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On July 16, 2018 the New York State Gaming Commission approved an amendment of section 4043.12 of 9 NYCRR that forbids possession or use of substances and methods listed in the Association of Racing Commissioners prohibited list except as a restricted therapeutic use (RTU). This amendment incorporates the ARCI Model rule ARCI-011-015 by reference. The Commission also added a new section 4043.16 that forbids any drug administration to Thoroughbred racehorses except in the context of a valid veterinarian-client-patient relationship. This advisory is provided to assist horsemen and veterinarians to understand the new ARCI-WADA prohibitions that will take effect on August 1, 2018 pursuant to the newly amended rule, 9 NYCRR 4043.12.

§ 4043.12. Prohibited substances and methods.

(a) The substances and methods listed in the ARCI prohibited list are prohibited, may not be used at any place or time and may not be possessed on the premises of any racing or training facility under the jurisdiction of the commission except as a restricted therapeutic use. ARCI prohibited list means the "Prohibited List" annexed to Model Rule ARCI-011-015 Version 7.0 (approved December 9, 2016) of the Association of Racing Commissioners International, Inc., 1510 Newtown Pike, Suite 210, Lexington, KY 40511, which is hereby incorporated by reference. Such Uniform Rules of Racing are available for public inspection at the New York State Gaming Commission located at One Broadway Center, Suite 600, Schenectady, NY 12305 and at the Department of State, 99 Washington Street, Albany, NY.

(b) Restricted therapeutic use. A limited number of medications and methods listed in the ARCI Prohibited List shall be exempted when the administration occurs in compliance with the ARCI required conditions for restricted therapeutic use. ARCI required conditions for restricted therapeutic use means the "Required Conditions for Restricted Therapeutic Use" annexed to such Model Rule, as described in subdivision (a) of this section and hereby incorporated by reference, whose columns shall mean:

(1) 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;

(2) 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;

(3) Written Approval from Commission means the commission has granted written approval of a written treatment plan before the administration of the substance, including as may be required by the column's footnotes;

(4) 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;

(5) Prescribed by Veterinarian means the substance has been prescribed by an attending veterinarian in a manner consistent with the standards and procedures described in section 4043.16 of this Article and recorded in a manner consistent with the requirements of section 4012.4 of this Article;

(6) 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

(7) 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.

9 NYCRR 4043.12 also requires an evidence-based treatment plan and written approval before using substances with no generally accepted medical use in the horse, and prescribes serious penalties for unlawful possession or administration of prohibited substances, placing the horse on the Steward's List for 180 days and revoking the violator's racing license.

§ 4043.16. No drug administrations without appropriate veterinary approval.

The limitations set forth in this section apply to drug treatments of horses engaged in activities, including training, related to competing in pari-mutuel racing in New York. This includes, without limitation, any horses that are training outside the jurisdiction to participate in racing in New York and all horses that are training in the jurisdiction.

(a) 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:

- (1) the veterinarian, with the consent of the owner, has accepted responsibility for making medical judgments about the health of the horse;
- (2) the veterinarian has sufficient knowledge of the horse to make a preliminary diagnosis of the medical condition of the horse;
- (3) the veterinarian has performed an examination of the horse to make a preliminary diagnosis of the medical condition of the horse;
- (4) the veterinarian is available to evaluate and oversee treatment outcomes, or has made appropriate arrangements for continuing care and treatment.
- (5) the relationship is maintained by veterinary visits as needed, and
- (6) the veterinary judgments of the veterinarian are independent and are not dictated by the trainer or owner of the horse.

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

(c) The trainer and veterinarian are both responsible to ensure compliance with these limitations on drug treatments of horses, except that 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).

How will these rule amendments effect medical treatments of Thoroughbred Racehorses in New York?

Assuming that horsemen and veterinarians are complying with the new NYCRR 4043.16 that requires a veterinarian prescription for every drug administration, these are the effects of the new WADA-RTU rule (9 NYCRR 4043.12):

(1) Anabolic steroid (boldenone, nandrolone, testosterone) treatments must be reported to the NYSGC, and the horse will be put on the Vet's List for a minimum of 6 months.

(2) All blood-related treatments and infusions are prohibited except for blood replacements used in an emergency. If the horse is sampled within 24 hours of treatment, the administration must be divulged at the time of sample collection.

(3) Clenbuterol use is not prohibited when used in compliance with existing NYSGC rules, 9 NYCRR 4043.2(i)(3) (14 day restriction) and 4043.3(5) (ARCI threshold) is permissible.

(4) Diuretics, except for furosemide and tricholormethiazide, are now prohibited, but may be used in an emergency. If the horse is sampled within 24 hours, then the administration must be divulged at the time of sample collection.

(5) Altrenogest is now limited to administration to female horses.

(6) All hormone and metabolic modulators, except for Thyroxine (T4), are now prohibited. Thyroxine treatments require written approval from the NYSGC.

A. The treatment plan must specify one horse, the dose, the duration, and the diagnosis and basis for prescribing the drug.

B. The container and its label must identify the horse, the dose, duration, the estimated last administration date, and contain only the prescribed amount of drug.

(7) Gene-doping treatments (with potential to enhance sport performance) are now prohibited except:

A. IRAP and PRP remain permitted. If the horse is sampled within 24 hours, then the administration must be divulged at the time of sample collection.

B. Mesenchymal stem cell treatments must be reported to the NYSGC. If the horse is sampled within 24 hours, then the administration must be divulged at the time of sample collection.

C. Nucleic polymer transfers (transfer of polymers of nucleic acid or nucleic acid analogues) require written approval from the NYSGC. Treatments must be reported to the NYSGC.

(8) Chorionic gonadotropin and luteinizing hormone are now limited to treating undescended testicles. Treatments require written approval from the NYSGC. Treatments must be reported to the NYSGC, and the horse will be placed on the Vet's List for a minimum of 60 days.

(9) New rules for Unapproved (FDA) drugs:

Definition: Substances not approved by any government authority for human or veterinary use in the jurisdiction of the horse. This prohibits the use of drugs under development or discontinued and the use of synthetic drugs altered to evade detection. This does not include vitamins, herbs and supplements for nutrition that do not contain another prohibited substance. It does not preclude clinical trials conducted with the approval of the racing commission.

These treatments require written approval from the NYSGC. The treatment plan must specify:

- A. Generally-accepted therapy
- B. Significant health benefit
- C. No reasonable therapeutic alternative
- D. No performance-enhancing (beyond normal healthy performance) effects.

This table summarizes the "Required Conditions for Restricted Therapeutic Use" that exempt a limited number of medications and methods from the ARCI Prohibited List, provided that the administration occurs in compliance with these required conditions and other applicable New York State Gaming Commission rules.

Required Conditions for Restricted Therapeutic Use

Prohibited Substance	Prescribed by Veterinarian	Written Approval	Emergency Use (report)	Report Treatment	Report if Sampled	Other Limitations
ACTH	X					
Albuterol	X					
Altrenogest	X					Fillies/mares only
Autolog. c. plasma (IRAP)	X				X	
Blood Replacements	X		X		X	
Boldenone	X			X		6 month Vet's Lit
Clenbuterol	X					
Chorionic Gonadotropin	X	X-1		X		60-day Vet's List
Furosemide	X				X	
Luteinizing Hormone	X	X-1		X		60-day Vet's List
Mesenchymal Stem Cells	X			X	X	
Nandrolone	X			X		6 month Vet's List
Nucleic Polymer Transfers	X	X		X		
Platelet Rich Plasma (PRP)	X				X	
Stanozolol	X			X		6 month Vet's List
Non FDA-Approved Drugs	X	X-2				
Testosterone	X			X		6 month Vet's List
Thyroxine (T4)	X	X-3				
Trichlormethiazide	X				X	
Other Diuretics	X		X		X	

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

X-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 enhancement 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 horse's medical condition.

X-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.