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This document is for informational purposes only, and is not meant to implement, interpret, or make specific any existing laws or regulations. CHRB Drug Testing and Enforcement actions will be carried out in accordance with the law.

CHRB DRUG TESTING AND ENFORCEMENT PROCESS

The California Horse Racing Board rigorously enforces its own regulations as well as state and federal laws. When there are alleged violations of regulations dealing with drug substances in racehorses, the CHRB follows a rigorous process that meets its commitment and responsibility for protecting the public as well as the rights of individual licensees.

The process begins with the collection of test samples. While the CHRB conducts some out-of-competition testing, the vast majority of blood and urine samples are collected from horses at the time of the race. For the purposes of total carbon dioxide (TCO₂) testing, a blood sample is collected from horses pre-race. At thoroughbred tracks the TCO₂ samples are obtained in the receiving barn prior to the going to the saddling paddock; standardbreds are sampled in the paddock before the race. When Quarter Horses and other breeds are TCO₂ tested, they are pre-race tested in the receiving barn in the same fashion as thoroughbreds. All other race samples are obtained post-race.

After the race is run, approximately 20 percent of the horses at all meets are selected for additional testing, according to CHRB Rule 1858. These include the winner of each race, the second and third-place finishers in stakes with a purse of \$75,000 or more, and seven other horses selected each day, selected primarily by the stewards, but the official veterinarian and equine medical director have the authority to designate a horse for testing. Those horses selected are led to the test barn under observation of test barn personnel or racing officials.

The official veterinarian supervises all aspects of the testing process. The official veterinarian or his or her licensed designee (veterinary technician) collects blood samples and licensed qualified personnel collect urine samples. Two blood samples are drawn: one for the official laboratory, the other is reserved for split-sample testing if that becomes necessary. The urine is collected in one container; a portion is poured into a second container and reserved for split-sample testing if needed. The samples are labeled with a barcode and unique number, sealed with evidence tape and initialed by the trainer and his or her designee. All this is done under the observation of the trainer or his designee. The only other identifying information on the samples is the track and the race date.

The sample custodian at the track prepares the “green sheet,” which matches the sample number to each horse. The blood samples are refrigerated and the urine samples are frozen. The official urine and blood samples are shipped via Fed-Ex in locked coolers to the Kenneth L Maddy Equine Chemistry Laboratory at UC Davis. The urine and blood split samples, along with the ‘green sheets,’ are shipped to the split-sample custodian at CHRB headquarters in Sacramento in locked coolers. Split samples are retained and stored by the CHRB if and until they are needed. The “green sheet” is the document which allows the sampled numbers to be matched back to the horse if that becomes necessary. Only the split-sample custodian can decode the sample numbers once they are reported by the lab. As described above, split samples are collected and kept apart from the primary samples for the entire duration of the testing process.

The collection of samples begins a strict chain-of-custody process that protects the rights of licensees and meets the requirements of law and due process. Each sample is collected in a clean, sealed container, which is then re-sealed and refrigerated or frozen depending on the type of sample. Samples collected for TCO₂ testing are shipped to the Maddy Laboratory, which is the CHRB’s primary drug-testing laboratory. Though rarely requested, split samples for TCO₂ testing must be request prior to the race. Both official and split sample TCO₂ samples must be processed within 120 hours of a race. All other primary samples are shipped within two-to-five days to the Maddy Laboratory, where the strict chain-of-custody process continues.

Using state-of-the-art technology, the Maddy Laboratory screens each sample for more than 800 substances. The standard CHRB screen exceeds what is commonly called the “supertest.” At the Maddy laboratory, aliquots are taken from the blood and urine samples and sent through an instrumented (Gas Chromatography/Mass Spectrometry and Liquid Chromatography/Mass Spectrometry) screening process. If the screening process indicates a suspected positive, a second aliquot from the official sample undergoes a confirmation process for the suspected drug. If a drug substance is confirmed in a sample, the laboratory reports the positive test by sample number and drug to the split-sample custodian at the CHRB in Sacramento. In cases of Class 1, 2 or 3 violations, the Equine Medical Director is copied at the time the split sample custodian is notified. The lab has 18 days from race date to report their findings to the CHRB. The split-sample custodian decodes the sample numbers and notifies the CHRB executive director, equine medical director and supervising investigators in writing of the adverse finding and the identity of the horse and trainer. Both the executive director and equine medical director approve the positive test notice before the supervising investigators assign an investigator and notify the owners and trainers.

The CHRB is required to notify the licensee – usually the trainer – of a preliminary positive within 21 days of the collection of the sample. The notification process is handled by the CHRB investigator assigned to the case. At the time of notification, the investigators search the trainer’s barn for any evidence that might be related to the drug positive and for compliance with other CHRB medication regulations. The trainer and other licensees associated with the horse are usually interviewed as part of the investigation, especially with the more serious or unusual cases.

The split sample regulation is CHRB rule 1859.25 and governs the split sample process. Once notified, a licensee has 72 hours to request that the split sample be tested. (In the case of TCO₂ testing, such a request is made prior to the race.) If the licensee waives the right to have the split sample tested, the adjudication process can begin immediately. But if the owner or trainer requests a split-sample analysis by a second laboratory, that process alone can take weeks or even months. A licensee has three days, not counting weekends or holidays, to notify the CHRB he or she is requesting a split-sample analysis. The licensee has an additional five days, not counting weekends or holidays, to select, arrange for, and pre-pay a laboratory to conduct the testing of the split sample from a list of qualified laboratories approved by the CHRB. Once this is completed, the split-sample custodian prepares and ships the sample (s) to the licensee's chosen split-sample laboratory from a list approved by the CHRB. Samples are only shipped on Monday, Tuesday or Wednesday to avoid the samples sitting in a warehouse, unrefrigerated over a weekend if there is a problem in transit. Once the split sample lab receives the sample, the lab has four weeks to complete its testing. Therefore, it is not uncommon for the entire split-sample process to take one or two months.

By law, if a split-sample test is requested, that split sample must be found positive for the drug or its metabolites that were detected in the primary sample in order for the sample to be considered positive and for the case to proceed. If the split sample is negative, by law, the horse is considered negative and the case is dropped. This happens rarely, but can happen. Therefore, the CHRB cannot file an actual complaint against a licensee until a split sample (if requested) confirms the original laboratory finding. Unless it is a complicated case, the investigative staff ordinarily files a complaint within a day or two of receiving the split-sample confirmation, but it can take longer.

A complaint is filed in every case where the split sample confirms the original laboratory finding. Nothing is held back. The CHRB posts Enforcement Updates under the Publications/Press Releases links on its Website (www.chrb.ca.gov) concerning all major medication cases (Class 1, 2, and 3 cases).

Because the time lapse between the notification of a licensee of a preliminary finding and the filing of a complaint can be months, this delay has been a source of confusion for some, unassociated with the case, who inadvertently become aware of the preliminary notification. When asked about the progress of a particular case, the CHRB is prevented by law and regulation (Business and Professions code 19577 [e] and CHRB Rule 1859.25 [f]) from discussing any investigation prior to the issuance of a complaint.

Even after a complaint is filed, the process can be time consuming. Under the Administrative Procedures Act and the full force of law protecting the rights of the accused, the CHRB must follow a strict process, the centerpiece being a fair and impartial hearing, all of which is subject to judicial review.

Under the CHRB's own internal adjudication system, the stewards who represent the CHRB conduct hearings at each racetrack. When a licensee chooses this process, a hearing usually will be scheduled within weeks. However, under state law, a licensee has the right to choose a hearing officer instead of the stewards. The hearing process is often delayed as licensees exercise their legal rights. The CHRB opposes unreasonable delays, but the legal system, either at the Office of Administrative Hearings or the courts, can be a slow process. And any judgment can be appealed. Given all of the safeguards provided under due process, some cases have been known to take years to reach a final conclusion.

Throughout the entire process described herein, the CHRB strives to be proactive, transparent, and committed to ensuring the integrity of horse racing. The CHRB proceeds with cases as rapidly as the process and the law allow, while giving each case the attention and the time required to protect the public and ensure the rights of licensees.

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