty (60) to 180 day	180 to 365 day sus-

day sus- pension;  AND  \$1,000 to \$5,000 fine.	suspension;  AND  \$5,000 to \$10,000 fi- ne.	pension; AND  \$10,000 to \$20,000 fi- ne.
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(2) OWNER

First offense	Second life- time offense in any racing ju- risdiction	Third lifetime offense in any racing jurisdic- tion
Disqualification and loss of purse.	Disqualification and loss of purse;  AND  If same horse as first of- fense, horse shall be placed on the stew- ards' list from fifteen (15) to sixty (60) days and may be required to pass a commis- sion- approved ex- amination be- fore being eli- gible to enter as determined by the stew- ards.	Disqualification and loss of purse;  AND  If same horse as first and second of- fenses, horse shall be placed on the stew- ards' list from sixty (60) to 180 days and may be re- quired to pass a commis- sion- approved ex- amination be- fore being eli- gible to enter as determined by the stew- ards.

Section 7. Out-of-Competition Testing. The penalties established in 810 KAR 1:110, Section 8, shall apply to violations involving the prohibited substances and practices described in Section 2 of that administrative regulation.

Section 8. Persons with a Suspended or Revoked License. (1) A person shall not train a horse or practice veterinary medicine for the benefit, credit, reputation, or satisfaction of an inactive person. The partners in a veterinary practice may provide services to horses if the inactive person does not receive a pecuniary benefit from those services.

(2) An associated person of an inactive person shall not:

(a) Assume the inactive person's responsibilities at a location under the jurisdiction of the commission;

(b) Complete an entry form for a race to be held in Kentucky on behalf of or for the inactive person or an owner or customer for whom the inactive person has worked; or

(c) Pay or advance an entry fee for a race to be held in Kentucky on behalf of or for the inactive person or an owner or customer for whom the inactive person has worked.

(3) An associated person who assumes the responsibility for the care, custody, or control of an unsuspended horse owned (fully or partially), leased, or trained by an inactive person shall not:

(a) Be paid a salary directly or indirectly by or on behalf of the inactive person;

(b) Receive a bonus or any other form of compensation in cash, property, or other remuneration or consideration;

(c) Make a payment or give remuneration or other compensation or consideration to the inactive person or associated person; or

(d) Train or perform veterinarian work for the inactive person or an owner or customer of the inactive person at a location under the jurisdiction of the commission.

(4) A person who is responsible for the care, training, or veterinarian services provided to a horse formerly under the care, training, or veterinarian services of an inactive person shall:

(a) Bill customers directly on his or her bill form for any services rendered at or in connection with any race meeting in Kentucky;

(b) Maintain a personal checking account totally separate from and independent of that of the inactive person to be used to pay expenses of and deposit income from an owner or client of the inactive person;

(c) Not use the services, directly or indirectly, of current employees of the inactive person; and

(d) Pay bills related to the care, training, and racing of the horse from a separate and independent checking account. Copies of the invoices for the expenses shall be retained for not less than six (6) months after the date of the reinstatement of the license of the inactive person or the expiration of the suspension of the inactive person's license.

Section 9. Other Disciplinary Measures. (1) A person who violates 810 KAR 1:018, Section 20(2), shall be treated the same as a person who has committed a drug violation of the same class, as determined by the commission after consultation with the Equine Drug Research Council.

(2) A person who violates 810 KAR 1:018, Section 20(3), shall be treated the same as a person who has committed a Class A drug violation.

Section 10. Disciplinary Measures by Stewards. Upon finding a violation or an attempted violation of the provisions of KRS Chapter 230 relating to thoroughbred racing or 810 KAR Chapter 1, if not otherwise provided for in this administrative regulation, the stewards may impose one (1) or more of the following penalties:

(1) If the violation or attempted violation may affect the health or safety of the horse or a participant in a race or may affect the outcome of a race, declare a horse or a licensee ineligible to race or disqualify a horse or licensee in a race;

(2) Suspend or revoke a person's licensing privileges for a period of time of not more than five (5) years as may be deemed appropriate by the stewards in keeping with the seriousness of the violation and the facts of the case;

(3) Cause a person, licensed or unlicensed, found to have interfered with, or contributed

toward the interference of the orderly conduct of a race or race meeting, or person whose presence is found by the stewards to be inconsistent with maintaining the honesty and integrity of the sport of horse racing to be excluded or ejected from association grounds or from a portion of association grounds; or

(4) Payment of a fine in an amount not to exceed \$50,000 as may be deemed appropriate by the stewards in keeping with the seriousness of the violation and the facts of the case.

Section 11. Disciplinary measures by the commission. Upon finding a violation or an attempted violation of the provisions of KRS Chapter 230 relating to thoroughbred racing or 810 KAR Chapter 1, if not otherwise provided for in this administrative regulation, the commission may impose one (1) or more of the following penalties:

(1) If the violation or attempted violation may affect the health or safety of the horse or a participant in a race or may affect the outcome of a race, declare a horse or a licensee ineligible to race or disqualify a horse or licensee in a race;

(2) Suspend or revoke a person's licensing privileges for a period of time of not more than five (5) years as may be deemed appropriate by the commission in keeping with the seriousness of the violation;

(3) Eject or exclude persons from association grounds for a length of time the commission deems necessary; or

(4) Payment of a fine in an amount not to exceed \$50,000 as may be deemed appropriate by the commission in keeping with the seriousness of the violation and the facts of the case.

Section 12. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Request for Post-Race Testing of Claimed Horse", August 2014; and

(b) "Claim Blank envelope", 2014.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Horse Racing Commission, 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511, Monday through Friday, 8:00 a.m. to 4:30 p.m. . (18 Ky.R. 3290; Am. 19 Ky.R. 408; eff. 8-1-1992; 27 Ky.R. 1609; 2466; eff. 3-19-2001; 32 Ky.R. 756; 1136; 1894; eff. 5-5-2006; 35 Ky.R. 1070; 1787; eff. 2-6-2009; 38 Ky.R. 2061; 39 Ky.R. 224; eff. 8-31-2012; TAm 10-1-2012; 41 Ky.R. 1155; 1529; eff. 2-6-2015; 42 Ky.R. 1362; 1744; eff. 1-4-2016.)