

This is an amendment to 16.47.1 NMAC, Sections 8, 10, 17 and 18, effective 4/9/2024.

**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~~ 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~~ 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;

(l) is disrespectful or intimidates any official, commissioner, or commission staff or any other licensee;

(m) attempts to influence any racing official or commission staff member;  
(n) has knowingly filed a false complaint against another licensee or a racing official where the racing commission or the stewards determine that the complaint was made without reasonable or probable cause and for the purpose of the harassment or abuse of the complaint process;  
(o) has engaged in conduct unbecoming or detrimental to the best interests of racing.

(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:** ~~More than one license to participate in horse racing may be granted except when prohibited by these rules due to a potential conflict of interest.~~ 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.

(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, 5/24/2022; A, 4/9/2024]

**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.

~~[(2)]~~ (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 ~~[two]~~ five years experience as a licensed groom, jockey, exercise rider, or pony person ~~[, plater or owner who is actively participating in the stable area. An owners' license will only be~~

~~accepted if licensee can prove they are a “hands on” owner actively working as a groom at the racetrack on their own horses under the supervision of a licensed trainer].~~

~~(b)~~ Shall be required to pass ~~[a] the New Mexico racing commission’s sanctioned~~ written ~~trainers~~ examination, with a minimum score of ~~[80] eighty~~ percent in each category, ~~an~~ oral ~~[interviews]~~ interview with ~~the board of~~ stewards ~~[and a regulatory veterinarian;]~~ and ~~pass a [demonstrate] 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 ~~[30] 90~~ days before retaking the trainer’s test.

~~(e)~~ Applicants failing the second written/oral examination must wait ~~[60] 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.

~~[(3)] (4)~~ ~~[A trainer licensed and in good standing in New Mexico applying for a renewal license or a trainer from another jurisdiction, and the license having been issued within a 24 month period, may be accepted if evidence of experience and qualifications are provided. In addition, the licensee must have no record of a class 1 or 2 violation, in the preceding 24 month period in any jurisdiction for it to be accepted. Evidence of qualifications shall require passing one or more of the following:]~~ 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 a New Mexico racing commission’s sanctioned written trainers examination and must pass with a minimum score of eighty percent in each category.

~~[(a) — a written test;]~~

~~[(b) — a demonstration of practical skills;]~~

~~[(c) — an interview with the stewards.]~~

~~[(4)] (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.

~~[(5)] (6)~~ Failure to start a minimum of one horse every six months while holding a trainer’s license ~~[will subject]~~ 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 eighty 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 eighty 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 eighty 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 firm 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]

#### 16.47.1.17 HUMAN DRUG OR CONTROLLED SUBSTANCE AND ALCOHOL TESTING:

A. ~~[General provisions: The following rules in this chapter establish and describe requirements, criteria, standards and procedures for human substance abuse testing for occupational licensees licensed by the commission.]~~ 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. ~~[Prohibited actions: All licensees shall be deemed to be exercising the privileges of their license, and to be subject to the requirements of these rules, when engaged in activities that could affect the outcome of a race or diminish the conditions of safety or decorum required in restricted areas.]~~

~~[C.]~~ Restricted activities: All licensees may be subject to testing for controlled substances, drugs and alcohol. It shall be [an offense to exercise the privileges granted by a license from this commission] 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 ~~[or a controlled substance];~~
- (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 ~~[his/her] their~~ possession within the ~~[enclosure] 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 ~~[urine or] or controlled substances or alcohol testing, [when notified that such testing is based on a random drug testing procedure, is based on reasonable suspicion that the person is using drugs or alcohol or is based on the licensee's acting as if in an impaired condition] or both; [or]~~
- (7) presently has drugs ~~[(controlled substances)]~~ or controlled substances or alcohol in ~~[his/her] their~~ body. ~~[With regard to alcohol, the results of a test showing a reading of more than five hundredths percent of alcohol in the blood, urine, saliva or other bodily fluids of licensees in non safety sensitive positions shall be the criterion for a finding of alcohol present in the body. With regard to other controlled substances, presence of the drug in any quantity measured by the testing instrument establishes the presence of the drug for purposes of this paragraph. Licensees in safety sensitive positions, jockeys, starters, assistant starters, exercise riders, pony persons, ambulance personnel, and outriders are in violation of this rule if they have any measurable level of alcohol.]~~

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. ~~[General:]~~ 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 ~~[racetrack]~~ association grounds.

(2) ~~[When conducted, random drug testing shall apply, equally, to all licensees who are, at the time of the random testing, exercising the privileges of their license in such ways as may affect the outcome of a race or diminish the conditions of safety or decorum required in restricted areas.] All licensees may be subject to testing for controlled substances and drugs.~~

(3) No advance notice need be given ~~[as to onset or cessation of random 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.

~~[(4)]~~ (5) For licensees who are testing under the provisions in this chapter, and whose urine testing shows the presence of drugs ~~[(controlled substances) or alcohol, any field screening test results]~~ or controlled substances shall be confirmed by a laboratory acceptable to the commission ~~[which shall include gas chromatography/mass spectrometry (GC/MS) procedures].~~

~~[(5)]~~ (6) An association ~~[will]~~ shall provide a drug ~~[(controlled substances) and alcohol]~~ or controlled substance screening test for all applicants for ~~[groom]~~ groom, 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.

~~[(6)]~~ (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.

~~[B.]~~ ~~Split sample:~~ When the sample quantity permits, each test sample shall be divided into portions so that one portion may be used for the confirmation procedure and another portion may be utilized by the licensee to obtain an independent analysis of the urine sample.]

~~[C.]~~ (8) **Chain of custody:** The commission shall provide for a secure chain of custody for the confirmation sample ~~[to be made available to the licensee]. The commission shall retain ownership of all samples.~~

~~[D.]~~ (9) **Financial responsibility:** All costs for the transportation and confirmation testing for the sample portion ~~[made available for the licensee]~~ shall be the financial responsibility of the ~~[requesting person]~~ commission, unless otherwise noted in a stewards' ruling. ~~[Payment to the testing laboratory shall be due from the requesting person at the time the request is made to have the split sample tested]~~

##### **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]