**Should USEF Drug Rules Be More Discriminating?**

Here at the *Chronicle*, we’ve always considered ourselves advocates for the horse. We’ve been critical of drug misuse in horses and of any systems or policies that would tolerate that abuse. Whether it’s restricting the number of NSAIDs allowed or pushing for detection of the latest “gimmick” designed to get around the drug rules, we’ve always come down on the side of the horse’s wellbeing and of fair play.

However, attorney Joel Turner declares in his forum, “We Need To Modify The USEF Drugs And Medications Rules,” (p. 62) that protection of the horses might now be coming at the cost of innocent trainers. Turner has defended many U.S. Equestrian Federation members brought up on drug charges and is amazed at the outdated procedure used to determine violations.

When a forbidden substance is detected, the trainer usually claims he has no idea how it entered the horse’s system. With the technological ability to detect more minute amounts than ever before, we may never know if it was indeed some kind of innocent contamination from (you know the story) the braider or groom or boyfriend or shavings or whether it’s evidence of an attempt to cheat. The USEF seems to assume “you’re guilty of something” in these cases in which very small amounts of substances are found, whereas Turner argues that the federation should have to prove that the quantity detected would have affected the horse’s performance.

The USEF has admirably tried to stay ahead or abreast of the many means of drug and other abuse in horses: They’ve swabbed necks at some shows for injection sites (which, it is rumored, inspired some trainers to start using leg veins) and outlawed things like shockwave therapy right before competition. It’s a never-ending effort to stay ahead of those who are seeking an unfair advantage. But the system as it stands isn’t perfect either.

“I’m all for hanging a guy if he’s using some kind of narcotic analgesic to numb a horse,” Turner said. “But for every one guy like that, there are 100 to 200 people who get charged for something that’s not right. The USEF doesn’t want to look like they’re soft on drugs, but that doesn’t mean they can’t be discriminating and determine what appropriate thresholds are.”

Turner said most of his clients want to take their lumps and move on from the hearing process as quickly as possible, but now he has a client, John Ingram, who’s challenging the USEF to come up with a better rule, one that’s fair to its members while still protecting the equine athlete. Ingram and trainer Tom Wright intend to circulate a petition for a rule change at showgrounds this winter.

In Ingram’s case, said Turner, an amount of Ace was detected that’s below the positive threshold in all racing states, “sometimes five times below” that threshold, he added. Was it innocently used to clip a horse that then didn’t metabolize according to withdrawal rates? The current procedure doesn’t require the USEF to find out; it just stamps the trainer as guilty.

Most people want to keep the sport clean. But a process that violates individual rights and the presumption of innocence, that doesn’t have to prove guilt and that punishes innocent trainers as often as the cheaters, doesn’t work either.
We Need To Modify The USEF Equine Drugs And Medications Rules

They need to be updated to reflect the exponential advances in modern day drug detection technology.

BY JOEL TURNER
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Speed limits: They reduce our risk of injury or death. But different streets, roads, highways and freeways each require different speed limits because these each present different risks. The degree of risk presented in each situation—whether a school crossing zone, neighborhood or highway—determines the speed limit.

We now have radar that can detect movement below a single mile per hour. Do we make laws that create a speeding violation for any movement at all? No. The presence of speed alone is not a threat. It’s the speed relative to the safety risks posed by the environment in which the car is traveling that determines the threat.

Does the radar alone determine that a violation has occurred? No. The law enforcement agency must prove to the court that the radar detector is properly calibrated and can determine speeds with precise and repeatable accuracy and that the speed recorded was in excess of the posted speed limit.

The law enforcement agency does not simply have to prove that there was a vehicle and there was motion. That proves nothing of consequence.

Speed limits are regulations with a rational basis in science (statistics, safety factors related to speed, and the ability to control a moving vehicle) and are in place to protect the innocent passengers and to protect the operators of vehicles in compliance with the limits placed from unfounded allegations of violations.

The U.S. Equestrian Federation has Equine Drugs and Medications, Therapeutic Substance Provisions in its rulebook as GR410 and Forbidden Substances as 409. The rule does not post a “speed limit,” i.e. a threshold concentration of a forbidden substance below which a positive report will not issue, for all but a very few therapeutic medications. The rule simply requires the lab detect the presence of a forbidden substance.

If the premises of GR410 were applied in the context of operating automobiles, the rule is the logical equivalent of having no speed limit, such that any movement detected by radar is considered a violation if it has been proven that cars, at some speeds and in certain contexts, may be a threat to society. That is absurd.

Drivers are allowed to drink alcohol and drive. Limits are established to prevent driving while under the influence of alcohol. The limit in most states for non-commercial drivers is .08. For commercial drivers (including school bus operators) the limit is .04. At or above these quantities, it’s presumed the ability of the vehicle operator is impaired.

The regulation, which is uniformly applied in most of the 50 states, is designed to allow alcohol consumption, but not to the extent that driving is adversely affected. These limits were not arbitrarily chosen and do not assume that if detected in any amount a violation has occurred.

To find a person guilty of drunken driving with a limit of .08, the evidence is gathered in micrograms, the same units as were commonly used as the standard in the 1970s when the USEF drug rule, in its present manifestation, was created. Now the USEF uses a unit of measurement one billion times smaller, picograms, or one trillionth of a gram. In 1970 the limits of detection were in the microgram (.000001) range, i.e. millionths, not trillionths (.000000000001).

To convert the .08 gram/dcl alcohol limit for driving under the influence to picograms, that would be 80,000,000,000 (80 billion) picograms. The USEF laboratory and prosecutor are calling and prosecuting positive reports at 1,000-2,000 picograms. Compare that 1,000-2,000 picograms of “forbidden substance” detected to the 80 billion picograms/dcl required to convict a drunk driver of a DWI, and you will see that the concentrations of forbidden substances identified leading to infractions called and prosecuted by the USEF are 800 million times smaller than what the governments of most U.S. states allow in humans driving cars on public roads. Isn’t this a bit like hitting an ant over the head with an oil drum?

Is There An Unfair Advantage?

That a drug can be detected in such small quantities bears no relationship to its ability to have a pharmacological effect, yet the presumption of GR410, (that if the USEF can find the substance, it must have effect) continues unchanged with the exponentially increased sensitivity of the testing instrumentation available today. To be more precise, the USEF’s position, as consistently asserted by its
There is absolutely no scientifically established correlation between the concentration of an allegedly offending substance found in the picogram levels and the potential of that concentration of forbidden substance to affect the performance of the horse. The rule allows the USEF to condemn its members without any proof that the amount detected was sufficient to affect the performance of the horse in competition.

It’s as if the USEF rule has provided its prosecutor with a zip line ride to successful prosecutions without having to present any credible scientific evidence that the horse has gained an unfair advantage in competition.

We accept the .08 limit on alcohol because we know that simple, repeatable scientific research supports the limit. There’s no such support offered by the USEF when the concentration detected for most, if not all, of the reported positive findings of “forbidden substances,” is in the picogram or even the low nanogram levels. In fact (when the USEF lab actually determines the quantity, because the rule does not require that it do so) the USEF only has to prove that: 1) The forbidden substance is present in any amount; and 2) That in some concentration the offending substance “might affect” the performance of the horse, even if the concentration necessary to affect the performance of the horse could literally be billions of times more than what was actually detected.

Presently, for instance, the USEF rules permit therapeutic NSAIDs in competition measured in microgram concentrations (as was the standard measure in the 1970s) when forbidden substances are now measured in picogram concentrations. If one microgram/ml concentrations are permitted for therapeutics, it’s assumed that below that level, they do not afford a horse an unfair advantage in competition, and they have scientific proof to establish the acceptable threshold. If the lab detects a concentration of a “forbidden” (as opposed to a therapeutic) substance, even if it is only measureable in picogram/ml concentrations, the case is prosecuted because if that substance had been found to have the ability to affect the performance of the horse in competition in some amount, even if that concentration would have to be a billion times, or more, higher to have such an effect, the USEF will prosecute on that basis.

The USEF rule does not require the USEF or its prosecutor to produce any evidence that in the actual concentration detected, the performance of the horse could have been affected during competition.

Why does the USEF not have to prove some sort of effect on the performance of the horse at the actual concentration detected? Because it notes, time and time again, that the USEF rule is qualitative, not quantitative. If its lab can detect a “forbidden substance,” it is a rule violation, so long as the substance detected in some quantity might affect the performance of the horse.

It is far easier and less costly for the USEF to make the same assumption that it did in the 1970s (that detection of microgram/ml concentrations of forbidden substances did affect the performance of the horse) without any proof that there was such an effect, and it absolves the USEF of any need to present evidence to establish a scientific basis necessary to support the assumption.

Despite the increased sensitivity of testing technology that now measures forbidden substance in trillionths parts rather than millionths, the rule has remained unchanged. Accordingly, the burden of proof upon the USEF to find a person in violation of the rule has been lowered exponentially. It is far, far easier to detect concentrations of forbidden or therapeutic substances in the blood or urine of horses in the present technological age. With the laboratory instrumentation available today, and the rule as written, it is almost no burden upon the USEF at all to prove a rule violation. It is the proverbial uncontested slam dunk.

Is that an approach that is fair to
USEF members? Do they even know that they are subject to such an outdated and arbitrary rule?

**Was There Intent?**
To enforce the rule as written, without any requirement that there be scientific evidence that the horse enjoyed an unfair advantage, means that no medication (other than the few therapeutic substances listed in the rule) or foreign substance in any concentration can be present.

Yet some medications are useful to treat illness, injury, or as veterinary diagnostic tools. Some metabolize at unpredictable rates, binding with receptors in cells only to be excreted at a later time at unpredictable rates. Some are excreted months after administration or ingestion.

Exposure to contaminants in feeds, supplements, unclean stall surfaces and beddings could all lead to low concentration of forbidden substances in horses’ urine or blood with no fault by the USEF member responsible for the condition of the horse and without any reasonable way to protect from this exposure and the sanctions arbitrarily imposed by USEF GR410. Contamination from prescription drug residue on the hands of grooms, riders, braiders or others having direct contact with horses could result in a serious rule violation, suspension, fine, damage to reputation as well as a direct economic threat to a USEF trainer.

With the stakes so high, USEF members deserve better. The USEF Medication and Forbidden Substances rule is founded upon a false assumption that presence of an offending substance, which might affect the performance of the horse, has done so, regardless of any scientific proof that it could do so in the concentration detected. The burden established by GR410 is so low for the USEF prosecutors that no evidence is required beyond: A) the lab report of a positive finding; and B) a statement by an expert that in some concentration the offending substance could affect the performance of the horse, even if the concentration necessary to establish a pharmacological effect would need to be 800 million times higher.

The archaic drugs and medication rule needs to be updated to reflect the exponential advances in modern day drug detection technology. The concentration (quantity) of a substance found in the blood or urine of a horse does matter. It can be determined whether the concentration detected actually had an effect on the horse’s performance.

Other regulatory bodies governing domestic and international sport have established “no effect thresholds” in labs all over the world. This has not compromised the integrity of sport; in fact it has enhanced the appearance of fundamental fairness in the regulation of sports. The USEF needs to amend its rule to come out of the dark ages of drug rule enforcement. It needs a quantitative rule that affords members the consideration of scientific evidence to prove with a degree of scientific certainty that the concentration detected in the charged party’s horse actually created an unfair advantage in competition.

Honest, hard-working trainers and owners are being handed heavy fines and long suspensions for inconsequential concentrations of forbidden substances, with no proof that the concentration had any effect on the performance of the horse. This should not be acceptable to any USEF member.

We all want to see those individuals punished if they intentionally attempt to circumvent the rules to gain an unfair advantage by improperly medicating or otherwise treating their horses with forbidden substances. If it’s to be done, however, it should be done with the requisite proof that the concentration of a forbidden substance detected actually affected the performance of the horse in the competition, not that it might have in some huge quantity more than was detected, in some hypothetical scenario testified to at hearing by the USEF’s retained pharmacologist. Accordingly, GR410 must be amended to establish fundamental fairness for its members in the prosecution of drug cases by the USEF.

**JOEL TURNER** is involved in a full range of equine legal services: syndicate, co-ownership, partnership, pinhooking and limited liability company agreements, equine lending documentation, purchase and sale agreements, private and public placements, administrative hearings and appeals, gaming regulatory matters, tax and estate planning, and litigation. He is knowledgeable in racing legislation and horse showing (USEF/FEI) regulation in the United States and is actively working with horsemen throughout the country to attend to the needs of breeders, owners and trainers. He and his wife live on a small Thoroughbred farm in Prospect, Ky., where he re-trains retired race horses for other purposes.

**In the Forum,** horsemen are invited to express their views and offer constructive criticism on any topic relevant to working with and enjoying horses. The opinions expressed by the writers are entirely their own and not necessarily those of The Chronicle of the Horse.

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**Just How Small Is A Picogram?**

The large, oval-shaped vitamin tablet contains about one gram, or as it is more commonly described, 1,000 milligrams of the vitamin to be ingested. To visualize a single milligram, imagine slicing the vitamin tablet into 1,000 equally sized pieces. One piece would be one milligram and would still be visible to the naked eye. Take that one milligram piece and slice it into one thousand equally sized pieces again, and one piece will be a one microgram-sized piece. The one-microgram piece will no longer be visible to the naked eye. Nanograms are one thousand times smaller than micrograms, or one billionth of a gram. Finally, slice that nanogram into a thousand more little pieces, and you will have a picogram-sized piece. That piece will be one trillionth as big as the original one gram/1,000 milligram vitamin tablet piece.

Here’s another way of looking at it: If a microgram (one millionth of a gram) were a minute, a gram would be roughly two years. If a nanogram (one billionth of a gram) were a minute, a gram would be 2,000 years. If a picogram (one trillionth of a gram) were a minute, a gram would be 2,000,000 years. The unit of measurement commonly used today is a billion times smaller because drug detection instruments can measure in such quantities.