

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 47 HORSE RACING LICENSEES
PART 1 GENERAL PROVISIONS

16.47.1.1 ISSUING AGENCY: New Mexico Racing Commission.
 [16.47.1.1 NMAC - Rp, 16 NMAC 47.1.1, 3/15/2001]

16.47.1.2 SCOPE: All persons, firms, or associations participating in horse racing in New Mexico. Additional regulations may be cross-referenced in 15.2.1 NMAC; 15.2.2 NMAC; 15.2.3 NMAC; 15.2.4 NMAC; 15.2.5 NMAC; 15.2.6 NMAC; and 15.2.7 NMAC.
 [16.47.1.2 NMAC - Rp, 16 NMAC 47.1.2, 3/15/2001]

16.47.1.3 STATUTORY AUTHORITY: Section 60-1A-5 through 60-1A-11 NMSA 1978 provides that all persons engaged in racing, or operating a horse racing meeting, and persons operating concession for or under authority of any licensee or employed by the concessionaire shall be licensed by the state racing commission.
 [16.47.1.3 NMAC - Rp, 16 NMAC 47.1.3, 3/15/2001; A, 9/15/2009]

16.47.1.4 DURATION: Permanent.
 [16.47.1.4 NMAC - Rp, 16 NMAC 47.1.4, 3/15/2001]

16.47.1.5 EFFECTIVE DATE: March 15, 2001 unless a later date is cited at the end of a section.
 [16.47.1.5 NMAC - Rp, 16 NMAC 47.1.5, 3/15/2001]

16.47.1.6 OBJECTIVE: To establish licensing requirements for horse racing participants; and establish and describe the requirements, standards and criteria for human substance abuse testing for occupational licensees licensed by the commission.
 [16.47.1.6 NMAC - Rp, 16 NMAC 47.1.6, 3/15/2001; A, 2/25/2020]

16.47.1.7 DEFINITIONS: Refer to 15.2.1.7 NMAC.
 [16.47.1.7 NMAC - Rp, 16 NMAC 47.1.7, 3/15/2001]

16.47.1.8 GENERAL PROVISIONS:

A. Licenses required: A person as defined by 15.2.1.7 NMAC shall not participate in pari-mutuel racing under the jurisdiction of the commission or be employed by an association who is a gaming operator, without a valid license issued by the commission.

(1) License categories shall include the following and others as may be established by the commission: **Group A** - racing participants eligible for an optional annual or triennial year license to include owners, trainers, veterinarians, jockeys, and stable name registrations. **Group B** - associations, racing professionals, concession operators, contractors, and managerial racing officials. **Group C** - supervisory racing officials. **Group D** - persons employed by the association, or employed by a person or concern contracting with the association, to provide a service or commodity, which requires their presence in a restricted area, or anywhere on association grounds while pari-mutuel wagering is being conducted. **Group E** - racetrack employees and authorized agents.

(2) Persons required to be licensed shall submit a thoroughly and accurately completed application on forms furnished by the commission and accompanied by the required fee. Persons seeking licensure as an authorized agent for an owner under the age of 18 shall be required to be 18 years or older and shall submit fingerprints to undergo a background check. The following fees are assessed for the issuance of the specified licenses. In addition to license fees listed herein, \$20.00 is assessed for each identification picture and badge.

Announcer	\$ 75.00
Assistant general manager	\$100.00
Assistant racing secretary	\$ 20.00
Association	\$100.00
Auditor, official	\$ 75.00
Authorized agent	\$ 10.00
Clerk of scales	\$ 20.00

Clocker	\$ 20.00
Club, racetrack	\$100.00
Concession employee	\$ 10.00
Concession operator	\$100.00
Custodian of jockey room	\$ 20.00
Director or corporate officer	\$100.00
Director of operations	\$ 75.00
Director of racing	\$ 75.00
Exercise person	\$ 20.00
General manager	\$100.00
Groom	\$ 10.00
Horseman's bookkeeper	\$ 20.00
Identifier (horse)	\$ 20.00
Janitor	\$ 10.00
Jockey (3 year)	\$200.00
Jockey (1 year)	\$100.00
Jockey (apprentice) (3 year)	\$200.00
Jockey (apprentice) (1 year)	\$100.00
Jockey agent	\$ 75.00
Jockey valet	\$ 10.00
Laborer	\$ 10.00
Office personnel (specify position)	\$ 10.00
Official veterinarian (3 year)	\$200.00
Official veterinarian (1 year)	\$100.00
Outrider	\$ 20.00
Owner (3 year)	\$200.00
Owner (1 year)	\$100.00
Paddock judge	\$ 20.00
Pari mutuel employee	\$ 10.00
Pari mutuel manager	\$ 75.00
Placing judge	\$ 20.00
Photo employee	\$ 10.00
Plater	\$100.00
Pony person	\$ 10.00
Private barns	\$100.00
Racing secretary-handicapper	\$ 75.00
Security chief	\$ 75.00
Security staff	\$ 10.00
Simulcast company employee	\$ 10.00
Simulcast coordinator	\$ 75.00
Simulcast operator	\$100.00
Special event, 1 or 2 day	\$200.00
Stable name (3 year)	\$200.00
Stable name (1 year)	\$100.00
Stable superintendent	\$ 75.00
Starter	\$ 75.00
Starter assistant	\$ 20.00
Ticket seller (admissions)	\$ 10.00
Timer	\$ 20.00
Totalisator employee	\$ 10.00
Totalisator operator	\$100.00
Track maintenance, employee	\$ 10.00
Track physician	\$100.00

Track superintendent	\$ 75.00
Trainer (3 year)	\$200.00
Trainer (1 year)	\$100.00
Trainer assistant	\$ 20.00
Veterinarian assistant	\$ 20.00
Veterinarian, practicing (3 year)	\$200.00
Veterinarian, practicing (1 year)	\$100.00
Veterinarian, racing (3 year)	\$200.00
Veterinarian, racing (1 year)	\$100.00
Watchman	\$ 10.00

(3) License applicants shall be required to furnish to the commission a set(s) of fingerprints and a recent photograph. Any license applicant that is under the age of 18 years of age is exempt from the requirement to submit fingerprint cards.

(a) All license applicants shall be required to be re-fingerprinted every six years and re-photographed periodically as determined by the commission.

(b) Requirements for fingerprints may be fulfilled by:

- (i) submission of fingerprints; or
- (ii) verification that fingerprints were submitted for processing;
- (iii) submission of a fingerprint reciprocity affidavit; or
- (iv) provide proof of licensure from another jurisdiction to which

fingerprints were submitted within the last six years.

(4) License applicants for groom, watchman, exercise and pony persons must submit to a drug (controlled substances) and alcohol-screening test when making application for license.

(5) As a participant of the national racing compact licensing program and as an alternative to the licensure requirements set forth in Paragraphs (2) through (4) of Subsection A of 16.47.1.8 NMAC, the commission may authorize applicants to utilize the national racing compact licensing program to obtain a New Mexico racing license subject to the applicable licensure fees set forth in Paragraph (2) of Subsection A of 16.47.1.8 NMAC.

B. Multi-state licensing information: Applicants may be permitted to submit an association of racing commissioners international, incorporated multi-state license information form and association of racing commissioners international, incorporated fingerprint card and thereby obtain a criminal record check that can be used in other jurisdictions.

C. Age requirement:

(1) Applicants for licensing, except owners, must be a minimum of 14 years of age, but no one under the age of 16 may be licensed as a pony person or exercise person and no one under the age of 18 may be licensed as an authorized agent or jockey agent.

(2) A licensee must be a minimum of 14 years of age to handle a horse in the paddock.

D. Consent to investigation: The filing of an application for license shall authorize the commission and the board to investigate criminal and employment records, to engage in interviews to determine applicant's character and qualifications, and to verify information provided by the applicant.

E. Consent to search and seizure: By acceptance of a license, a licensee consents to search and inspection by the commission or its agents and to the seizure of any prohibited medication, drugs, paraphernalia or devices in accordance with state and federal law.

F. Approval or recommendations by stewards: The commission may designate categories of licenses, which shall require stewards' prior approval or recommendation. Prior approval will include exercise riders, pony riders, and apprentice jockeys.

G. Employer responsibility:

(1) The employment of any unlicensed person under the jurisdiction of the commission is prohibited.

(2) Every employer shall report the discharge of any licensed employee in writing to the stewards, including the person's name and occupation.

H. Employer endorsement of license applications: The license application of an employee must be signed by the employer.

I. Financial responsibility:

(1) All persons engaged in racing shall maintain financial responsibility in matters pertaining to racing and the Parental Responsibility Act.

(2) Any person licensed by the commission may file a financial responsibility complaint against another licensee. Any financial responsibility complaint against a licensee shall be in writing, signed by the complainant, and accompanied by documentation of the services, supplies or fees alleged to be due in connection with his/her operations as a licensee. A judgment from a civil court, which has been issued within one year of the date of the complaint, may be honored by the stewards as long as at least the defendant is a licensee.

J. License refusal: The commission may refuse to issue a license and give the applicant the option of withdrawal of an application without prejudice. If an applicant is refused, the applicant may reapply for a license.

K. License denial:

(1) The commission may formally deny an application in accordance with these rules.

(2) An application denied, if requested by the applicant, shall be reported in writing to the applicant denied stating the reasons for denial, and the date when a reapplication may be submitted.

(3) An application denied may be reported to the association of racing commissioners international, incorporated and North American pari mutuel regulators association whereby other racing jurisdictions shall be advised.

L. Grounds for disciplinary measures for a licensee, and refusal, denial, suspension, or revocation of a license:

(1) The commission may refuse to issue a license to an applicant, or may suspend or revoke a license issued, or order disciplinary measures, if the applicant:

(a) has been convicted of a felony;

(b) has been convicted of violating any law regarding gambling or a controlled dangerous substance;

(c) who is unqualified, by experience or otherwise, to perform the activities for which a license is required, or who fails to pass an examination prescribed by the commission;

(d) has failed to disclose or falsely states any information required in the application;

(e) has been found in violation of rules governing racing in this state or other jurisdictions;

(f) has been found to have made false or misleading statements to the commission, stewards, or any racing official;

(g) has been or is currently excluded from association grounds by a recognized racing jurisdiction;

(h) has had a license denied, suspended, or revoked by any racing jurisdiction;

(i) is a person whose conduct or reputation may adversely reflect on the honesty and integrity of horse racing or interfere with the orderly conduct of a race meeting; interfering with the orderly conduct of a race meeting shall include, but is not limited to, disruptive or intemperate behavior or behavior which exposes others to danger anywhere on the racetrack grounds; the fact that the race meet was not actually interrupted is not a defense to the imposition of discipline under this rule;

(j) demonstrates a lack of financial responsibility by accumulating unpaid obligations, defaulting on obligations or issuing drafts or checks that are dishonored, or payment refused; for the purpose of this sub-section, non-compliance with the Parental Responsibility Act shall be considered grounds for refusal, denial, suspension, or revocation of a license; the application, or license as applicable, shall be reinstated if within 30 days of the date of the notice, the applicant provides the commission with a certified statement from the department that they are in compliance with a judgment and order for support;

(k) is ineligible for employment pursuant to federal or state law concerning age or citizenship.

(2) A license suspension or revocation shall be reported in writing to the applicant and the association of racing commissioners international, incorporated, whereby other racing jurisdictions shall be advised.

(3) Any license denied, suspended or revoked by the commission pursuant to these rules shall state the time period for the effect of its ruling. When the action is taken for a misdemeanor or felony conviction, the time period shall be the period of the licensee's or applicant's imprisonment; or if not imprisoned, the period of probation, deferral, unless the person can satisfy the commission of sufficient rehabilitation. This rule shall also apply to licensees who voluntarily turn in their license because of, or in anticipation of, a conviction.

(4) If a license is suspended or revoked by the commission or stewards pursuant to these rules the commission or stewards may probate all or any portion of the suspension.

(a) The order or ruling entered placing a licensee on probation shall state the specific probationary period and the terms and conditions of the probation.

(b) The terms and conditions of the probation must have a reasonable relationship to the violation and may include:

- (i) passing a prescribed examination in a specific area;
- (ii) periodic reporting to the commission, stewards or other designated person on any matter that is the basis of the probation;
- (iii) a medical evaluation and completion of a prescribed treatment program; and
- (iv) other terms and condition as specified in the order or ruling that are reasonable and appropriate.

(c) If the commission or stewards determine the licensee has failed to comply with the terms of the probation, the probation may be revoked on three days' notice to the licensee and the licensee may be required to appear before the New Mexico racing commission. Failure to comply with the terms of the probation may subject the licensee to additional disciplinary action.

M. Duration of license:

(1) All annual licenses, with the exception of the authorized agent, issued by the commission expire one year from the last day of the month issued. All triennial licenses expire three years from the last day of the month issued.

(2) A license is valid only under the condition that the licensee remains eligible to hold such license.

N. Changes in application information:

(1) During the period for which a license has been issued, the licensee shall report to the commission changes in information provided on the license applications as to current legal name, marital status, permanent address, telephone number, email address, criminal convictions, license suspension of 10 days or more and license revocations in other jurisdictions.

(2) A child or spouse pass, or a change in current legal name requires a completed application on forms furnished by the commission and payment of a photo badge fee.

(3) A licensee requesting a first time badge replacement shall submit a completed application on forms furnished by the commission and payment of a photo badge fee. Any subsequent badge replacements require the licensee to submit a completed application on forms furnished by the commission and payment of the original license fee.

O. Temporary licenses:

(1) The commission may establish provisions for temporary licenses, or may permit applicants to participate in racing pending action on an application. No person may engage in horse racing or be employed on the licensee's premises unless he has been licensed by the commission with the exception of casino employees and also food concession employees who work in non-restricted areas.

(2) The commission may grant an association, who is not conducting a live horse race meeting, a grace period of 30 days to obtain the required licenses for its simulcast employees. An association shall provide to the commission each month, an employment roster for all simulcast employees.

P. More than one license: An applicant for a license shall be subject to obtaining a license for each category for which an applicant will be participating, subject to the approval of the board of stewards.

Q. Conflict of interest:

(1) The commission may refuse, deny, suspend or revoke the license of a person whose spouse holds a license and which the commission or stewards find to be a conflict of interest.

(2) A racing official who is an owner of either the sire or dam of a horse entered to race shall not act as an official with respect to that race.

(3) A person who is licensed as an owner or trainer in a horse registered for racing at a race meeting in this jurisdiction shall not be employed or licensed as a jockey, apprentice jockey; jockey agent; racing official; assistant starter; track maintenance supervisor; jockey room custodian; valet; outrider; racing chemist, testing laboratory employee, or security personnel.

R. License presentation:

(1) A person must present an appropriate license or other authorization issued by the commission to enter a restricted area. The commission may issue authorization to the spouse or child of a licensed owner, trainer or jockey to enter a restricted area.

(2) The stewards may require visible display of a license while the licensee is engaged in the duty for which he/she is licensed and on the association grounds unless the licensee is mounted on a horse.

(3) A license may only be used by the person to whom it is issued.

S. Temporary access authority: Track security may authorize unlicensed persons temporary access to restricted areas. Such person shall be identified and their purpose and credentials verified and approved in writing by track security. Such authorization or credential may only be used by the person to whom it is issued.

T. Knowledge of rules: A licensee shall be knowledgeable of the rules of the commission; and by acceptance of the license, agrees to abide by the rules.

U. Protection of horses:

(1) Each person licensed by the commission shall do all that is reasonable and within their power and scope of duty to guard against and prevent the administration of any drug, medication or other substance, including permissible medication in excess of the maximum allowable level, to any horse entered or to be entered in an official workout or race, as prohibited by these rules.

(2) No licensee or other person under the jurisdiction of the commission shall subject or permit any animal under their control, custody or supervision to be subjected to or to incur any form of cruelty, mistreatment, neglect or abuse or abandon, injure, maim or kill or administer any noxious substance to or deprive any animal of necessary care or sustenance, shelter or veterinary care.

V. Restrictions:

(1) Cellular telephone use is prohibited:

(a) on the race track surface beginning one half hour before first post through the last race becoming official; and

(b) behind the starting gate during racing hours.

(2) The association shall be responsible for posting notices of the cellular telephone prohibition in these restricted areas.

[16.47.1.8 NMAC - Rp, 16 NMAC 47.1.8, 3/15/2001, A, 08/30/2001; A, 11/15/2001; A, 12/14/2001; A, 2/14/2002; A, 11/14/2002; A, 3/31/2003; A, 7/15/2003; A, 9/29/2006; A, 3/30/2007; A, 8/14/2008; A, 6/15/2009; A, 9/15/2009; A, 1/1/2014; A, 4/1/2014; A, 6/1/2016; A, 12/16/2016; A, 7/1/2017; A, 3/14/2018; A, 2/25/2020; A, 4/9/2024]

16.47.1.9 OWNERS:

A. Licensing requirements for owners:

(1) Each person who has a five percent or more ownership or beneficial interest in a horse is required to be licensed.

(2) If younger than 18 years of age, an applicant for an owner's license must submit a notarized affidavit from his/her parent or legal guardian stating that the parent or legal guardian assumes responsibility for the applicant's financial, contractual, and other obligations relating to the applicant's participation in racing.

(3) If submitting an owner's application by facsimile, the application shall be notarized. The notarized facsimile shall be treated as the original document.

(4) If the commission has reason to doubt the financial responsibility of an applicant for an owner's license, the applicant may be required to complete a verified financial statement.

(5) Licensed owners are responsible for disclosure of the true and entire ownership of each of their horses registered with the racing secretary. Any change in ownership or trainer of a horse registered with the racing secretary must be approved by the stewards. A new owner must comply with all licensing requirements.

(6) The commission may refuse, deny, suspend, or revoke an owner's license for the spouse or member of the immediate family or household of a person ineligible to be licensed as an owner, unless there is a showing on the part of the applicant or licensed owner, and the commission determines that participation in racing will not permit a person to serve as a substitute for an ineligible person. The transfer of a horse to circumvent a commission rule or ruling is prohibited.

B. Licensing requirements for multiple owners:

(1) If the legal owner of any horse is a partnership, corporation, limited liability company, syndicate or other association or entity, each shareholder, member or partner shall be licensed as required in 16.47.1.8 NMAC.

(2) Each partnership, corporation, limited liability company, syndicate or other association or entity shall disclose to the commission all owners holding a five percent or greater beneficial interest, unless otherwise required by the commission.

(3) Each partnership, corporation, limited liability company, syndicate or other association or entity which includes an owner with less than a five percent ownership or beneficial interest shall file with the commission an affidavit which attests that, to the best of their knowledge, every owner, regardless of their ownership or beneficial interest, is not presently ineligible for licensing or suspended in any racing jurisdiction.

(4) To obtain an owner's license, an owner with less than a five percent ownership or beneficial interest in a horse must establish a bona fide need for the license and the issuance of such license must be approved by the stewards.

(5) Application for joint ownership shall include a designation of a managing owner and a business address. Receipt of any correspondence, notice, or order at such address shall constitute official notice to all persons involved in the ownership of such horse.

(6) The written appointment of a managing owner or authorized agent shall be filed with the commission.

C. Lease agreements: A horse may be raced under lease provided a completed breed registry or other lease form acceptable to the commission is attached to the certificate of registration and on file with the racing secretary. The lessor and lessee must be licensed as horse owners.

D. Stable name registration:

(1) Licensed owners and lessees may adopt a stable name subject to the approval of the commission.

(2) The applicant must identify all persons using the stable name. Changes must be reported immediately to the commission.

(3) A person who has registered a stable name may cancel it upon written notice to the commission.

(4) A stable name may be changed by registering a new stable name.

(5) A stable name, which has been registered by any other person, will not be approved by the commission.

(6) A stable name shall be clearly distinguishable from other registered stable names.

(7) The stable name and the name of the owner shall be published in the program. If the stable name consists of more than one person, the program shall list the name of the managing owner along with the phrase "et al".

(8) All persons using a stable name must comply with all rules regarding licensing of owners.

E. Racing colors:

(1) Owners or trainers must provide racing colors, which are subject to the approval of the commission.

(2) Racing colors must be registered with the racing secretary no later than the close of entries for that day of racing. If colors are registered they shall be used unless permission to substitute colors is received from the stewards.

(3) Standard track colors will be furnished by the association for owners or trainers who do not provide their own colors. The stewards may authorize a temporary substitution of racing colors when necessary.

(4) The racing colors to be worn by each jockey in a race shall be described in the program, and any change shall be announced to the public prior to the commencement of the race.

F. Private barns/stables: An owner or lessee of a private barn/stable adjacent to or within a reasonable distance of a New Mexico racing facility governed by the commission may by consent have direct access to that racetrack provided they consent to the jurisdiction of the commission and agree, in writing to comply with all rules and regulations of the commission. Direct access simply means they may enter the licensed racetrack without having to go through the general public gate or the horsemen's gate, but they may do so only after consenting in writing to jurisdiction of and complying with the commission and its rules and regulations.

[16.47.1.9 NMAC - Rp, 16 NMAC 47.1.9, 3/15/2001; A, 2/14/2002; A, 7/15/2003; A, 2/25/2020]

16.47.1.10 TRAINERS:

A. Eligibility:

(1) An applicant for a license as trainer or assistant trainer must be at least 18 years of age.

(2) The board of stewards may first determine whether an applicant for a license as a trainer or assistant trainer has taken an examination in another pari-mutuel jurisdiction prior to applying for a license in New Mexico. The board of stewards shall have sole discretion in which jurisdiction to reciprocate licensing.

(3) Applicants not previously licensed as a trainer or assistant trainer in New Mexico or applying for a renewal license as a trainer shall be qualified, as determined by the stewards or other commission designee, by reason of:

(a) At least five years' experience as a licensed groom, jockey, exercise rider, or pony person.

(b) Shall be required to pass the New Mexico racing commission's sanctioned written trainers examination, with a minimum score of 80 percent in each category, an oral interview with the board of stewards and pass a demonstration of practical skills.

(c) Must submit two written statements from trainers currently licensed in New Mexico as to the character and qualifications of the applicant and one written statement from a currently licensed owner stating intent to place one or more horses with the applicant, when licensed.

(d) Applicants failing the first written/oral examination must wait 90 days before retaking the trainer's test.

(e) Applicants failing the second written/oral examination must wait 180 days before retaking the trainer's test.

(f) Applicants failing the third written/oral examination must wait one year before retaking the trainer's test.

(4) Any trainer who has been the subject of a medication violation or investigation in any jurisdiction is subject to an oral examination conducted by the stewards; a demonstration of practical skills; or the New Mexico racing commission's sanctioned written trainers examination and must pass with a minimum score of 80 percent in each category.

(5) Upon timely request to the steward's or commission designee due to disability or other factors affecting the applicant's ability to effectively complete the trainer's test (such as illiteracy or language barriers), reasonable accommodations shall be made for the applicant including, but not limited to, oral administration of the examination, use of a pre-approved translator, and aid from pre-approved assistant where deemed appropriate by the stewards or commission designee administering the examination.

(6) Failure to start a minimum of one horse every six months while holding a trainer's license shall require licensee to retest or interview before the board of stewards.

(7) Any trainer who has obtained a trainer's license in another jurisdiction but has failed to start a minimum of five horses in a jurisdiction that conducts pari-mutuel wagering, will be required to pass an oral examination before the New Mexico board of stewards, a demonstration of practical skills administered by a New Mexico racing commission designee; and take the New Mexico commission sanctioned written trainers examination and must pass with a minimum score of 80 percent in each category.

(8) Any potential trainer or assistant trainer who has started the licensing process in the state of New Mexico and obtains a trainer's or assistant trainer's license in another jurisdiction will be required to pass an oral examination before the New Mexico board of stewards, a demonstration of practical skills administered by a New Mexico racing commission designee, and take the New Mexico racing commission sanctioned written trainers examination and must pass with a minimum score of 80 percent in each category.

(9) Any trainer or assistant trainer who has passed the HISA written examination will also be required to pass an oral examination before the New Mexico board of stewards, a demonstration of practical skills administered by a New Mexico racing commission designee and take a New Mexico racing commission sanctioned written trainers examination and must pass with a minimum score of 80 percent in each category.

B. Absolute insurer:

(1) The trainer is the absolute insurer of the condition of horses entered in an official workout or race and is responsible for the presence of any prohibited drug or medication, or other prohibited substance in such horses. A positive test for a prohibited drug or medication or other prohibited substance or the presence of permitted medication in excess of maximum allowable levels as reported by a commission-approved laboratory is prima facie evidence of a violation of this rule. The trainer is absolutely responsible regardless of the acts of third parties.

(2) A trainer must prevent the administration of any drug or medication or other prohibited substance that may cause a violation of these rules.

(3) A trainer whose horse has been claimed remains the absolute insurer for the race in which the horse is claimed.

C. Other responsibility: A trainer is responsible for:

(1) the condition and contents of stalls, tack rooms, feed rooms, sleeping rooms and other areas which have been assigned by the association;

- (2) maintaining the assigned stable area in a clean, neat, and sanitary condition at all times;
- (3) ensuring that fire prevention rules are strictly observed in the assigned stable area;
- (4) providing a list to the chief of security of the trainer's employees on association grounds and any other area under the jurisdiction of the commission; the list shall include each employee's name, occupation, social security number, and occupational license number; the chief of security shall be notified by the trainer, in writing, within 24 hours of any change;
- (5) the proper identity, custody, care, health, condition, and safety of horses in their charge;
- (6) disclosure of the true and entire ownership of each horse in their care, custody or control; any change in ownership must be reported immediately to, and approved by, the stewards and recorded by the racing secretary;
- (7) training all horses owned wholly or in part by them which are participating at the race meeting; registering with the racing secretary each horse in their charge within 24 hours of the horse's arrival on association grounds;
- (8) immediately notify the stewards and commission veterinarian of all out-of-state certified horses on furosemide;
- (9) having each horse in their care that is racing, or is stabled on association grounds, tested for equine infectious anemia (EIA) and for filing evidence of such negative test results with the racing secretary as required by the commission;
- (10) using the services of those veterinarians licensed by the commission to attend horses that are on association grounds;
- (11) immediately reporting the alteration in the sex of a horse in their care to the horse identifier and the racing secretary, whose office shall note such alteration on the certificate of registration;
- (12) promptly reporting to the racing secretary and the official veterinarian any horse on which a posterior digital neurectomy (heel nerving) is performed and ensuring that such fact is designated on its certificate of registration;
- (13) promptly notifying the official veterinarian of any reportable disease and any unusual incidence of a communicable illness in any horse in their charge;
- (14) promptly reporting the death of any horse in their care on association grounds to the stewards and the official veterinarian and compliance with the rules in Subsection C of 15.2.6.12 NMAC governing post-mortem examinations;
- (15) maintaining a knowledge of the medication record and status of all horses in their care;
- (16) immediately reporting to the stewards and the official veterinarian if they know, or has cause to believe, that a horse in their custody, care or control has received any prohibited drugs or medication;
- (17) representing an owner in making entries and scratches and in all other matters pertaining to racing; horses entered as to eligibility and weight or other allowances claimed;
- (18) horses entered as to eligibility and weight or other allowances claimed;
- (19) ensuring the fitness of a horse to perform creditably at the distance entered;
- (20) ensuring that their horses are properly shod, bandaged, and equipped; toe grabs with a height greater than two millimeters worn on the front shoes of thoroughbred horses while racing are prohibited; the horse shall be scratched and the trainer may be subject to fine;
- (21) ensuring that horses are properly bandaged, and equipped; and no jockey, apprentice jockey, exercise person or any person mounted on a horse shall ride, breeze, exercise, gallop or workout a horse on the grounds of a facility under the jurisdiction of the commission unless the horse is equipped with a nylon rein or a safety rein; a safety rein is a rein with a wire or nylon cord stitched into the traditional leather rein during the manufacturing process and the safety cord is attached to the bit with a metal clasp;
- (22) presenting horse in the paddock at least 20 minutes before post time or at a time otherwise appointed before the race in which the horse is entered;
- (23) personally attending to their horses in the paddock and supervising the saddling thereof, unless excused by the stewards; if the trainer is excused, the trainer must secure another trainer or assistant trainer who is licensed by the commission to assume those duties;
- (24) instructing the jockey to give their best effort during a race and that each horse shall be ridden to win;
- (25) attending the collection of urine or blood sample from the horse in their charge or delegating a licensed employee or the owner of the horse to do so; and

(26) notifying horse owners upon the revocation or suspension of their trainer's license; upon application by the owner, the stewards may approve the transfer of such horses to the care of another licensed trainer, and upon such approved transfer, such horses may be entered to race.

D. Assistant trainers:

(1) A trainer may employ an assistant trainer, who shall be equally responsible with the employing trainer for the condition of the horses in their care. The name of the assistant trainer shall be shown on the official program along with that of the employing trainer.

(2) Qualifications for obtaining an assistant trainer's license shall be prescribed by the stewards and the commission may include those requirements prescribed in Paragraph (1) of Subsection A of 16.47.1.10 NMAC.

(3) An assistant trainer must be licensed for a minimum of two years as an assistant trainer before being eligible to obtain a trainer's license.

(4) If an assistant trainer passed the written examination with a minimum score of 80 percent in each category within the previous 48 months, the licensee is not required to retake the test in order to obtain their trainer's license.

(5) An assistant trainer shall assume the same duties and responsibilities as imposed on the licensed trainer.

(6) The trainer shall be jointly responsible for the assistant trainer's compliance with the rules governing racing.

(7) A trainer that is involved in, or notified of, or under suspension for 30 days or more of a drug or rule violation, shall not transfer their horses to his or her assistant trainer or an employee of the trainer.

E. Substitute trainers:

(1) If any licensed trainer is prevented from performing his duties or is absent from the track where he is participating, the stewards shall be immediately notified, and at the same time, a substitute trainer or assistant trainer, acceptable to the stewards, shall be appointed. The stewards shall be advised when the regular trainer resumes his duties.

(2) A substitute trainer must accept responsibility for the horses in writing and be approved by the stewards.

(3) A substitute trainer and the absent trainer shall be jointly responsible as absolute insurers of the condition of their horses entered in an official workout or race pursuant to Paragraphs (1), (2) and (3) of Subsection B of 16.47.1.10 NMAC.

F. Program trainers:

(1) A program trainer, as defined in 15.2.1 NMAC, is a licensed trainer who, solely for the purposes of the official race program, is identified as the trainer of a horse that is actually under the control of, and trained by another person who may or may not hold a current trainer's license in any jurisdiction. Any trainer shall be deemed a program trainer if they:

(a) enter into an agreement on behalf of an unlicensed, ineligible or suspended trainer for the sole purpose of completing an entry form for a race;

(b) pay an entry, nomination or starter fee on behalf of an unlicensed, ineligible or suspended trainer;

(c) receive a financial or beneficial interest from an unlicensed, ineligible or suspended trainer for the sole purpose of being listed as the trainer on the official race program; or

(d) obtain official works within New Mexico's jurisdiction on behalf of an unlicensed, ineligible or suspended trainer; or

(e) solicit or accepts a loan of anything of value from the unlicensed, ineligible or suspended trainer; or

(f) use the farm or individual name of the unlicensed, ineligible or suspended trainer when billing customers; or

(g) pay any compensation to the unlicensed, ineligible, or suspended trainer.

(2) A licensed trainer who violates Paragraph (1) of this subsection will be subject to the following penalties:

(a) First offense - six month suspension and a \$5,000 fine.

(b) Second offense - one year suspension and a \$10,000 fine.

(c) Third offense - license revocation with a three year ban on re-application and \$20,000 fine.

(d) A fourth or subsequent offense shall carry the same penalty as that imposed for a third offense, and the penalties will run consecutively.

(3) On request by the commission or any of its agents, a person who assumes the care, custody or control of the horses of the unlicensed, ineligible or suspended trainer, shall permit the commission or its agents to examine all financial or business records to ensure compliance with this section.

[16.47.1.10 NMAC - Rp, 16 NMAC 47.1.10, 3/15/2001; A, 11/15/2001; A, 3/30/2007; A, 8/30/2007; A, 6/30/2009; A, 9/15/2009; A, 7/5/2010; A, 5/16/2014; A, 9/15/2014; A, 3/15/2016; A, 6/1/2016; A, 12/16/16; A, 3/14/2018; A, 2/25/2020; A, 12/28/2021; A, 4/9/2024]

16.47.1.11 OWNER'S AUTHORIZED AGENTS:

A. Licenses required:

(1) A written authorized agent appointment, acknowledged before a notary public must be approved by the board of stewards.

(2) A written appointment must be filed with the commission office for each owner represented and is not transferable to any other partnership, stable name, or owner-principal.

(3) A written instrument signed by the owner shall clearly set forth the delegated powers of the authorized agent. The owner's signature on the written instrument must be acknowledged before a notary public.

(4) If the written instrument is a power of attorney it shall be filed with the commission office and attached to the regular application form.

(5) Any changes must be made in writing, notarized and filed as provided in Paragraph (3) of Subsection A of 16.47.1.11 NMAC above.

(6) All authorized agent appointments shall expire December 31st each year or when terminated by the owner in writing, acknowledged before a notary public, and filed with the commission office whereupon the agency appointment shall not be valid.

(7) An authorized agent shall be licensed by the commission as such and must be a minimum of 18 years old.

B. Powers and duties:

(1) An authorized agent may perform on behalf of the licensed owner-principal all acts related to racing, as specified in the agency appointment that could be performed by the owner-principal if such principal were present.

(2) In executing any document on behalf of the principal, the authorized agent must clearly identify the authorized agent and the owner-principal.

(3) When an authorized agent enters a claim for the account of an owner-principal, the name of the licensed owner for whom the claim is being made and the name of the authorized agent shall appear on the claim slip or card.

(4) Authorized agents are responsible for disclosure of the true and entire ownership of each horse for which they have authority. Any change in ownership must be reported immediately to, and approved by, the stewards and recorded by the racing secretary.

[16.47.1.11 NMAC - Rp, 16 NMAC 47.1.11, 03/15/2001; A, 03/30/2007; A, 08/14/2008; A, 4/20/2021]

16.47.1.12 JOCKEYS:

A. Eligibility:

(1) A jockey must pass a physical examination given within the previous 12 months by a licensed physician affirming fitness to participate as a jockey. The stewards may require that any jockey be reexamined and may refuse to allow any jockey to ride pending completion of such examination.

(2) Prior to obtaining a license an applicant for a first time jockey or an apprentice jockey license must demonstrate their riding ability by participating in five races and must receive prior approval from the stewards, the starter, the head outrider, and the designated representatives of the jockeys and the horsemen at the track. The demonstration of riding competence and ability is defined as a minimum of:

(a) breaking a horse in company from the starting gate;

(b) working a horse in company from the starting gate;

(c) switching the whip from one hand to the other while maintaining control of the horse in a stretch drive; and

(d) causing the horse to switch leads coming out of a turn.

(3) Failure to demonstrate the required ability shall result in the withdrawal of the license.

(4) The stewards may authorize a temporary license to ascertain the applicant's riding competence and ability.

(5) A jockey shall not be an owner or trainer of any horse competing at the race meeting where the jockey is riding.

(6) An applicant whose weight exceeds 130 pounds at the time of application shall not be issued a jockey's license.

B. Apprentice jockeys:

(1) An apprentice jockey must be 16 years of age and if less than the age of 18, a parent or guardian must sign the license application assuming full financial responsibility for the applicant.

(2) An applicant for an apprentice jockey license shall provide a certified copy of the applicant's birth certificate or other satisfactory evidence of date of birth.

(3) An apprentice jockey license does not apply to quarter horse racing.

(4) An applicant with an approved apprentice certificate may be licensed as an apprentice jockey.

(5) An apprentice certificate may be obtained from the stewards on a form provided by the commission.

(6) An apprentice jockey shall ride with a five pound weight allowance beginning with their first mount and for one full year from the date of their fifth winning mount. If after riding one year from the date of their fifth winning mount, the apprentice jockey has failed to ride a total of 40 winners, they shall continue to ride with a five pound weight allowance for one more year from the date of their fifth winning mount or until they have ridden 40 winners, whichever comes first. In no event may a weight allowance be claimed for more than two years from the date of the fifth winning mount unless an apprentice jockey is unable to ride for a period of seven consecutive days or more after the date of their fifth winning mount because of service in national armed forces, enrollment in high school or an institution of secondary education, or because of physical disablement, or restriction on racing or other valid reasons, the commission may extend the time during which such apprentice weight allowance may be claimed for a period not to exceed the period such apprentice jockey was unable to ride. The stewards or commission may issue apprentice extensions with proper documentation.

(7) An apprentice jockey must meet the conditions set forth in Subsection A of 16.47.1.12 NMAC.

C. Foreign jockeys: Whenever a jockey from a foreign country rides in this jurisdiction, the jockey must declare that they are a holder of a valid license in their country and currently not under suspension. To facilitate this process, the jockey shall present a declaration sheet in a language recognized in this jurisdiction to the commission. The jockey must complete a license application and be fingerprinted to be maintained in the files of the commission.

D. Jockeys responsibility:

(1) A jockey shall not have a valet-attendant except one provided and compensated by the association.

(2) No person other than the licensed contract employer, or a licensed jockey agent, may make riding engagements for a rider, except that a jockey not represented by a jockey agent may make his own riding engagements.

(3) A jockey shall have no more than one jockey agent.

(4) No revocation of a jockey agent's authority is effective until the jockey notifies the stewards in writing of the revocation of the jockey agent's authority.

(5) A jockey who has a medical condition which makes it necessary to possess or use a prescribed, prohibited, or controlled substance pursuant to Paragraph (3) of Subsection B of 15.2.6.8 NMAC, that jockey shall provide to the stewards a letter signed by a licensed physician, physician assistant, or nurse practitioner certifying that the consumption of the prohibited, prescribed, or controlled substances will not adversely affect the divided attention, psychophysical abilities of a jockey, to include but not limited to reaction time and the jockey's ability to accurately judge time and distance. The letter must certify that the prohibited, prescribed, or controlled substance will not affect a jockey's ability to carry out their responsibilities properly and safely while in the performance of their duties which includes being in actual physical control of a large equine animal while in close physical competition on a racetrack surface and will not jeopardize the health, safety and welfare of the other individuals participating.

E. Colors, numbers, advertising:

(1) A jockey shall be properly attired for riding in a race, wearing the colors of the owner of the horse he or she is riding, and exhibiting a number on the saddlecloth that corresponds to the number of the horse on the program.

(2) Advertising or promotional material may be worn by a jockey upon approval from the board of stewards and racetrack management. Approval is discretionary and may be denied for just cause.

(3) Jockeys shall submit a commission approved form, including a description of the advertisement or promotional material to be worn with the name of the brands and sponsors.

(4) The form must be submitted to the board of stewards at the time of entry before the applicable race.

(5) Advertising, including logos, labels or product endorsements shall be permitted on jockey attire from the point of weighing out for a race to weighing in after its conclusion.

(6) Advertisement on jockey clothing is limited to.

(a) A maximum of 32 square inches on each thigh of the pants on the outer sides between the hip and knee and 10 square inches on the rear at the base of the spine.

(b) A maximum of 24 square inches on boots and leggings on the outside of each, nearest the top of the boot.

(c) A maximum of six square inches on the front center in the neck area.

(7) A sponsorship shall not be permitted by a person or entity whose message, business reputation, or ongoing business activity may be considered as obscene or indecent to a reasonable person.

(8) Advertising or promotional material displayed on jockey clothing shall not compete with, conflict with, or infringe upon sponsorship agreements applicable to the racing association race or to the race meet in progress.

(9) A jockey may wear the following advertising or promotional materials within the parameters outlined in the size restrictions above without obtaining prior approval.

(a) Materials advertising or promotion the jockey's guild in the form of the picture of a jockey's boot or the picture of a wheelchair, with no additional picture of logo.

(b) The permanently disabled jockey's fund (PDJF) in the form of the pictures of its logo, with no additional picture or log.

F. Jockey betting: No jockey shall be allowed to bet before or during any live racing program.

G. Jockey Suspensions and Designated Races:

(1) Prior to the commencement of a race meeting, a listing of designated races by the stewards shall be submitted to the executive director. A copy of such races shall be posted in the jockeys' room and any other such place deemed appropriate by the stewards. The stewards may elevate a race to designated race status after the commencement of the race meet and shall submit it to the executive director and update the listing as above.

(2) A jockey suspended for 10 days or less for a riding violation, unless otherwise specified in the ruling, may continue to exercise horses during the training hours and may fulfill riding engagements in designated races, as designated by the stewards at the beginning of the race meet.

(3) The official ruling where designated races are permitted shall state: "The term of this suspension shall not prohibit participation in designated race days."

(4) A jockey who is serving a suspension of 10 race days or less may ride in designated races during the suspension under the following conditions:

(a) The race has been specified as a designated race by the stewards officiating at the race meet; and

(b) the jockey is named no later than the time set for the close of entries for the designated race.

(5) When a jockey rides in a designated race (s)

(a) The jockey agrees that if they participate in only one designated race in New Mexico, the day will be recognized as a suspension day; or

(b) the jockey agrees that if they participate in more than one designated race in New Mexico, the day will still not be recognized as a suspension day and they will serve an additional race day of suspension in place of the race day on which the jockey rides in a designated race, to be served on the next race day; or

(c) the jockey agrees that if they participate in one or more designated races in any other jurisdiction while under suspension in New Mexico, the day will still not be recognized as a suspension day

and the jockey will serve an additional race day of suspension in place of the race day on which the jockey rides in a designated race, to be served on the next race day.

(6) A jockey may ride all races for the day they are riding a designated race, however, the jockey is to continue to take the next available day until his suspension is completed.

[16.47.1.12 NMAC - Rp, 16 NMAC 47.1.12, 3/15/2001; A, 8/31/2004; A, 10/31/2006; A, 6/15/2009; A, 12/14/2012; A, 12/16/2016; A, 9/26/2018; A, 12/28/2021]

16.47.1.13 JOCKEY AGENTS:

A. Eligibility:

(1) An applicant for a license as a jockey agent must be a minimum of 18 years of age, demonstrate to the stewards that he/she has a contract for agency with at least one jockey who has been licensed by the commission; and be qualified, as determined by the stewards or other commission designee, by reason of experience, background and knowledge; a jockey agent's license from another jurisdiction may be accepted as evidence of experience and qualifications; evidence of qualifications may require passing one or more of the following: a written examination; an interview or oral examination.

(2) Applicants not previously licensed as a jockey agent shall be required to pass a written and oral examination.

B. Limits on contracts: A jockey agent may serve as agent for no more than three jockeys and shall secure a license as a jockey agent. A jockey agent must register his/her riders with the stewards upon his/her arrival at each individual meet and must report any changes during the meet.

C. Responsibility: All persons permitted to make riding engagements shall maintain current and accurate records of all engagements made, such records being subject to examination by the stewards at any time.

D. Prohibited areas: A jockey agent is prohibited from entering the jockey room, winner's circle, racing strip, paddock or saddling enclosure during the hours of racing, unless permitted by the stewards.

E. Agent withdrawal:

(1) When any jockey agent withdraws from representation of a jockey, the jockey agent shall immediately notify the stewards and shall submit to the stewards a list of any unfulfilled engagements made for the jockey.

(2) A jockey agent shall not be permitted to withdraw from the representation of any jockey unless written notice to the stewards has been provided.

[16.47.1.13 NMAC - Rp, 16 NMAC 47.1.13, 3/15/2001; A, 5/30/2003; A, 8/14/2008]

16.47.1.14 HORSESHOER'S ELIGIBILITY:

A. An applicant for a license as horseshoer must be at least 18 years of age; be qualified, as determined by the stewards and horseshoer consultant, by reason of experience, background and knowledge of horseshoeing; a horseshoer's license from another jurisdiction, having been issued within a prior period as determined by the commission, may be accepted as evidence of experience and qualifications; evidence of qualifications may require passing one or more of the following: a written examination; an interview or oral examination; a demonstration of practical skills in horseshoeing.

B. Applicants not previously licensed as a horseshoer shall be required to pass a written/oral examination, demonstrate practical skills, and submit at least two written statements as to the character and qualifications of the applicant.

[16.47.1.14 NMAC - Rp, 16 NMAC 47.1.14, 3/15/2001]

16.47.1.15 PONY PERSON AND EXERCISE RIDER ELIGIBILITY:

A. An applicant for a license as a pony person or an exercise rider must be at least 16 years of age and shall submit and pass a drug (controlled substance) and alcohol screening test.

B. Applicants not previously licensed as a pony person or exercise rider shall be required to appear before the board of stewards for an oral interview.

(1) If applicant passes the oral interview, they will be issued a license and placed on probation for 30 days. The probation period will commence on the day the license is issued.

(2) During this 30 day probation period, the applicant's riding ability will be observed by the outrider on duty. It is the responsibility of the applicant to notify the outrider of their presence on the racetrack prior to entering onto the racetrack.

(3) Failure for applicant to receive approval from both outriders on demonstrating their riding ability after the 30 day probation period has lapsed, shall subject the license to be revoked.

[16.47.1.15 NMAC - N, 7/1/2017]

16.47.1.16 PRACTICING VETERINARIANS:

A. Eligibility: An applicant for a license as practicing veterinarian shall be qualified and licensed to practice veterinary medicine in this jurisdiction and be otherwise qualified to be issued a license to participate in racing. An application for a practicing veterinarian license from the commission must be accompanied by a copy of the applicant's current license to practice veterinary medicine.

B. Responsibility:

(1) All practicing veterinarians administering drugs, medications or other substances shall be responsible to see that the drugs, medications or other substances, and the veterinary treatment of horses are administered in accordance with 15.2.6 NMAC.

(2) All practicing veterinarians shall promptly notify the official veterinarian of any reportable disease and any unusual incidence of a communicable illness in any horse in his/her charge.

[16.47.1.16 NMAC - Rp, 16 NMAC 47.1.16, 3/15/2001; Rp, 16.47.1.15 NMAC, 7/1/2017]

16.47.1.17 HUMAN DRUG OR CONTROLLED SUBSTANCE AND ALCOHOL TESTING:

A. If a licensee has a medical condition which makes it necessary to possess or use a prohibited substance, or prescribed or controlled substance pursuant to Paragraph B of 15.2.6.8 NMAC, the licensee shall provide to the stewards a letter signed by a licensed physician, physician assistant, or nurse practitioner certifying that the consumption of the prohibited, or prescribed, or controlled substances will not adversely affect the divided attention, psychophysical abilities of the licensee, to include but not limited to reaction time and the ability to judge time and distance. The letter must certify that the prohibited, or prescribed, or controlled substance will not affect a licensee's ability to carry out their responsibilities properly and safely while in the performance of their duties which includes being in actual physical control of a large equine animal or operating mechanical equipment on the grounds of the association and will not jeopardize the health, safety and welfare of the other individuals participating.

B. Restricted activities: All licensees may be subject to testing for controlled substances, drugs and alcohol. It shall be a violation for a licensee to utilize their commission issued license if the licensee:

- (1) is engaged in illegal sale or distribution of alcohol or a controlled substance;
- (2) possesses, without a valid prescription, a controlled substance;
- (3) is intoxicated or under the influence of alcohol;
- (4) is addicted, having been determined to be so by a professional evaluation, to alcohol or other drugs and not engaged in an abstinence-based program of recovery acceptable to the commission;
- (5) has in their possession within the association grounds, any equipment, products or materials of any kind which are used or intended for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled dangerous substance;

- (6) refuses to submit to drug or controlled substances or alcohol testing, or both;
- (7) presently has drugs or controlled substances or alcohol in their body.

C. With regard to alcohol, the results of a breath test showing a reading of more than .08 BAC in the sample provided by a licensee in a non-safety sensitive position shall be the criterion for a finding of alcohol present in the body. Such results shall operate as prima facie evidence of the presence of alcohol in a prohibitive amount in a licensee.

D. Licensees in safety positions, as determined by the stewards are in violation of this rule if they have any measurable level of alcohol, as determined by a breathalyzer test. Such results shall operate as prima facie evidence of the presence of alcohol in a prohibitive amount in the licensee.

E. There is zero tolerance for trainers and assistant trainers to be under the influence of controlled substances or alcohol or both while saddling horses in the paddock.

[16.47.1.17 NMAC - Rp, 16 NMAC 47.1.16, 3/15/2001; Rp, 16.47.1.16 NMAC, 7/1/2017; A, 9/26/2018; A, 4/9/2024]

16.47.1.18 TESTING PROCEDURES:

A. Controlled Substance and Drug Testing:

(1) At its discretion, the commission may conduct random or episodic random drug testing, as well as testing based on reasonable suspicion, in order to ensure safety on the association grounds.

(2) All licensees may be subject to testing for controlled substances and drugs.

- (3) No advance notice need be given.
- (4) Refusing to test, failing to appear for a test, leaving before the test is over or otherwise failing to cooperate shall be considered a positive test. If this occurs during a race meet, the licensee is subject to and may be ejected from association grounds.
- (5) For licensees who are testing under the provisions in this chapter, and whose urine testing shows the presence of drugs or controlled substances shall be confirmed by a laboratory acceptable to the commission.
- (6) An association shall provide a drug or controlled substance screening test for all applicants for grooms, exercise riders, jockey valets, starters, assistant starters, ambulance personnel, and pony persons when making application for license. The cost for the drug-screening test will be borne by the applicant payable to the association at a reasonable cost approved by the commission.
- (7) The licensee being tested may request a confirmation test when the sample quantity permits. Such request shall be made in writing immediately after a positive result of the test and be directed to the commission agent involved in the testing. The licensee requesting a confirmation test, or their agent, shall be present during the preparation and packing of the sample for delivery to the commission's testing laboratory. The licensee and the commission shall both be notified of the confirmation testing results.
- (8) **Chain of custody:** The commission shall provide for a secure chain of custody for the confirmation sample. The commission shall retain ownership of all samples.
- (9) **Financial responsibility:** All costs for the transportation and confirmation testing for the sample portion shall be the financial responsibility of the commission, unless otherwise noted in a stewards' ruling.

B. Alcohol Testing:

- (1) At its discretion, the commission may conduct random or episodic breath alcohol testing as well as testing based on reasonable suspicion, in order to ensure safety on the association grounds.
- (2) All licensees may be subject to breath alcohol testing.
- (3) No advance notice need be given as to random breath alcohol testing.
- (4) Refusing to test, failing to appear for a test, leaving before the test is over or otherwise failing to cooperate shall be considered a positive test. If this occurs during a race meet, the licensee is subject to and may be ejected from association grounds.
- (5) If the breath testing results for non-safety position licensees show a reading of more than .08 BAC in the sample, such licensees shall be relieved of their duties for that day.
- (6) For a licensee's second breath testing violation in any jurisdiction, the licensee shall be referred to the board of stewards and shall be fined no less than two hundred dollars and shall be suspended for a period of not more than sixty days.
- (7) For a licensee's third breath testing violation in any jurisdiction, the licensee shall be fined two hundred dollars, suspended for a minimum of sixty days, and referred to the commission's board of stewards for further action.

[16.47.1.18 NMAC - Rp, 16 NMAC 47.1.16, 3/15/2001; Rp, 16.47.1.17 NMAC, 7/1/2017; A, 4/9/2024]

16.47.1.19 ASSESSMENT/TREATMENT REQUIREMENTS:

A. General: A licensee penalized or restricted pursuant to this chapter shall retain rights of due process with respect to any determination of alleged violations which may adversely affect the right to hold a license. If there has been an offense, under 16.47.1.17 NMAC, above, the procedures in Subsections B, C and D of 16.47.1.18 NMAC will be followed.

B. First-time offenders:

- (1) The board of stewards or the commission may, at its discretion, order the licensee to obtain a professional assessment to determine whether there is a substantial probability that the licensee is dependent on, or abuses, alcohol or other drugs or the board of stewards or the commission may act on the information at hand.
- (2) Actions in the case of first offenders may include revocation of the license, suspension of the license for up to six months, placing the offender on probation for up to 90 days or ordering formal assessment and treatment.
- (3) Treatment or assessment, if ordered, must meet the conditions given in Subsection C of 16.47.1.18 NMAC.

C. Second-time offenders:

- (1) The license of the person may be revoked or suspended for a period of up to one year or a professional assessment of the person may be ordered by the commission.

(2) If a professional assessment indicates presence of a problem or alcohol or other drug abuse that is not treatable within the reasonably foreseeable future (360 days) the license may be suspended for a period of up to one year.

(3) If a professional assessment indicates presence of a treatable problem of alcohol or other drug abuse or dependence, the board of stewards or the commission may order the licensee to undergo treatment as a condition of continuing licensure. Such treatment will be through a program or by a practitioner, acceptable to the licensee and the board of stewards or the commission. Required features of any program or practitioner acceptable to the board of stewards or the commission will be: accreditation or licensure by an appropriate government agency, if required by state statute; a minimum of one year follow-up treatment; and, a formal contract indicating the elements of the treatment and follow-up program that will be completed by the licensee and, upon completion, certified to the board of stewards or the commission as completed. To affect the contract, the licensee will authorize release of information by the treating agency, hospital or individual.

D. Third-time offenders: For third-time offenders, the offender's license may be revoked and the offender may be deemed ineligible for licensure for up to five years.

[16.47.1.19 NMAC - Rp, 16 NMAC 47.1.16, 3/15/2001; Rp, 16.47.1.18 NMAC, 7/1/2017]

16.47.1.20 RELAPSE OF LICENSEE IN RECOVERY PROGRAM GENERAL: Although relapse (failure to maintain abstinence) is not inevitable, it is common for relapse to occur in recovery from alcoholism or other substance dependence. Therefore, a licensee who is engaged in a formal program of recovery, and is compliant with all provisions other than abstinence, will not be regarded automatically as having committed a new offense.

[16.47.1.20 NMAC - Rp, 16 NMAC 47.1.16, 3/15/2001; Rp, 16.47.1.19 NMAC, 7/1/2017]

16.47.21 POST-RELAPSE PROCEDURES:

A. When a licensee is determined to have failed in maintaining abstinence, the licensee shall furnish to the board of stewards or the commission an assessment by the treating agency, hospital or individual practitioner indicating whether the licensee was compliant with the agreed upon program of recovery, and an opinion as to whether a "new offense" occurred.

B. The board of stewards or the commission will determine whether a new offense has occurred in each instance. If a new offense has occurred, the board of stewards or the commission will proceed under Subsections B or C of 16.47.1.18 NMAC. Otherwise, the licensee shall continue in the agreed upon program of recovery.

[16.47.1.21 NMAC - Rp, 16 NMAC 47.1.16, 3/15/2001; Rp, 16.47.1.20 NMAC, 7/1/2017]

History of 16.47.1 NMAC:

Pre-NMAC History: Material in this part was derived from that previously filed with the commission of public records - state records center and archives as:

NMSRC 67-1, Amendment No. 1, rule Revisions Adopted by the New Mexico State Racing Commission April 21, 1967, Rules 352 & 380, filed 4/26/1967;

NMSRC 69-1, New Mexico Laws and Rules and Regulations Governing Horse Racing, filed 6/9/1969;

NMSRC 81-1, Rules Governing Horse Racing in New Mexico, filed 12/4/1981.

History of Repealed Material: 16 NMAC 47.1, Horse Racing Licensees - General Provisions (filed 9/29/1995) repealed 3/15/2001.

Other History:

That applicable portion of NMSRC 81-1, Rules Governing Horse Racing in New Mexico (filed 12/4/1981) was renumbered, reformatted and amended to 16 NMAC 47.1, Horse Racing Licensees - General Provisions, effective 10/14/1995

16 NMAC 47.1, Horse Racing Licensees - General Provisions (filed 9/29/1995) was renumbered, reformatted and replaced by 16.47.1 NMAC, Horse Racing Licensees - General Provisions, effective 3/15/2001.