

**PART 2
DEFINITIONS**

Alcohol means the intoxicating agent in Beverage Alcohol, ethyl alcohol, or other low molecular weight alcohols including methyl and isopropyl.

BAC means Blood Alcohol Concentration. It is the grams of alcohol in 100 milliliters of blood when referenced as .02 to .039 BAC and the equivalent of 20 to 39 milligrams of alcohol in 100 milliliters of blood.

Beverage Alcohol means beer, wine and distilled spirits.

Illegal Drug means any drug or substance which is not legally obtainable and whose use, sale, possession, purchase or transfer is restricted or prohibited by law.

Impairing Prescription Medication means a substance, other than Marihuana, that may be legally prescribed by a health care professional in Canada and that has the potential to impair the physical or cognitive abilities of the person using the substance, regardless of whether the substance is or is not used as prescribed.

Marihuana means all parts of the Cannabis plant, its derivatives and compounds that contain the psychoactive cannabinoid chemical “delta-9-tetrahydro-cannabinol” (THC).

Prohibited Substance means any substance which the APHRC has declared prohibited and includes Marihuana.

Safety Sensitive Position means a position, as determined by the APHRC, in which a licensee has a direct role in racing such that Alcohol, Illegal Drug, Impairing Prescription Medication or Prohibited Substance use could result in:

- (a) An incident affecting the health or safety of employees, licensees, patrons, horses, or the public; or
- (b) An inadequate response or failure to respond to an emergency or operational situation.

When determining if a position is a Safety Sensitive Position, the factors which the APHRC will consider include, but are not limited to, the following:

- (a) The type and amount of contact the position has with horses
- (b) The extent to which the position requires the individual to be on the racetrack at the same time as horses and the circumstances of that presence on the racetrack.

This category includes any and all licensees required to temporarily act in a Safety Sensitive Position.

The following positions are Safety Sensitive Positions:

Race officials, driver, trainer, groom, starting gate personnel, horse identifier, commission and official veterinarian, outrider and blacksmith, test inspector, TCO2 technician and track maintenance personnel.

6.8.2 Alcohol Screening and Drug Control - Human

Rule 355. A licensee in a Safety Sensitive Position is prohibited from the following:

- (a)** Using an Illegal Drug or a Prohibited Substance at a licenced facility;
- (b)** Performing activities of the Safety Sensitive Position at a licenced facility while an Illegal Drug or a Prohibited Substance is present in his or her body;
- (c)** Consuming Alcohol at a licenced facility while performing, or reasonably prior to performing activities, of a Safety Sensitive Position;
- (d)** Performing activities of the Safety Sensitive Position at a licenced facility while having a BAC of .02 or higher;
- (e)** Using, at a licenced facility, any Impairing Prescription Medication without a prescription for the licensee's use of that medication;
- (f)** Performing activities of the Safety Sensitive Position at a licenced facility while an Impairing Prescription Medication for which the licensee does not have a prescription for use is present in his or her body;
- (g)** Intentionally using, at a licenced facility, any Impairing Prescription Medication prescribed for the licensee's use in a manner not prescribed and which use has the potential to impair the licensee's abilities to perform the activities of his or her position safely;
- (h)** Performing activities of the Safety Sensitive Position at a licenced facility while,
 - a. An Impairing Prescription Medication intentionally used in a manner not prescribed to the licensee is present in his or her body, and
 - b. He or she displays signs that his or her physical or cognitive abilities are impaired to the extent that there is a potential that the licensee cannot safely perform the activities of the Safety Sensitive Position.
- (i)** Within the first eight hours of an event described in Rule 357(a) or until tested or advised by a Commission Representative under Rule 357(a) that a test is not required, using an Illegal Drug or a Prohibited Substance or consuming Alcohol or using any Impairing Prescription Medication without a prescription for the licensee's use or intentionally using any Impairing Prescription Medication prescribed for the licensee's use in a manner not prescribed.
- (j)** A licensee in a Safety Sensitive Position called in unexpectedly to perform the activities of a Safety Sensitive Position in a manner that would violate Rule 305(b), (d), (f) or (h) shall decline the request.

Rule 356. A licensee or Designated Racing Official shall not be present at a licenced facility in the following circumstances:

- (a) Alcohol, an Illegal Drug, a Prohibited Substance or an Impairing Prescription Medication is present in his or her body, and
- (b) He or she displays signs that his or her physical or cognitive abilities are impaired to the extent that there is a potential that the licensee or Designated Racing Official cannot safely perform his or her activities or duties related to the business of racing, he or she poses a safety risk to himself or herself, to other persons or to horses or, in a situation where the licensee or Designated Racing Official has been involved in an incident, accident or near miss, the licensee or Designated Racing Official displays signs of physical or cognitive impairment.

Rule 357. A licensee in a Safety Sensitive Position is subject to testing in the following situations:

- (a) **Post Incident/Accident**
A Commission Representative investigating a significant accident, incident or near miss that occurs at a licensed facility may require a licensee in a Safety Sensitive Position to undergo testing for the presence of Illegal Drugs, Prohibited Substances, Impairing Prescription Medication or a combination of these substances in his or her body, if the Representative has a reasonable belief that the licensee's activities are or were relevant to the accident, incident or near miss being investigated.
- (b) **Required Alcohol Testing**
At times or in circumstances set by the Commission or a Commission Representative or upon direction of a Commission Representative, a licensee in a Safety Sensitive position shall undergo testing for Alcohol in his or her body when they are performing, scheduled to perform or have completed performing the activities of the position.
- (c) **Unannounced Drug Testing**
A licensee in a Safety Sensitive Position shall undergo testing for the presence of Illegal Drugs, Prohibited Substances, Impairing Prescription Medication or a combination of these substances in his or her body without notice to the licensee at any time during the racing season. The selection of the licensee for testing will be by an objective selection system managed by the Commission's Program Administrator or Representative.
- (d) **Return to Duty – Post Violation**
Where a licensee seeks to return to a Safety Sensitive Position after a suspension for a violation of a prohibition in Rule 355, he or she will be required to undergo testing for the presence of Alcohol, Illegal Drugs, Prohibited Substances, Impairing Prescription Medication, or a combination of these substances in his or her body and the test or tests must show no presence of such substances in his or her body before the licensee may return to such a position. In addition, it shall be a condition of the licensee's licence

as set out in a Post-Violation Agreement described in Rule 365 that the licensee will be required to undergo testing for the presence of Illegal Drugs, Prohibited Substances, Impairing Prescription Medication or a combination of these substances in his or her body without notice to the licensee at any time.

(e) Return to Duty – Post Treatment

Where a licensee is returning to a Safety Sensitive Position after receiving treatment for abuse of or addiction to Alcohol, Illegal Drugs, Impairing Prescription Medication or a combination of these substances, the licensee may be subject to testing for such substances in his or her body as a monitoring tool on a case by case basis to support the licensee's recovery.

(f) Additional Testing

Where a laboratory conducting a test for the presence of an Illegal Drug, a Prohibited Substance or an Impairing Prescription Medication reports that the testing of the sample cannot provide an accurate determination of the presence or the amount of the substance in the licensee's body for whatever reason, including that the sample is a dilute sample, the licensee shall submit to an additional test, if directed by a Commission Representative.

Rule 358. Reasonable Cause Testing

Any licensee and any Designated Racing Official engaged in the business of racing at a licenced facility, whether or not he or she is in a Safety Sensitive Position, shall submit to the testing for the presence in his or her body of Alcohol, Illegal Drugs, Prohibited Substances or Impairing Prescription Medications on the request of a Commission Representative where,

- (a) That Representative has reasonable grounds to believe that the licensee's or Designated Racing Official's physical and cognitive abilities are impaired to the extent that there is a potential that the licensee or Designated Racing Official cannot safely perform their activities or duties related to the business of racing, poses a safety risk to other persons or horses, or
- (b) The licensee or Designated Racing Official has been involved in an incident, accident or near miss and a Commission Representative has reasonable grounds to believe that that the licensee's or Designated Racing Official's physical and cognitive abilities are impaired or were impaired at the time of the incident, accident or near miss.

Rule 359. (a) Testing Protocol – Alcohol

A person required to undergo testing for the presence of Alcohol in his or her body shall provide a breath sample to a Commission Representative for analysis at a time and place and in a manner directed by the representative.

(b) Testing Protocol – Illegal Drugs, Prohibited Substances and Impairing Prescription Medications

A person required to undergo testing for the presence in his or her body of Illegal Drugs, Prohibited Substances or Impairing Prescription Medications, or a combination of these substances, shall provide a sample of bodily fluid to a Commission Representative at a time and place and in a manner directed by

the Representative.

Rule 360. Immediate Suspension – Illegal Drugs, Prohibited Substances in a Licensee in a Safety Sensitive Position

Should an Illegal Drug or a Prohibited Substance be found to be present in the body of a licensee in a Safety Sensitive Position at the time of testing, the licensee is suspended from his or her duties until a Medical Review Officer has reviewed the result and provided a report to the Commission or a Commission Representative. Upon reviewing the report the Commission Representative will make a recommendation to the APHRC concerning the future status of the licensee.

Rule 361. Immediate Suspension – Impairing Prescription Medication without a Valid Prescription in a Safety Sensitive Position

Should an Impairing Prescription Medication be found to be present in the body of a licensee in a Safety Sensitive Position at the time of testing and the licensee cannot show that he or she has a valid prescription for the medication, the licensee is suspended from his or her duties until a Medical Review Officer has reviewed the result and provided a report to the Commission or a Commission Representative. Upon reviewing the report the Commission Representative will make a recommendation to the APHRC concerning the future status of the licensee.

Rule 362. Immediate Suspension – Impairing Prescription Medication with a Valid Prescription in a Safety Sensitive Position

Should an Impairing Prescription Medication be found to be present in the body of a licensee in a Safety Sensitive Position at the time of testing and, notwithstanding that the medication has been validly prescribed to the licensee, a Commission Representative has reasonable grounds to believe that the licensee displays signs that the licensee's physical or cognitive abilities are impaired extent that there is a potential that the licensee cannot safely perform the activities of the Safety Sensitive Position, the licensee is suspended from his or her duties until a Medical Review Officer has reviewed the result and provided a report to the Commission or a Commission Representative. Upon reviewing the report the Commission Representative will make a recommendation to the APHRC concerning the future status of the licensee.

Rule 363. Immediate Suspension – Reasonable Cause Testing for Illegal Drugs, Prohibited Substances or Impairing Prescription Medication

A licensee or Designated Racing Official is suspended from his or her duties until a Medical Review Officer notifies the licensee or Designated Racing Official that he or she may return to his or her duties, if, after a test under 36.05, Alcohol, an Illegal Drug, Prohibited Substance or Impairing Prescription Medication is present in the body of a licensee or Designated Racing Official at the time of testing and,

(a) A Commission Representative has reasonable grounds to believe

licensee's or Designated Racing Official's physical and cognitive abilities are impaired to the extent that there is a potential that the licensee or Designated Racing Official cannot safely perform their activities or duties related to the business of racing or poses a safety risk to other persons or horses, or

- (b) a situation where the licensee or Designated Racing Official has been involved in an incident, accident or near miss, the Commission Representative has reasonable grounds to believe that that the licensee's or Designated Racing Official's physical and cognitive abilities are impaired or were impaired at the time of the incident, accident or near miss.

Rule 364. Penalties for Violations of Rule 355. – Safety Sensitive Positions

(a) The penalties for a violation of 355 (d) are the following:

- a. Where the breath sample provided results in a test result of .02 to .039 BAC,
- i. For a first violation, a suspension from performing the duty or duties for which he or she is licenced for that day, a \$100 monetary penalty, a reminder of the policy requirements and a suggested referral for assistance;
 - ii. For a second violation, a suspension from performing the duty or duties for which he or she is licenced for that day, a \$300 monetary penalty, a suspension for a further 5 days if the second violation occurs within 12 months of the first violation, and a referral, at the discretion of a Commission Representative, to a Substance Abuse Professional (SAP) for evaluation to determine the need for a structured assistance program, and
 - iii. Any subsequent violation within 12 months of the second or subsequent violation shall result in the suspension from the duty or duties for which they are licences and the licensee shall be referred to the APHRC who may impose a monetary penalty, a suspension, make directions, impose conditions, or a combination of all of these.
- b. Where the breath sample provided results in a test result of .04 to .079 BAC,
- i. For a first violation, suspension from performing the duty or duties for which he/she is licensed for that day, a \$300 monetary penalty, a suspension of five (5) days, a reminder of the policy requirements and a suggested referral for assistance,
 - ii. For a second violation, suspension from performing the duty or duties for which he/she is licensed for that day, a monetary penalty of \$500 and a suspension of fifteen (15) days if committed within 12 months of the first violation, referral to a

- Substance Abuse Professional (SAP) for evaluation to determine the need for a structured assistance program if they choose to return to duties with the Commission, and compliance with return to work conditions set out in an agreement with the individual, and must provide a negative return to duty drug and alcohol test,
- iii. Any subsequent violation within 12 months of the second or subsequent violation shall result in suspension from performing the duty or duties for which they are licensed and they shall be referred to the APHRC who may impose a monetary penalty, a suspension, make directions, impose conditions, or a combination of all of these.
- c. Where the breath sample provided results in a test result of .08 BAC or higher.
- i. For a first violation, suspension from performing the duty or duties for which he/she is licensed for that day, a \$500 monetary penalty, a suspension of fifteen (15) days, referral to a Substance Abuse Professional (SAP) for evaluation to determine the need for a structured assistance program if they choose to return to their duties as a licensee, and compliance with return to work conditions set out in an agreement with the individual, and must provide a negative return to duty drug and alcohol test,
 - ii. Any subsequent violation within 12 months of the first violation shall result in suspension from performing the duty or duties for which they are licensed and they shall be referred to the APHRC who may impose a monetary penalty, a suspension, make directions, impose conditions, or a combination of all of these.
- d. In the event of a positive test result relating to a controlled substance, as outlined in the Criminal Code of Canada or Federal legislation or regulations respecting the administration of Horse Racing, for which an APHRC licensee does not have a valid medical prescription for such use and administration, said licensee shall be, mandatorily, subject to the following penalties:
- (1) If the positive test report is an initial positive test report for any controlled substance, the licensee shall be suspended for a minimum of fifteen (15) days and assessed a \$100.00 fine and such violating licensee shall be suspended, immediately, from all licensed activities, duties and responsibilities. The APHRC will provide the services of a Substance Abuse Professional (SAP), if desired, by the offending licensee. The suspension shall remain in effect after the fifteen (15) day period until such time as the licensee provides a sample, for

testing purposes at his/her own and total expense, and such test result indicates an absolute absence of any controlled substance from the licensee's metabolism.

- (2) If a controlled substance positive result is a second or further violation of the Human Drug Testing Rule within a twelve (12) month period of initial positive test finding, said licensee shall be suspended, immediately for a minimum of twenty-one (21) days and assessed a \$300.00 fine. The violating licensee shall be suspended, immediately, from all licensed activities, duties and responsibilities. The offending licensee shall be referred by the Commission to a Substance Abuse Professional (SAP) for evaluation to determine the need for a structured assistance program if the offending licensee chooses to return to racing duties within the territorial and regulatory jurisdiction of the APHRC. Failure to accept the automatic referral to a Substance Abuse Professional shall result in an indefinite suspension of the licensee by the APHRC who shall make such formal determination at a special Hearing of the Commission solely for such purpose. The suspension shall remain in effect after the twenty-one (21) days until such time as the offending licensee provides a sample, for testing purposes at his/her own and total expense, and such test result indicates an absolute absence of any controlled substance from his/her metabolism. Further offences shall be referred to a special Hearing before the APHRC and said Hearing shall be for the sole purpose of determining the future status of the licensee which may include a lifetime ban from the sport and industry of harness racing.
- (3) Any licensee who refuses to provide a sample as provided for in these Rules, when requested to do so, shall be deemed to have contravened the Rules as a strict liability offence in the same manner and effect as a finding of a positive test result. Said licensee shall, forthwith, have their Commission license suspended indefinitely. Such suspension shall remain in effect until the licensee complies with the request for testing in the manner prescribed, supra, of this Rule and a negative laboratory report is in the possession of the Director of Racing. Penalty or penalties shall be governed by Rule 366.

- (4) At any Hearing conducted under this Section, the offending licensee shall be entitled to have Counsel or his/her representative in attendance to represent his/her interests.

Rule 365. Post Violation Agreements

A licensee or Designated Racing Official who has violated any of Rules 355, 356 or 357 may be directed by the APHRC to enter into a Post Violation Agreement which will, at a minimum, include the following:

- (a) Full cooperation with the Substance Abuse Professional (SAP) assessment process,
- (b) Adherence to any recommended treatment, monitoring, and aftercare program,
- (c) Maintenance of sobriety on return to duty,
- (d) Successful completion of a return to duty alcohol and drug test,
- (e) Ongoing unannounced testing for a period set out in the agreement, and
- (f) No further violations of the policy.

Although the APHRC will refer licensees and Designated Racing Officials who test positive to qualified services, the cost of these services to persons not employed by the Commission is not covered by the Commission. All costs associated with assessment, treatment and aftercare will be at his or her own expense.

Rule 366. Immediate Suspension and Referral – Refusal to Test, Adulterating or Tampering with Sample

Where a licensee refuses to undergo testing as required by this Rule 355 or adulterates or tampers with, or attempts to adulterate or tamper with, a sample provided under this Rule 355, he or she shall be suspended from performing the duties for which they are licenced and the matter shall be referred to the APHRC who may impose a monetary penalty, a suspension, make directions, impose conditions, or a combination of all of these.

Rule 367. Nothing in this section 6.8.2 of APHRC rules restricts a Judge's authority to impose a penalty under Rule 8 for conduct prejudicial to the best interests of racing including, but not limited to, penalties for the following:

- (a) Possession, distribution, manufacture, offering for sale of Illegal Drugs, Illegal Drug paraphernalia, Prohibited Substances or Prohibited Substances paraphernalia;
- (b) Manufacture, distribution or offering for sale of drugs for which a prescription is required in Canada; or
- (c) Possession of Impairing Prescription Medications that are not legally prescribed to the person possessing them.
- (d) Nothing in this section 6.8.2 of APHRC restricts a Judge's authority to impose

a penalty under Rule 8 in circumstances where the Judge has reasonable grounds to believe that a licensee or Designated Racing Official is not capable of performing his or her activities or duties relating to the business of horse racing, whether due to impairment or any other reason.

- (e) Additional Penalties: No Raceway, Association, or licensed body shall impose a penalty upon a licensee who has violated this rule, unless that licensee is directly employed by that Raceway, Association or licensed body.
- (f) Any licensee or Designated Racing Official who fails to report a participant whom he or she might reasonably determine to have been consuming Alcohol, Illegal Drugs or Prohibited Substances, to the Judges violates these rules and shall be subject to a monetary penalty or suspension, or both.