



## ASSOCIATION OF RACING COMMISSIONERS INTERNATIONAL

TO: Model Rules Committee

FROM: Ed Martin, ARCI President

DATE: July 7, 2021

RE: Disqualification of a horse with a drug positive.

The current Penalty Guidelines recommend an automatic disqualification of a horse, absent mitigating circumstances, for post race findings of a Penalty Class B substance.

The guidelines for a post race finding of a Penalty Class C substance require the loss of purse and are silent as to the issue of a DQ.

A mandatory DQ is recommended for any horse found to have a post race positive for a substance carrying Penalty Class A.

Last March, the Racing Medication and Testing Consortium proposed a penalty classification for a finding of furosemide in a horse running in a non-furosemide race. The RMTC recommended the following:

*“The RMTC Scientific Advisory Committee at its February 3, 2021 meeting recommended a B penalty classification for furosemide as it relates to races in which furosemide is a banned substance and its use prohibited 24 hours (or more) prior to the post time for the race in which the horse is entered. Further, the RMTC recommends that disqualification be mandatory and non-mitigable to remedy the loss of integrity in the competition.”*

The ARCI Model Rules Committee considered this and the Board adopted the penalty Class B recommendation but did not eliminate the possibility of mitigation concerning the RMTC's DQ proposal.

Although the RMTC submission in March to eliminate mitigation was limited to furosemide findings in non-lasix races, the larger question that has been raised concerning the fairness to the other participants in the race for a horse being allowed to stand after winning the race with an illegal amount of a particular substance in its system.

Dr. Mary Scollay submitted a memo (attached) on March 15, 2021 “In Support of a non-mitigable disqualifications”. This memo raises important questions that should be addressed. It concludes with this statement:

*“When a board of Stewards mitigates to a non-DQ, they are basically declaring that the infraction did not matter that much—to them. Perhaps it is more appropriate to wonder if it did not matter that much to the others in that race.”*

This matter raises basic philosophical questions that go to the fairness not only to the trainer, but all participants in the race. Mitigation has long been found to be appropriate for cause as applied to the trainer. But this question deals with allowing a horse to stand to the possible detriment of every other horse in the contest.

In a July 6, 2021 email, Dr. Scollay underscores that the RMTTC is NOT proposing a DQ for all findings of a prohibited substance and clearly is not recommending any change to substances recommended for a Penalty Class D penalty.

To clarify and underscore the RMTTC position, Dr. Scollay writes:

*“The RMTTC’s recommendation is that disqualifications should not be mitigable. For the finding of a given substance in a post-race sample, the penalty should always be a disqualification or never a disqualification.”*

Such a policy would require a substance by substance review to indicate whether a DQ should be mandatory or not. **This has not been done and this issue is not yet ripe for action by the ARCI.**

Dr.Scollay suggests that: *“A subset of 4/C substances could be established as non-DQ substances, or they could be reclassified as 4/D—where Class D penalties do not result in disqualification.”*

As some regulatory bodies require a DQ and the existing recommended standard implies automatic DQs with the possibility of mitigation this issue should be discussed.

Based on that discussion, my recommendation to the Committee is to remand this matter to the Drug Testing Standards and Practices Committee to entertain proposals from the RMTTC, HRMC and the industry and to consider input from the HISA and USADA should they wish to weigh in as to which substances should be exempt from a mandatory DQ if found in a post race sample.