

APPEARANCES

BOARD MEMBERS

Gregory Ferraro, Chairman
Oscar Gonzalez, Vice Chairman
Alex Solis, Commissioner
Wendy Mitchell, Commissioner

STAFF

Rick Baedeker, Executive Director
Cynthia Alameda, Assistant Executive Director
Robert Brodnik, Staff Counsel
Amanda Brown, Staff Counsel
Mike Marten, Associate Analyst
Rick Arthur, Equine Medical Director

ALSO PRESENT

Eric Sindler, Golden Gate Field and Los Angeles Turf
Club II
Shane Gusman, Jockeys' Guild
Aaron Gryder, Jockey
Cody Jensen, Jockey
Darrell Haire, Jockeys' Guild

PUBLIC COMMENT

Martha Sullivan
Tweed Conrad
Bonnie Crocker, Horse Racing Wrongs

APPEARANCES

PUBLIC COMMENT

Heather Wilson

Pat CuvIELlo

Denise Bolbol

Mike Sage

Syed Rizvi

Joe Kaplan

Oscar de la Torre

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- Note: Persons addressing the Board under this item will be restricted to three (3) minutes for their presentations.
15. Closed Session: For the purpose of receiving advice from counsel, considering pending litigation, reaching decisions on administrative licensing and disciplinary hearings, and personnel matters, as authorized by section 11126 of the Government Code. 105
- A. The Board may convene a Closed Session to confer with and receive advice from its legal counsel regarding the pending litigation described in the attachment to this agenda captioned "Pending Litigation," and as authorized by Government Code section 11126(e).
- B. The Board may convene a Closed Session to

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confer with and receive advice from its legal counsel regarding the pending administrative licensing or disciplinary matters described in the attachment to this agenda captioned "Pending Administrative Adjudications," as authorized by Government Code section 11126(e).

- C. The Board may convene a Closed Session for the purposes of considering personnel matters as authorized by Government Code section 11126(a).

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P R O C E E D I N G S

9:43 A.M.

SACRAMENTO, CALIFORNIA, THURSDAY, FEBRUARY 20, 2020

CHAIRMAN FERRARO: Do you want to lead us in the Pledge of Allegiance, Mr. Baedeker?

EXECUTIVE DIRECTOR BAEDEKER: Yes.

Would you call stand for the Pledge of Allegiance please?

(The Pledge of Allegiance is recited.)

EXECUTIVE DIRECTOR BAEDEKER: Thank you.

CHAIRMAN FERRARO: This meeting will now begin.

This is the regular noticed meeting of the California Horse Racing Board on Thursday, February 20, 2020 at the Clubhouse at the California Exposition and State Fair Grandstand, 1600 Exposition Boulevard, Sacramento, California.

Present at today's meeting are: myself, Gregory L. Ferraro, Chairman; Oscar Gonzalez, Vice Chairman; Wendy Mitchell, Commissioner, Alex Solis, Commissioner. Commissioner Alfieri is not present.

Before we go on with the meeting, I need to make a few comments. The Board invites public comment on the matters appearing on the meeting agenda. The Board also invites comments from those present today on matters not

1 appearing on the agenda during the public comment period if
2 the matter concerns horse racing in California.

3 In order to ensure all individuals have an
4 opportunity to speak and that the meeting proceeds in a
5 timely fashion, I will strictly enforce the three-minute
6 time limit rule for each speaker. The three-minute time
7 limit will be enforced during discussions of all matters as
8 stated on the agenda, as well as during the public comment
9 period.

10 There is a public comment sign-in sheet for each
11 agenda matter on which the Board invites comments. Also,
12 there is a sign-in sheet for those wishing to speak during
13 the public comment period for matters not on the Board's
14 agenda if it concerns horse racing in California. Please
15 print your name legibly on the public comment sign-in
16 sheet.

17 When a matter is opened for the public comment,
18 your name will be called. Please come to the podium and
19 introduce yourself by stating your name and organization
20 clearly. This is necessary for the Court Reporter to have
21 a clear record of all who speak. When your three minutes
22 are up the Chairperson will ask you to return to your seat
23 so others can be heard.

24 When all the names have been called the
25 Chairperson will ask if there's anyone else who would like

1 to speak on the matter before the Board. Also, the Board
2 may ask questions of individuals who speak. If a speaker
3 repeats himself or herself, the Chairman will ask if the
4 speaker has any new comments to make. If there are none,
5 the speaker will be asked to let the others make comments
6 to the Board.

7 Please note: The Board will not tolerate
8 disruptive behavior. Please do not applaud or comment on
9 remarks unless you have been called to the podium.
10 Disruptive individuals may be asked to leave the room. If
11 order cannot be restored, the Board has the authority to
12 order the room cleared. Thank you for your cooperation.

13 We'll now proceed with the meeting. And item
14 number one is approval of minutes.

15 Do I have a motion for that?

16 VICE CHAIRMAN GONZALES: I move to approve the
17 minutes.

18 COMMISSIONER MITCHELL: Second.

19 CHAIRMAN FERRARO: Solis? Commissioner Solis?

20 COMMISSIONER SOLIS: I wasn't here last month.

21 CHAIRMAN FERRARO: Okay.

22 EXECUTIVE DIRECTOR BAEDEKER: Then you're going
23 to have to put it over.

24 CHAIRMAN FERRARO: We're going to have to put it
25 over because that means we don't have a quorum, so it will

1 have to go to next time.

2 Item number two is the Executive Director's
3 Report.

4 EXECUTIVE DIRECTOR BAEDEKER: Thank you, Mr.
5 Chairman.

6 I have the financials for the month of January
7 which, of course, are the year-to-date numbers as well.

8 Daytime racing was down 8.08 percent. They had
9 two fewer programs this year than last year. The average
10 daily handle was down two percent.

11 Nighttime racing, actually, had three additional
12 programs compared to last year and was up 6.2 percent.

13 And all together, business is, for the month of
14 January was down 6.5 percent.

15 I would like to introduce to you our new
16 Executive Director. She has --

17 MS. ALAMEDA: Assistant.

18 EXECUTIVE DIRECTOR BAEDEKER: I'm sorry Assistant
19 Executive Director. Nothing Freudian about that, folks,
20 just -- she comes to us from the Department of Education.
21 She, prior to that, was with the Wildlife Conservation
22 Board.

23 I think you were the director there?

24 MS. ALAMEDA: Fiscal Officer.

25 EXECUTIVE DIRECTOR BAEDEKER: Fiscal Officer.

1 She's been in state service for 19 years. And she does
2 bring specific expertise in very important areas of budget,
3 fiscal accounting, auditing, so forth. She's been with us
4 just one week, this is her one-week anniversary, and we put
5 her right to work and we're very happy to have her.

6 Cynthia, would you please stand? Cynthia
7 Alameda.

8 (Applause)

9 EXECUTIVE DIRECTOR BAEDEKER: I hope everybody
10 gets to know you, like they did Jackie Wagner. And I hope
11 that you serve as long as Jackie did. That will be great
12 for the Board. Thank you.

13 And that's my report, Mr. Chairman.

14 CHAIRMAN FERRARO: Wait a minute, Dr. Arthur.
15 Martha.

16 MS. SULLIVAN: Thank you.

17 (Off mike colloquy)

18 CHAIRMAN FERRARO: We want everybody to hear you,
19 Martha.

20 MS. SULLIVAN: Got it? Good. As I say, my name
21 is Martha Sullivan. I traveled up here from San Diego
22 again.

23 I wanted to, first off, since we don't usually
24 hear about this in the Executive Director's report, I want
25 to point out that from the Board's new annual report for

1 the 2018-2019 fiscal year, through June 30th of last year,
2 we'll note that there were 6,000 less starts of horses,
3 which is in the vicinity of between one-sixth to one-
4 seventh of the starts in the previous fiscal year, but six
5 more horses died. So the clear message to me is the most
6 effective way to cut down on the number of dead horses is
7 not to race them.

8 The other thing I want to just follow up on from
9 last month, I had an additional email exchange with Mr.
10 Baedeker after last month's meeting, and because the Board
11 is not explicitly collecting and reporting the number of
12 injuries at the racetracks that it regulates, which is one
13 of the factors in the Emergency Suspension rule, an above
14 average number of injuries, I make this proposal.

15 The CHRB must immediately, one, require all
16 injuries to horses and riders participating in a race
17 meeting, whether racing, training or in stable area, to be
18 reported to the CHRB within 24 hours.

19 Two, compile these reports into number of
20 injuries to horses and riders on a weekly basis and post
21 these numbers publicly on the CHRB website for each race
22 meeting.

23 And, three, compile all reports of injuries to
24 horses and riders from all race meeting licenses since July
25 1st of 2019. This is the only way that you can implement

1 this new law from last year and the new power and
2 responsibility that this Board was given last year. You
3 have to finish your job of implementing this new law and
4 new rule.

5 CHAIRMAN FERRARO: Thank you, Martha.

6 EXECUTIVE DIRECTOR BAEDEKER: Just to note,
7 however, that those comments should have been saved for
8 public comment. It didn't pertain to the agenda item but
9 no big deal.

10 CHAIRMAN FERRARO: Dr. Arthur?

11 EQUINE MEDICAL DIRECTOR ARTHUR: Yeah. Dr.
12 Arthur, Equine Medical Director.

13 There were 13 necropsy submissions in January
14 from four different CHRB facilities. And as a reminder,
15 there are between 4,000 and 5,000 horses at CHRB facilities
16 at any one time. Six of those were racing and one was a
17 training accident where one horse bolted into another and
18 caused a thoracic spinal injury. There were six non-
19 exercise fatalities, including a horse recovering from
20 surgery, four colic deaths, and another horse found
21 deceased in his stall that was suspected to be colic.

22 During the same time, in the month of January,
23 there were 13 positive test notices served in January, or I
24 should say for tests taken in January. Eleven of those
25 were post-race and two or those were post-work, working for

1 the official veterinarian. Five of those 13 would not have
2 been violations last year, nor would they have been
3 violations in any other state.

4 I suspect four others were not have been called
5 in any other state and wouldn't have been called in
6 California, as well, because we're -- as we said when we
7 eliminated the thresholds for corticosteroids, we are going
8 to start regulating those drugs more rigorously in urine.
9 And four of those violations were for a drug called
10 flumethasone which is a potent corticosteroid previously
11 known as FLUCORT. This has primarily been a Golden Gate
12 Fields issue.

13 I issued a warning to all veterinarians and
14 trainers that flumethasone is a potential risk for a
15 violation if used within 96 hours of a race. Dr. Kynch and
16 I completed a paper that was published in Equine Veterinary
17 Journal last year that show that these drugs were effective
18 for outside of 72 hours after administration.

19 I've also drafted a warning for Fentazin, which
20 is a long-acting antipsychotic that's used to control some
21 behavioral problems in horses. This is a very strange drug
22 classified as a 2B. In fact, some people think it should
23 be a 2A. The problem for any trainer or veterinarian using
24 this drug is the extreme variability between horses. In a
25 recent case, fluphenazine was detected over ten weeks after

1 administration.

2 I'm waiting for the staff counsel to sign off on
3 the warning before it's posted. The flumethasone warning
4 is posted on the CHRB website and was distributed to the
5 CTT and Pacific Coast Quarter Horse Association and
6 official veterinarians for distribution.

7 I'm always flabbergasted how little veterinarians
8 know about pharmacology, drug testing, and CHRB regulations
9 and procedures. And trainers are probably in a worse
10 position. Communication in this information-overload
11 environment is a serious challenge for the Board to make
12 sure our licensees understand the regulations. I think
13 it's something that the Board is going to have to address.
14 I know, certainly, on the UC, I have to go through ethics
15 training, cyber security, sexual harassment training. I
16 think we may want to require something for all our
17 licensees that deal with drugs and medications.

18 I have other comments I'll make about the
19 Medication, Safety and Welfare meeting when that agenda
20 item comes up.

21 Thank you.

22 CHAIRMAN FERRARO: Dr. Arthur, flumphenazine, I
23 mean, people have known that for 30 years. Why, all of a
24 sudden, is it a problem?

25 EQUINE MEDICAL DIRECTOR ARTHUR: There is just so

1 much variability between horses. And the use has decreased
2 remarkably over the last ten years but people are still
3 using it and there's still considerable variability in the
4 drug.

5 So the reason to get the warning out is to try to
6 reinforce that, let people know that if they're going to
7 use this drug, they're going to be at risk of a violation.
8 And it's pharmacological activity is very long in humans
9 and it's very long in horses.

10 CHAIRMAN FERRARO: Yeah. I understand that. I'm
11 just so surprised that anybody would risk using it in the
12 inclosure. It just doesn't make sense.

13 EQUINE MEDICAL DIRECTOR ARTHUR: That's why I
14 used the word "flabbergasted."

15 CHAIRMAN FERRARO: Yeah. Okay. All right.

16 VICE CHAIRMAN GONZALES: I've got a quick
17 question.

18 Dr. Arthur, I had a chance to attend --

19 THE REPORTER: Microphone please.

20 EXECUTIVE DIRECTOR BAEDEKER: Your mike.

21 VICE CHAIRMAN GONZALES: Oh, sorry. Yeah. Yeah.

22 I had a chance to attend the Safety and
23 Medication Committee meeting at UC Davis. I was especially
24 impressed with the preliminary presentations that were made
25 by UC Davis staff.

1 If you could just share, just briefly, with the
2 group what was done in that hour or hour-and-a-half span
3 and, you know, what you thought? I just thought it was
4 very comprehensive.

5 EQUINE MEDICAL DIRECTOR ARTHUR: I was going to
6 do that at the Medication, Safety and Welfare Committee --

7 VICE CHAIRMAN GONZALES: Let's do that then.

8 EQUINE MEDICAL DIRECTOR ARTHUR: -- agenda item.

9 VICE CHAIRMAN GONZALES: Let's save that.

10 EQUINE MEDICAL DIRECTOR ARTHUR: All right.

11 VICE CHAIRMAN GONZALES: You got it. Thanks.

12 EQUINE MEDICAL DIRECTOR ARTHUR: Thanks.

13 CHAIRMAN FERRARO: Any other comments from the
14 Board?

15 Martha?

16 MS. SULLIVAN: Thank you again. I wanted to use
17 this opportunity during the medical -- after the Medical
18 Director's report to list the horses that have died in the
19 first two months of this year. Sixteen have died in the
20 first six weeks of this year because you only have the
21 information on your website through the middle of February.

22 We have, in January, at Golden Gate Fields, on
23 January 5th, Elegant Sundown in racing. On January 18th,
24 Super Beauty.

25 In January at Los Alamitos there were five horses

1 killed. January 1st was Ruby Roundhouse. January 7th was
2 Jest Famous. January 12th was Eyell Be Back. January 19th
3 was Katies Easy Moves. January 21st was Is It Over, a
4 really sad, sad name for a horse.

5 In January at San Luis Rey Downs, January 23rd,
6 Cowboy Coffee.

7 In January at Santa Anita, five horses killed.
8 January 1st, Golden Birthday. January 7th, Buckstopper
9 Kit. January 17th, Harliss. January 18th, Uncontainable.
10 January 19th, Tikkun Olam.

11 In February at Golden Gate Fields, February 7th,
12 Data Hawk,

13 At Santa Anita, February 8th, Double Touch, and
14 February 12th, Ms. Romania.

15 So this is 16 horses dead at tracks regulated by
16 this Board in just the first six weeks of this year. And,
17 you know, the sad thing is, when you talk about above
18 average, it has to be worse than it's been in the past for
19 you to decide to suspend a license. How just
20 unconstructive is that in terms of dealing with this? It
21 has to get worse than it has been for you to stop racing.
22 Hasn't it been bad enough? Isn't that what we've heard for
23 the last year?

24 CHAIRMAN FERRARO: We'll move on to item number
25 four. This is discussion and action by the Board regarding

1 the distribution of race day charity proceeds
2 of the Pacific Racing Association II and Pacific Racing
3 Association dba Golden Gate Fields, combined 2019 summer
4 and autumn race meetings in the amount of \$14,094.33 to
5 eight beneficiaries.

6 MR. SINDLER: Good morning. Eric Sindler on
7 behalf of Golden Gate Fields.

8 As the Chairman noted, we are requesting
9 permission to donate \$14,094.33 to charities, all of which,
10 a Staff noted, are horse racing related.

11 CHAIRMAN FERRARO: Any comments by the Board? Do
12 we have a motion to approve?

13 COMMISSIONER SOLIS: I'll move.

14 CHAIRMAN FERRARO: Second?

15 VICE CHAIRMAN GONZALES: I'll second.

16 CHAIRMAN FERRARO: Commissioner Solis?

17 COMMISSIONER SOLIS: Yes.

18 CHAIRMAN FERRARO: Commissioner Gonzales?

19 COMMISSIONER GONZALES: Yes.

20 CHAIRMAN FERRARO: Yes.

21 COMMISSIONER MITCHELL: Yes.

22 CHAIRMAN FERRARO: Commissioner Mitchell. Motion
23 passed.

24 CHAIRMAN FERRARO: Got it. Okay.

25 Move on to item five. This is discussion and

1 action by the Board regarding the distribution of race day
2 charity proceeds of the Los Angeles Turf Club II,
3 incorporated dba as Santa Anita Park, 2019 autumn race
4 meeting, September 25, 2019 through October 31, 2019, and
5 November 3, 2019 in the amount of \$20,905 to ten
6 beneficiaries.

7 MR. SINDLER: Good morning. Eric Sindler on
8 behalf of Los Angeles Turf Club II. And we are requesting
9 permission to donate \$20,905 to charity, all of which are
10 horse racing related.

11 CHAIRMAN FERRARO: Motion to approve?
12 Discussion? Motion to approve?

13 COMMISSIONER MITCHELL: Oh. I'll move.

14 CHAIRMAN FERRARO: Second.

15 Commissioner Solis?

16 COMMISSIONER SOLIS: Yes.

17 CHAIRMAN FERRARO: Commissioner Gonzales?

18 COMMISSIONER GONZALES: Yes.

19 CHAIRMAN FERRARO: Yes.

20 Commission Mitchell?

21 COMMISSIONER MITCHELL: Yes.

22 CHAIRMAN FERRARO: Motion approved.

23 MR. SINDLER: Thank you.

24 CHAIRMAN FERRARO: Moving on to item number six.

25 MS. CONRAD: I'd like to comment quickly.

1 CHAIRMAN FERRARO: Item number six -- you have to
2 wait until we bring it.

3 MS. CONRAD: I just would like a list of the
4 beneficiaries.

5 EXECUTIVE DIRECTOR BAEDEKER: Number five.

6 MS. CONRAD: Is it possible for him to announce
7 which beneficiaries they are?

8 CHAIRMAN FERRARO: We can announce it right here.

9 THE REPORTER: State your name please.

10 MS. CONRAD: Tweed Conrad, representing myself,
11 citizen of California.

12 COMMISSIONER GONZALES: Maybe Eric? Do you want
13 to bring Eric back up so that he can read them off?

14 CHAIRMAN FERRARO: Eric?

15 COMMISSIONER GONZALES: Eric, do you have that
16 list with you?

17 MR. SINDLER: Just give me one second.

18 COMMISSIONER GONZALES: Would you? Okay. Yeah.
19 But just for the public, I think it's a good point.

20 Thanks, ma'am.

21 MS. CONRAD: It's item four and five.

22 COMMISSIONER GONZALES: Okay.

23 MR. SINDLER: For Pacific Racing Association it's
24 California Thoroughbred Foundation, CARMA, the Grayson
25 Foundation, Neigh Savers Foundation, the Racetrack

1 Chaplaincy, CTHF, the Winners Foundation, and Permanently
2 Disabled Jockeys Fund.

3 For Los Angeles Turf Club it is California
4 Thoroughbred Foundation, CARMA, Grayson Foundation, Holy
5 Angels Church, Racetrack Chaplaincy, Southern California
6 Equine Foundation, United Pegasus Foundation, CTHF, Winners
7 Foundation, Permanently Disabled Jockeys Fund.

8 CHAIRMAN FERRARO: Thank you.

9 COMMISSIONER GONZALES: Thank you.

10 CHAIRMAN FERRARO: Item number six, public
11 hearing and action by the Board regarding the proposed
12 amendments of CHRB Rule 1843.3, Penalties for Medication
13 Violations; CHRB Rule 1843.5, Medication, Drugs, and Other
14 Substances Permitted After Entry in a Race, and CHRB Rule
15 1844, Authorized Medication, to codify the Board's prior
16 temporary suspension of authorized medication for all
17 horses participating in all licensed horse racing meetings.

18 MS. BROWN: Good morning, Commissioners. It's
19 Amanda Brown from the California Horse Racing Board. I
20 just wanted to bring something to your attention.

21 On page 613, it's Rule 1843.5, we need to
22 make a further amendment to align with our emergency
23 regulations that are concurrently going through the system.

24 So we're proposing to strike subsection (g).

25 EXECUTIVE DIRECTOR BAEDEKER: Can you say that

1 again? Which subsection?

2 MS. BROWN: Subsection (g). That's in Rule
3 1843.5. Subsection (g) is located on page 614 in your
4 packet. And then that will align with our emergency regs
5 that are currently being reviewed by the Office of
6 Administrative Law.

7 So this will require another 15-day notice.

8 CHAIRMAN FERRARO: Tell us again, what is this
9 going to require us to do now?

10 MS. BROWN: There will be another 15-day notice.
11 So we'll strike --

12 CHAIRMAN FERRARO: Okay.

13 MS. BROWN: -- subsection (g). We'll notice it
14 to the public. And then after 15 days, if we don't receive
15 any more comments, we can finalize this package.

16 CHAIRMAN FERRARO: Okay. Okay.

17 Dr. Arthur?

18 EQUINE MEDICAL DIRECTOR ARTHUR: Dr. Arthur,
19 Equine Medical Director. I'm only here if there's any
20 questions.

21 CHAIRMAN FERRARO: Question from the Board?

22 We have public comment. Tweed Conrad.

23 MS. CONRAD: Is that -- can you hear me?

24 EXECUTIVE DIRECTOR BAEDEKER: No.

25 MS. CONRAD: I'm not sure how to turn it on.

1 Okay?

2 CHAIRMAN FERRARO: Yeah.

3 MS. CONRAD: Yeah.

4 EXECUTIVE DIRECTOR BAEDEKER: We can hear you
5 now.

6 MS. CONRAD: So I'd like to comment. So Tweed
7 Arden Conrad from California. I'd like to comment on the
8 proposed amendment of Rule 1843.3, Penalties for Medication
9 Violations.

10 Point B, under mitigating circumstances and
11 aggravating factors which must be considered include but
12 are not limited to, under 8, the purse of the race. So I'm
13 wondering if that's a mitigating circumstance or an
14 aggravating factor, how that, the purse of the race,
15 factors into the safety of the horses and the riders?

16 And under this proposed amendment a fourth
17 violation within a 365-day period will require a minimum
18 15-day suspension and a fine of \$2,500. For the amount
19 that people spend on racehorses, \$2,500 is not even pocket
20 change. And the necessity of this amendment points to the
21 problem that medication violations are commonplace. And
22 it's well known that the offenders repeat their crimes over
23 and over and over and over again, and so on, and will
24 probably continue to do so and won't be afraid to push it
25 if the fines and penalties are so low.

1 So I would like to propose that they are much
2 higher, that there's a much higher suspension period and a
3 much, much higher dollar amount for all of the fines,
4 first, second, third, fourth, and so on.

5 Thank you.

6 EXECUTIVE DIRECTOR BAEDEKER: Just to point out,
7 ma'am --

8 MS. CONRAD: Excuse me?

9 EXECUTIVE DIRECTOR BAEDEKER: -- just to point
10 out, you're talking about a Category C penalty. If you'll
11 note, a Category A penalty, that has a minimum one-year
12 suspension and a minimum \$5,000 to \$10,000, and it can be
13 referred to the Board for further action. So these are,
14 according the severity of the violation, and you cited the
15 least severe, so there are much more stringent penalties in
16 Category A and Category B. There's also incremental
17 penalties for first, second, third, and subsequent
18 violations, just so that the room understands that what you
19 just described is not the only penalty guideline.

20 MS. CONRAD: Thank you for clarifying that.

21 CHAIRMAN FERRARO: We might also add that the
22 suspension is much more significant than the financial
23 penalty.

24 MS. CONRAD: Excuse me? The suspension is more
25 significant than the financial --

1 CHAIRMAN FERRARO: The suspension of your license
2 is much more significant, yeah.

3 MS. CONRAD: Thank you. And I just wonder if
4 somebody could clarify about the purse being a mitigating
5 or aggravating factor?

6 CHAIRMAN FERRARO: Sorry? Could you --

7 MS. CONRAD: The purse of the race.

8 EXECUTIVE DIRECTOR BAEDEKER: Go ahead, Doc.

9 EQUINE MEDICAL DIRECTOR ARTHUR: Dr. Arthur,
10 Equine Medical Director.

11 I was involved in helping draft these. And every
12 item here can be either an aggravating or a mitigating
13 factor, depending on the circumstances.

14 When you talk about purse, for example, if a
15 violation is in a \$1 million race, it has a different
16 implication than if it's in a \$2,500 purse. That's just
17 the reality of it.

18 MS. CONRAD: Thank you.

19 CHAIRMAN FERRARO: Bonnie Crocker.

20 MS. CROCKER: Hi. Bonnie Crocker with Horse
21 Racing Wrongs.

22 Even with your recent scrutinization of allowable
23 pre- and post-race medications, you are falling short of
24 addressing the real issue. Fractures and other anomalies
25 in horses who are used for horse racing most likely

1 originate from some activity related to horse racing. Even
2 if detected before a race through blood testing and
3 sophisticated scanning machines the injuries often render a
4 horse useless and unprofitable in your eyes. Blame for the
5 injury is simply passed down the line and one more race
6 official breathes a sigh of relief. He thinks he stays one
7 step further away from punitive consequences.

8 But it doesn't matter who you blame or what
9 medication you prescribe because medicating the wounds of
10 those you injure for profit is not only psychotic,
11 psychosis being a mental disorder characterized by
12 disconnection from reality which results in strange
13 behavior. Medicating the wounds of those you injure for
14 profit in order to increase your profit or to avoid your
15 own personal loss is also selfish and purely evil.

16 Horse racing kills horses, period. Horse racing
17 needs to be banned, period. You are quick to euthanize
18 injured horses. Why do you continually try in vain to
19 resuscitate the dying horse racing industry with
20 bureaucratic nightmares and futile complexities, like the
21 Horse Racing Integrity of 2019 and the current Assembly
22 Bill 2177? The need for such legislation clearly stems
23 from the criminality and deadly practices inherent within
24 the horse racing industry.

25 CHAIRMAN FERRARO: Thank you.

1 Any comments from the Board? Any discussion?

2 So we're going to vote on this and it's going to
3 out for 15 days and come back; right?

4 MS. BROWN: That's correct.

5 CHAIRMAN FERRARO: Okay. Do I have a motion to
6 accept?

7 MS. CROCKER: I'm sorry. May I also comment on
8 1843.5? I didn't realize that was happening in the same
9 item.

10 CHAIRMAN FERRARO: Go ahead.

11 MS. CROCKER: So under (e) in Rule 1843.5 there's
12 treatment for a horse that may have sustained a wound,
13 tetanus, antitoxin. There's, under (f), an anti-ulcer
14 medication. Basically, why is a horse allowed to race with
15 a wound or an ulcer?

16 There's also, in 1844, just the sheer list of the
17 drugs that are allowed, just begs the question, the
18 necessity of medications still -- that are still authorized
19 presumes and allows for preexisting, present and/or future
20 injuries and illnesses. The issue is still that we are
21 forcing and artificially enhancing performance through
22 the -- through drug masking of pain, injury and ill health.
23 That's the main question is and that the -- what the vet
24 mentioned with the antipsychotic medication, which I guess
25 isn't as common, but any medication is artificially forcing

1 a horse to run when it's not prepared to do so.

2 I think you should ban all of them. And a horse
3 should be fit enough and healthy enough to run on its own
4 if you're going to be racing at all.

5 CHAIRMAN FERRARO: Dr. Arthur?

6 EQUINE MEDICAL DIRECTOR ARTHUR: Yes. Dr.
7 Arthur, Equine Medical Director.

8 Actually, this regulation restricts the use of
9 medications to a very small number. The furosemide issue
10 is going to be handled separately.

11 The tetanus toxoid is people who -- as
12 veterinarians know and, hopefully, most horsemen know,
13 horses are particularly sensitive to *Clostridium tetani*.
14 So any wound, whether it's a nick -- remember, our horses
15 have metal shoes on, they're out on dirt tracks. Any nick
16 or wound that potentially could be a clostridial infection,
17 a tetanus antitoxin or tetanus toxoid is appropriate for
18 the horses health.

19 And the anti-ulcer medication is really more of a
20 gastritis situation. The horse's stomach is very different
21 than ours. The proximal portion of the horse's stomach is
22 more akin to our esophagus in terms of the histology. And
23 anti-ulcer medication is allowed within this period of time
24 because if you take horse's off of anti-ulcer medication,
25 they may develop ulcers that they don't need to. The way

1 this is designed is that the horse's races on race day
2 without the medication can be treated afterwards if they
3 need anti-ulcer medication.

4 So I think the -- all of the speaker's concerns,
5 there's actually -- these are all health, horse health-
6 related issues that we're preserving and everything else
7 has been eliminated. This is very restrictive.

8 CHAIRMAN FERRARO: And regarding the levels of
9 these drugs that you have listed here, those are levels
10 that are determined so that it's considered that the drugs
11 are not physiologically active at that level --

12 EQUINE MEDICAL DIRECTOR ARTHUR: No effect
13 thresholds.

14 CHAIRMAN FERRARO: -- correct?

15 EQUINE MEDICAL DIRECTOR ARTHUR: That's correct.

16 CHAIRMAN FERRARO: Okay.

17 MS. CROCKER: Oh. Thank you for clarifying that.

18 Is there a way to test, or any sort of plan to
19 test, while they're in training --

20 CHAIRMAN FERRARO: It's called out of --

21 MS. CROCKER: -- to make sure that there's no
22 illegal drugs?

23 CHAIRMAN FERRARO: -- it's called out-of-
24 competition testing. We do it quite often actually.

25 MS. CROCKER: But officially it's only 24 hours

1 of the race in which it's entered?

2 EXECUTIVE DIRECTOR BAEDEKER: That's for a post-
3 race test. And you'll find the rule regarding out-of-
4 competition testing. It's listed separately as an entire
5 list of prohibited substances.

6 MS. CROCKER: Okay. Thank you.

7 CHAIRMAN FERRARO: Okay. Did we have a motion to
8 adopt?

9 COMMISSIONER SOLIS: So moved.

10 CHAIRMAN FERRARO: Second?

11 COMMISSIONER GONZALES: Second.

12 CHAIRMAN FERRARO: Commission Mitchell?

13 COMMISSIONER MITCHELL: Aye.

14 CHAIRMAN FERRARO: Yes.

15 VICE CHAIRMAN GONZALES: Yes.

16 COMMISSIONER SOLIS: Yes.

17 CHAIRMAN FERRARO: Motion approved.

18 We'll move on to item number seven, public
19 hearing and action by the Board regarding the proposed
20 addition of CHRB Rule 1866.2, Shockwave Therapy Restricted,
21 to provide procedures for the use of Extracorporeal
22 Shockwave Therapy or Radial Pulse Wave Therapy within a
23 CHRB inclosure.

24 My understanding, this is going out, if passed,
25 for a 45-day rule [sic], is that correct, or is it coming

1 back?

2 MS. BROWN: The 45-day is completed.

3 CHAIRMAN FERRARO: Okay.

4 MS. BROWN: So this is an opportunity for public
5 comment. And if there's any more changes that are desired,
6 we can do that, otherwise, we can finalize it.

7 CHAIRMAN FERRARO: Otherwise we can finalize it.
8 Okay.

9 Dr. Arthur, do you have -- or either one of you?
10 Who goes first?

11 EQUINE MEDICAL DIRECTOR ARTHUR: I have no
12 comment. I'm only here for questions.

13 COMMISSIONER GONZALES: I have just a couple --

14 THE REPORTER: Microphone please.

15 COMMISSIONER GONZALES: Oh, sorry. Thank you for
16 the reminder.

17 Just a question. There was a recent study, Dr.
18 Arthur, by the University of Pennsylvania on biomarkers and
19 the work that is being done to try to detect shockwave
20 therapy. As it stands it's really almost based around the
21 honor system of self-reporting.

22 But did you have a chance to read that Penn
23 research that's underway? What's your feeling about the
24 ability to detect this? Just your thoughts on that front.

25 EQUINE MEDICAL DIRECTOR ARTHUR: Yeah. The

1 problem with that is the sensitivity and specificity,
2 primarily, of the biomarkers. Those are general
3 inflammation biomarkers. So to actually detect whether a
4 horse, for example, had shockwave or whether the horse had
5 a muscle soreness of injury would be difficult.

6 I think it's an interesting concept. The Racing
7 Medication Testing Consortium actually helped fund part of
8 that at the University Pennsylvania with Dr. Robinson --

9 COMMISSIONER GONZALES: Right.

10 EQUINE MEDICAL DIRECTOR ARTHUR: -- who was one
11 of the coauthors.

12 So in terms -- I don't think it's a reliable,
13 certainly not a forensically reliable test, but it does
14 show promise but it's going to take a lot of work to be
15 implemented.

16 I will say in terms of shockwave regulation, we
17 require all shockwave machines to be in a specific location
18 at the racetrack. At Santa Anita, for example, there's a
19 video camera in the room so that can be monitored. The
20 veterinarians are required to report it. It is the honor
21 system but, certainly, a lot of other treatments are honor
22 system as well.

23 I think it's fairly well abided by, certainly the
24 ten-day. I think the 30-day is going to be more of a
25 challenge for us, that we're going to have to up our game

1 in terms of surveillance. But we're pretty strict on
2 making sure that no shockwave machines are in a stable
3 area, they're in designated locations that are approved by
4 the official veterinarian in charge of each track.

5 COMMISSIONER GONZALES: And the actual equipment
6 is about the size of a suitcase; right? I mean, it's not a
7 big piece of machine, so it can easily be transported; is
8 that a fair --

9 EQUINE MEDICAL DIRECTOR ARTHUR: They're easily
10 transported. Any one of us could carry the machine up and
11 down the stairs here if we had to. So --

12 COMMISSIONER GONZALES: Right.

13 EQUINE MEDICAL DIRECTOR ARTHUR: -- you know, it
14 is suitcase size, yes.

15 COMMISSIONER GONZALES: Okay. I spent a lot of
16 time focusing in on this particular agenda item, just
17 because it is a technology that came after I left the
18 backside. You know, people in this room know that I worked
19 as a groom for several years. And this has the ability to
20 be a tool in the arsenal of a veterinarian to try to
21 accelerate healing. That we understand. And I know that
22 what we're about ready to do would be the most restrictive.

23 We're going to go above the ARCI Guidelines, which they
24 stay 10-day stand down, we're going to say 30-day stand
25 down. We're going to be compliant in terms of a designated

1 area, the recording of horses that are shipping in, and I
2 think that was all fine.

3 I really believe that for this Board, and for
4 future Boards, we should have the ability to put the brakes
5 on, even temporarily, on any kind of therapy along these
6 lines. Because, just like there are no biomarkers that can
7 easily be detected on whether shockwave was used or not, I
8 just think that it kind of falls into this area where it's
9 still relatively new. The research around it is primitive.

10 And I just feel that if we were to allow for this
11 Board, especially given a climate that we experienced in
12 2019, to have the ability to put the brakes on any
13 shockwave therapy -- so what's your though, Dr. Arthur, if
14 we were to incorporate in this language the ability of the
15 Board to have a moratorium? That way we don't have to go
16 through a whole process.

17 So if we feel that there's something that we just
18 cannot pinpoint, as we did in 2019, so we just want to put
19 the brakes on, on certain things, much in the way that,
20 whether they were through house rules or CHRB rules on
21 certain medication, but since we have this issue here now,
22 what are your thoughts if we would empower this Board and
23 future Boards to be able just to halt, I'm not saying get
24 rid of but just to temporarily put the brakes on shockwave
25 therapy when we see fit, when you recommend, when any of

1 the Board Members, just your thoughts on that?

2 EQUINE MEDICAL DIRECTOR ARTHUR: Well, I will
3 say, I've had this discussion with our Staff Counsel for,
4 virtually, the whole time I've been Equine Medical
5 Director.

6 There is a Rule called 1855 which actually allows
7 the veterinarian to or us to issue instructions on
8 medication policies. That's pretty much been considered
9 unenforceable underground regulations.

10 The regulation you're looking at now, that we're
11 now putting, finally, into a regulation, actually, when I
12 came -- it was in place when I came on as Equine Medical
13 Director in 2006 is -- would be considered an underground
14 regulation today. It's just the way that Administrative
15 Law has changed.

16 I do think we need to be more flexible. I've
17 asked for that flexibility. But for the most part, not
18 just the Staff Counsel we have here today but previous
19 Staff Counsel have felt that that is overstepping our
20 bounds with underground regulations. We've been challenged
21 on some of those.

22 It's a different environment today in
23 Administrative Law than it was ten years ago or when some
24 of our regulations were actually originally written.

25 But I would -- I actually agree with you 100

1 percent. I think we're -- I think I would like to see us
2 more aggressive. But, you know, it's -- you can get
3 challenged in court and, you know, go to the Office of
4 Administrative Law, say it's an underground regulation
5 because you didn't dot that I or --

6 COMMISSIONER GONZALES: Right.

7 EQUINE MEDICAL DIRECTOR ARTHUR: -- you made a
8 decision that hasn't had all the process we're going
9 through here.

10 So I would certainly be in support of that. I've
11 advocated for that. I've argued that 1855 allows us to
12 issue instructions on medication that our Staff Counsels in
13 the past and currently haven't thought we could legally do.

14 COMMISSIONER GONZALES: Okay. Well, I'm going to
15 allow for some more questions, but my intention is,
16 colleagues, is to make a motion, I'm not doing it yet, I'll
17 just give everyone a chance to ask questions, that would
18 give the Board and future Boards the ability to call for a
19 moratorium as we see fit. And we can maybe tighten up the
20 language on that.

21 But, again, we're talking about new technology,
22 hard to detect. We've got a dynamic. And sometimes we,
23 this Board, has to have the tools to be able to decipher
24 where problems could be.

25 Now like the other medication, this therapy, we

1 know that it's being used for its intended purpose. We're
2 just talking about that one percent of the element that may
3 be out there that may not be going by the rules.

4 And so -- and I also want to give the -- you and
5 future Medical Directors the ability to say, hey, look, we
6 don't know what it is, let's just call a moratorium on this
7 particular issue.

8 So I'll leave it at that but, when the time
9 comes, I want to make a motion, just to add to this
10 language.

11 But any other questions for Dr. Arthur?

12 CHAIRMAN FERRARO: I just wanted you to --
13 because it was brought up here a minute ago, could you
14 explain for everyone here the difference between a
15 scientific test and a forensic test?

16 EQUINE MEDICAL DIRECTOR ARTHUR: Yes. A good
17 example is -- well, a forensic test is one that you can
18 define with a degree of scientific certainty that,
19 basically, you could use to convict somebody of a
20 regulation violation or a crime. And something like a
21 biomarker that does not have a specificity or sensitivity,
22 particularly specificity, you really can't say with a
23 degree of certainty that you shock waved that horse. You
24 have a high degree of suspicion but that's all you have.

25 So it's the difference between using with -- in

1 our drug testing, we use LCMS, which is, essentially, a
2 fingerprint. It is absolutely -- you can say with a degree
3 of certainty that that drug is there. If you use an
4 immunoassay, which we sometimes use in screening, you can
5 only say that we highly suspect that drug is there. You're
6 probably right. You could be right 99 percent of the time
7 but you're not right 100 percent of the time. That's the
8 difference.

9 A forensically defensible test is one that a
10 court can go home and say this is absolute, you know,
11 certainty that this is what it is.

12 COMMISSIONER GONZALES: Thanks, Doc. Thank you.
13 I appreciate that, Dr. Arthur.

14 CHAIRMAN FERRARO: Any other questions from the
15 Board?

16 So we would have to make your motion separately
17 from adopting this.

18 COMMISSIONER GONZALES: Well, couldn't I just add
19 to the language through -- I mean, isn't that what we're
20 here today to do is to make any changes, to use your word?

21 And, Rob, I'm going to be looking at you here
22 just to kind of make sure I get this right. So if I were
23 to make a motion that would add the ability for the Board
24 to -- that would give the Board the power, it may exist but
25 let's just say in this language, to be able to call a

1 moratorium on shockwave therapy if and when we see fit?
2 I'm willing to attach a 30-day, 60-day, whatever that may
3 be. But that's what's the purpose of where we're at in
4 this rulemaking phase, correct, is for the Board to weigh
5 in?

6 EQUINE MEDICAL DIRECTOR ARTHUR: Commissioner
7 Gonzales, I think you actually need to look at an entirely
8 different rule because you're talking about shockwave. But
9 I will tell you, there are issues with certain drugs,
10 there's issues with certain procedures, those sorts of
11 things. I think you want the ability -- I don't think you
12 want to tie yourself to just shockwave.

13 I think you may want to tie yourself to -- for
14 example, there's a big debate on the use of thyroxine,
15 whether we should even permit bisphosphonates, that we'll
16 be talking about, at all on the grounds? These things come
17 up very quickly. And, frankly, we're very slow to respond.

18 COMMISSIONER GONZALES: Well, what better time
19 than to start now on this process? And if we are serious
20 about changes and protecting horses and protecting the
21 practitioners, veterinarians and trainers, we just have to
22 have -- and I get the honor system and there are a lot of
23 honorable people. All I'm saying is let's just have the
24 ability. And what I've heard loud and clear, even
25 reinforces my direction more, is the technology, the

1 ability to detect is still primitive. So, you know, what
2 better time than now to be able to give this Board the
3 power to be able to put the brakes on a treatment that we
4 feel could or could not be responsible?

5 So that's just -- I'd like anybody to chime in.
6 Like I said, I spent a lot of time, you know, looking at
7 this issue over the last few days and it's just --

8 CHAIRMAN FERRARO: Well, can we get Staff to
9 write a new rule for us that --

10 COMMISSIONER GONZALES: I'm willing -- well --

11 CHAIRMAN FERRARO: -- encompasses --

12 COMMISSIONER GONZALES: Sure.

13 CHAIRMAN FERRARO: -- you know, like Dr. Arthur
14 said, rather than just tie it to one procedure of
15 medication, that gives us the ability to put a stop on any
16 new procedure or new --

17 COMMISSIONER GONZALES: Well --

18 CHAIRMAN FERRARO: -- technology that comes
19 onboard?

20 COMMISSIONER GONZALES: -- I'm open to that, Doc.
21 The only problem with that is then we have to go through
22 this very long process where what I'm -- we're about ready
23 to do today is whatever we adopt goes into effect. Is
24 that --

25 MS. BROWN: It will go out for another 15-day

1 notice.

2 COMMISSIONER GONZALES: And then we suddenly have
3 the ability within 15 days, then that becomes statute;
4 right? That's --

5 MS. BROWN: Yes. We have the final.

6 COMMISSIONER GONZALES: So why not --

7 MS. BROWN: Yes.

8 COMMISSIONER GONZALES: -- why not just have the
9 ability to have this power around shockwave therapy? And
10 then, definitely, we can then look at the other items out
11 there and empower the Board in the same way.

12 I'm more interested in what can we do here and
13 now? And because -- by the way, this issue preceded me.
14 And I know this issue was taken up in 2017.

15 And I'll tell you what caught my eye. In 2017,
16 this issue came up. And at the time, the notes that I
17 read, there were 62 fatalities. There were nine horses
18 that were recorded as having experience through shockwave
19 therapy. Back then, in '17, the Board did not take any
20 action. It's been a long time between '17 and now.

21 All I'm saying is, not that we're going to call
22 for a moratorium anytime soon, but we just have to have
23 that ability if you, Dr. Arthur, or anybody else feels that
24 we just don't know if this is being utilized or
25 overutilized properly. That's all I'm saying.

1 So, Rob, I'm going to look to you, just to make
2 sure I'm wording this right, but I would like to make a
3 motion to amend the language to include the ability for the
4 Board to adopt a 30-day moratorium when it seems fit around
5 shockwave therapy.

6 COMMISSIONER MITCHELL: Second.

7 CHAIRMAN FERRARO: Well, we have a rule in the
8 works that's a 30-day stand down.

9 COMMISSIONER GONZALES: But that's great. Yeah,
10 we're keeping all that. Yeah, we're keeping all the
11 language on shockwave therapy. I think it's well written.
12 I think there's a lot that's in there that we can work
13 with. Again, we're going way above ARCI. I'm just asking
14 for one item to be included that gives us the ability to
15 call for a 30-day moratorium on shockwave therapy when we
16 feel it's necessary.

17 Yes?

18 EXECUTIVE DIRECTOR BAEDEKER: Commissioner, we do
19 have an existing rule on the books. Staff can correct me
20 if it doesn't apply here but it's 1406 and it says,
21 "Suspension of Rule: For good cause, with or without a
22 hearing, the Board may temporarily suspend the application
23 of any of its rules upon any conditions it may impose."

24 So maybe you already have the authority.

25 MS. BROWN: I would be concerned that that would

1 mean you could do shockwave therapy

2 EXECUTIVE DIRECTOR BAEDEKER: Well --

3 MS. BROWN: Then there would be no rule on the
4 book.

5 EXECUTIVE DIRECTOR BAEDEKER: -- then there would
6 be no prohibition, yeah, but --

7 COMMISSIONER GONZALES: Rob, do you want to step
8 up? Rob, please, sit next to Dr. Arthur.

9 EXECUTIVE DIRECTOR BAEDEKER: But if you're --
10 aren't you talking about the same liability? If you're
11 talking about a moratorium, you still would have to have a
12 prohibition, some language that prohibits it if --

13 COMMISSIONER GONZALES: What are your thoughts,
14 Rob? And -- yeah.

15 MR. BRODNIK: Good morning. Robert Brodник,
16 California Horse Racing Board.

17 Just in listening to the discussion, one idea
18 that came to mind is the Board does have a similar
19 authority, I think, with what you're discussing under
20 1844.1 which is what the Board did to suspend authorized
21 medications under 1844. So in that situation, we have
22 these authorized medications and the Board, during a
23 noticed meeting, came in and suspended it. It sounds like
24 that's similar to what you're looking for, this ability, at
25 a noticed meeting, to come in and say, specifically to

1 shockwave, we want to suspend shockwave --

2 COMMISSIONER GONZALES: Correct.

3 MR. BRODNIK: -- the permissive use of it?

4 COMMISSIONER GONZALES: Precisely. Now, if were
5 to go that route, could we do that immediately or would
6 that also require going through multiple steps?

7 MR. BRODNIK: So just, well, okay, so just to lay
8 out the chronological of where we're at right now, this has
9 come back from 45-day public comment.

10 COMMISSIONER GONZALES: Right.

11 MR. BRODNIK: There's no public comment, so this
12 is a discussion now. If the Board chooses to amend with
13 new language, which sounds like maybe what the Board is
14 intending to do, we would -- the Board would need to vote
15 on that language and then it would go out for 15 days and
16 then it would come back and the Board could adopt and
17 approve it at that time. Staff would complete the
18 rulemaking file. That doesn't -- that takes, candidly, it
19 takes about a month, probably, if not more, then it's
20 submitted to the Office of Administrative Law. They have,
21 I believe, 30 business days, so it's more like 45 calendar
22 days, to review it. And if it passes OAL scrutiny, then it
23 would go into effect in the next applicable quarter,
24 depending on when the rule is submitted to them.

25 The only exception to that, and something that

1 Staff could look at, is a request for an effective upon
2 filing when there is a present emergency that requires this
3 to go into effect once the Secretary of State approves it.
4 We did that with out-of-competition testing. We've done
5 that with other rules. That's something that, in light of
6 the implications behind shockwave therapy, something that
7 we could look at. But we can't guarantee that. That's --

8 COMMISSIONER GONZALES: Got it.

9 MR. BRODNIK: -- up to the Office of
10 Administrative Law.

11 But to answer your question, if the Board wanted
12 to adopt some new language today and approve that language
13 today, it would go out for 15 days, it would come back.
14 And then probably -- we're in February. I mean, you're
15 probably looking at May-ish, May, June-ish before it
16 becomes law, as you say, or a rule.

17 COMMISSIONER GONZALES: So what we have in front
18 of us here today is the ability to have this, if we
19 incorporate this as is and vote on this, approve this, then
20 the extra restrictions, the 30 days as opposed to 10 days,
21 will be in place quicker; right?

22 MR. BRODNIK: I'm sorry?

23 COMMISSIONER GONZALES: Like so when we approve
24 this, the current language, say we make no changes, when
25 will this be able to be in effect?

1 MR. BRODNIK: Yeah. So if the Board were to
2 approve this, no additional changes, as is, as was noticed,
3 Staff would complete the rulemaking file --

4 COMMISSIONER GONZALES: Right.

5 MR. BRODNIK: -- and then do the same process
6 that I discussed, submit it to the Office of Administrative
7 Law. So, again build in a factor of X number of days for
8 Staff to complete it, maybe two weeks, three weeks to
9 complete it, submit it to the Office of Administrative Law,
10 45-ish calendar days later --

11 COMMISSIONER GONZALES: Okay.

12 MR. BRODNIK: -- it could go into effect --

13 COMMISSIONER GONZALES: Okay.

14 MR. BRODNIK: -- if we make a request --

15 COMMISSIONER GONZALES: Right.

16 MR. BRODNIK: -- for an effective upon filing.

17 COMMISSIONER GONZALES: Understood. Well, I want
18 to -- we want to protect horses. We want to make sure that
19 jockeys, everyone else, is protected. This is a technology
20 that's still being better understood.

21 So I'm willing to withdraw my motion, Dr.
22 Ferraro, if -- but I do want to make sure that we're back
23 at this to make sure that we have the ability to pull and
24 slow down any shockwave therapy as we see fit to give the
25 Medical Director and the Board. But I don't want to --

1 this is, as written, very restrictive. As I mentioned, it
2 goes above ARCI.

3 So I know you seconded my motion, Commission
4 Mitchell, but if it's okay, I'd like to withdraw my motion
5 but to revisit this very soon with the ability, again, like
6 I said, to have a moratorium.

7 CHAIRMAN FERRARO: Go ahead.

8 COMMISSIONER SOLIS: Commissioner Gonzales, one
9 of the things (indiscernible) for a long time, altogether I
10 think one of the things that we should look at for the
11 future is centralized pharmacy, like they do in Hong Kong.
12 At least we keep track of all these medications --

13 COMMISSIONER GONZALES: Um-hmm.

14 COMMISSIONER SOLIS: -- and all these treatments
15 together. I think that's one of the things that we should
16 look into the future --

17 COMMISSIONER GONZALES: Understood.

18 CHAIRMAN FERRARO: I very much agree.

19 COMMISSIONER GONZALES: Understood.

20 CHAIRMAN FERRARO: Well, I hate to see this
21 delayed anymore, so --

22 COMMISSIONER GONZALES: Yes. Yes.

23 CHAIRMAN FERRARO: -- so I would make a motion
24 that we adopt the language --

25 COMMISSIONER GONZALES: Okay.

1 CHAIRMAN FERRARO: -- as it is.

2 COMMISSIONER GONZALES: And I'll second that, Dr.
3 Ferraro.

4 CHAIRMAN FERRARO: Okay. And then after we vote
5 on it we'll discuss it. Then I think we need to get
6 together and --

7 COMMISSIONER GONZALES: Correct. Absolutely.

8 CHAIRMAN FERRARO: -- and get something going --

9 COMMISSIONER GONZALES: Agreed.

10 CHAIRMAN FERRARO: -- to --

11 COMMISSIONER GONZALES: Absolutely. Yes.

12 CHAIRMAN FERRARO: -- (indiscernible).

13 COMMISSIONER GONZALES: Thank you for that. Yes.
14 And thank you, Staff. Appreciate that. Thank
15 you.

16 CHAIRMAN FERRARO: Okay. We have a motion and
17 second.

18 Commission Mitchell?

19 COMMISSIONER MITCHELL: Yes.

20 CHAIRMAN FERRARO: Yes.

21 COMMISSIONER GONZALES: Yes.

22 COMMISSIONER SOLIS: Yes.

23 CHAIRMAN FERRARO: Okay.

24 EQUINE MEDICAL DIRECTOR ARTHUR: I would like to
25 say that this particular proposal will, essentially,

1 eliminate shockwave on the backside. You're not going to
2 be able to treat a horse and not work it for 30 days. It
3 makes it pretty impractical --

4 COMMISSIONER GONZALES: Yeah.

5 EQUINE MEDICAL DIRECTOR ARTHUR: -- by the way.

6 But, Commissioner Gonzales, you know, what you've
7 proposed as a general principle, I think, is very important
8 because it's very, very frustrating to see a problem and
9 not be able to address it and you go through a big, big,
10 long process. And the regulatory process has just become
11 miserable.

12 COMMISSIONER GONZALES: Yeah.

13 EQUINE MEDICAL DIRECTOR ARTHUR: Miserable.

14 COMMISSIONER GONZALES: Well, we want to give you
15 and future Medical Directors the ability to call it like
16 you see it and for this Board to be able to make decisions,
17 again, out of the spirit of protecting horses, jockeys, and
18 everyone involved, so thank you very much.

19 Appreciate your patience, everyone, while we
20 worked through this. Thanks.

21 CHAIRMAN FERRARO: Item number eight is public
22 hearing and action by the Board regarding proposed addition
23 of CHRB Rule 1867.1, Use of Bisphosphonates Prohibited, to
24 prohibit the administration of bisphosphonates to any horse
25 within a CHRB inclosure. Note: This concludes the 15-day

1 public comment period. The Board may adopt the proposal as
2 presented.

3 But we have changed the language, so it's not --
4 is that correct? So --

5 MS. BROWN: That's correct. It will go --

6 CHAIRMAN FERRARO: -- so it would go back out for
7 15 days again?

8 MS. BROWN: -- another 15-day.

9 CHAIRMAN FERRARO: Yeah.

10 MS. BROWN: I don't know if Dr. Arthur can speak
11 to the concerns of subsection (b)?

12 EQUINE MEDICAL DIRECTOR ARTHUR: Yeah. The issue
13 was -- and certainly with the variability and the testing
14 ability for bisphosphonates that I'll address a little bit
15 later at the Medication Committee meeting -- the real issue
16 is somebody could get a horse that they don't know had been
17 administered bisphosphonates. And owners and trainers
18 don't want to be held responsible for something they don't
19 know.

20 So what we've proposed is to add language in
21 that's very similar to what we just passed that, basically,
22 says that,

23 "No licensee shall bring into a CHRB inclosure a horse
24 known to have been administered bisphosphonates within
25 the previous six months."

1 My interpretation is that that puts the onerous
2 on us to prove is somebody violated that. Someone who
3 innocently bought a horse that had been treated with
4 bisphosphonates, let's say a two-year-old-in-training sale
5 or a yearling sale that was deceived themselves, shouldn't
6 be held accountable. And I think that kind of should solve
7 a lot of the problems.

8 Did I explain that adequately?

9 MS. BROWN: Yes. Thank you.

10 So just to review, subsection (a) would stay the
11 same. Subsection (b), as Dr. Arthur said, would read,
12 "No licensee shall bring into a CHRB inclosure a horse
13 known to have been administered a bisphosphonate
14 within the previous six months."

15 Then we're proposing a new subsection (c) which
16 would read,

17 "A horse that tests positive for bisphosphonates is
18 not permitted within a CHRB racing inclosure until a
19 Board-approved official laboratory determines that
20 there are no longer bisphosphonates in the horse's
21 system."

22 And then subsection (c) would become subsection
23 (d).

24 CHAIRMAN FERRARO: The goal is that we don't want
25 horses within the inclosure training for racing with

1 bisphosphonates, because they could just as easily get hurt
2 in the morning as they can in the afternoon, so that's the
3 goal. If they've been treated with bisphosphonates, they
4 don't come in the racing inclosure and they're not training
5 for racing. That's the goal. That's the change in the
6 wording.

7 Any another -- any questions from the Board? Do
8 we have a motion to approve this? It goes out for 15 days;
9 right?

10 EXECUTIVE DIRECTOR BAEDEKER: Public comments?

11 CHAIRMAN FERRARO: Do you have a public comment
12 card?

13 MR. MARTEN: Yes, we do.

14 CHAIRMAN FERRARO: Tweed.

15 MS. CONRAD: Tweed Conrad. And at the last
16 meeting, Dr. Ferraro, you explained to me that the owner
17 has the option to be able to test for bisphosphonates at
18 the purchase; is that correct? Did I understand that
19 correctly?

20 CHAIRMAN FERRARO: That's correct. Any of the
21 recognized thoroughbred sales, you can request. It costs
22 money. But one of the things that this rule adoption will
23 do is force almost every owner that purchases a horse to
24 get the horse tested because, if they can't come in a
25 racing inclosure, there's no sense in them having a horse.

1 So not only are we controlling what's going on in
2 our own racing inclosure but we're, basically, mandating to
3 the ownership that they get their horses tested at the
4 sale. So it's an expenditure, I think it's \$400 at the
5 sale, but a person would be foolish -- for example, now the
6 British rule is that any horse that's been treated with
7 bisphosphonates can never race in a race in England. So all
8 the British purchasers, all the British people that
9 purchase horses at, say, the Keeneland September sale, they
10 test every one of them for that reason. So we're kind of
11 driving everything that way.

12 MS. CONRAD: So my question, another question,
13 the vet also said, I mean, and I've read this, that they're
14 undetectable after two months, so if the owner -- is that
15 correct?

16 CHAIRMAN FERRARO: Rick?

17 MS. CONRAD: How long do they stay in the system?

18 EQUINE MEDICAL DIRECTOR ARTHUR: There is
19 considerable variability in how bisphosphonates test and it
20 appears to be a function of bone turnover in that
21 particular individual. I'll talk about a case when I give
22 the presentation on the Welfare and Safety Committee
23 meeting about how long, under certain circumstances, they
24 can be detected. There's no certainty as to how long they
25 can be detected. But we've improved our sensitivity for

1 bisphosphonate testing rather dramatically in the last six
2 months. That's changing all the time and will continue to
3 change.

4 MS. CONRAD: So it's questionable whether or not
5 you'll be able to detect it at this point? If the owner
6 has bought the horse one or two years ago, it may still be
7 undetected, so it would be hard to ban them from the race.

8 CHAIRMAN FERRARO: Well, if it's six months prior
9 to his entry into the racing inclosure, that could very
10 well be, yeah. Yeah. Nothing's perfect, unfortunately.

11 MS. CONRAD: Well --

12 CHAIRMAN FERRARO: Okay?

13 MS. CONRAD: -- thank you for your efforts.

14 CHAIRMAN FERRARO: Thank you.

15 I move that we accept --

16 EXECUTIVE DIRECTOR BAEDEKER: He's --

17 CHAIRMAN FERRARO: Hmm?

18 EXECUTIVE DIRECTOR BAEDEKER: Did you fill out a
19 card, sir?

20 CHAIRMAN FERRARO: Oh, I'm sorry. Did you fill
21 out a card?

22 MR. SAGE: Procedural question, sir. The
23 agendas, I believe, have run out, but the agenda for this
24 meeting is available online.

25 Can you hear me?

1 The agenda is available online. Is there wi-fi
2 here available that we can use?

3 CHAIRMAN FERRARO: Do you know?

4 EXECUTIVE DIRECTOR BAEDEKER: I don't know.

5 CHAIRMAN FERRARO: We don't know.

6 MR. SAGE: And, if so, could we have the username
7 and password that we would use to log in to it?

8 EXECUTIVE DIRECTOR BAEDEKER: We need somebody
9 from Cal Expo to answer that question.

10 CHAIRMAN FERRARO: Okay. My motion, again, is to
11 accept this rule as written and discussed. Do I have a
12 second?

13 VICE CHAIRMAN GONZALEZ: Second.

14 CHAIRMAN FERRARO: Commissioner Solis?

15 COMMISSIONER SOLIS: Yes.

16 CHAIRMAN FERRARO: Gonzalez?

17 VICE CHAIRMAN GONZALEZ: Yes.

18 CHAIRMAN FERRARO: Yes.

19 Mitchell?

20 COMMISSIONER MITCHELL: Yes.

21 CHAIRMAN FERRARO: We'll be going on to item
22 number nine, Discussion and action by the Board regarding
23 the proposed amendments to CHRB Rule 2071, License to
24 Conduct Advance Deposit Wagering by a California
25 Applicant, and Rule 2072, Approval to Conduct Advance

1 Deposit Wagering by an out-of-state Applicant, to establish
2 minimum standards for Advance Deposit Wagering account
3 verification and modify the Application for License to
4 Conduct Advance Deposit Wagering, CHRB-132 and
5 CHRB-133.

6 Rob?

7 MR. BRODNIK: Good morning. Robert Brodник,
8 California Horse Racing Board.

9 Item number nine on the agenda addresses a
10 modification to our current ADW applications to capture
11 additional information about the policies and safeguards
12 utilized by ADW applicants. The proposed amendments would
13 seek modifications to require that applicants provide to
14 the Board, when they submit their applications,
15 descriptions of technology, policies and procedures that
16 they will be using when implementing security access
17 safeguards, descriptions of policies that they will use for
18 verifying residency, as well as descriptions of policies
19 for complying with Rule 2074(i) which deals with IRS
20 gambling withholdings, as well as indicating the types of
21 deposits that they will be accepting and the withdrawals
22 that they will be processing.

23 The intent here is to capture as much -- or,
24 excuse me, more information in the application than has
25 previously been captured before so that the Board can make

1 an educated and informed decision when deciding whether to
2 grant licenses to advance deposit wagering companies.

3 CHAIRMAN FERRARO: Questions from the Board?
4 Motion to approve?

5 COMMISSIONER MITCHELL: (Off mike.)
6 (Indiscernible.)

7 MR. BRODNIK: No. This is a -- your motion today
8 would send this out for a 45-day public comment and then it
9 would come back before the Board.

10 COMMISSIONER MITCHELL: Got it. I'll move.

11 CHAIRMAN FERRARO: Do we have a second?

12 COMMISSIONER GONZALES: I'll second, yeah.

13 CHAIRMAN FERRARO: Commissioner Solis?

14 COMMISSIONER SOLIS: Yes.

15 CHAIRMAN FERRARO: Commissioner Gonzales?

16 COMMISSIONER GONZALES: Yes.

17 CHAIRMAN FERRARO: Yes.

18 Commission Mitchell?

19 COMMISSIONER MITCHELL: Yes.

20 MR. BRODNIK: Thank you.

21 CHAIRMAN FERRARO: We'll move on to item number
22 ten, which is a report from the Medication, Safety and
23 Welfare Committee. That's usually my responsibility but
24 I'm going to abdicate to Dr. Arthur since he was
25 responsible for major presentations at that meeting.

1 EQUINE MEDICAL DIRECTOR ARTHUR: Thank you, Mr.
2 Chairman.

3 Last Wednesday the Medication, Safety and Welfare
4 meeting was held at the Maddy Laboratory. And besides the
5 usual agenda, we had three presentations that I think the
6 Board and the public should appreciate.

7 The first was by Dr. Heather Kynch. She is the
8 Veterinary Pharmacology in the Maddy Laboratory. And from
9 its very beginning the master plan for the Maddy
10 Laboratory, a veterinary pharmacologist has been part of
11 that program.

12 Dr. Kynch is a DVM, PhD, Board Certified in
13 Veterinary Pharmacology. She did her PhD at the Maddy
14 Laboratory under Dr. Stanley. And without her the program
15 would not be, and I'm talking about the entire drug testing
16 program, would not be in the position it is.

17 It's been a very productive program. We not only
18 do drug testing, research for drug testing and regulation,
19 but actually for horse health. I think the best example is
20 all the work we've done on corticosteroid thresholds. And
21 what we've found out from the time that Dr. Ferraro and I
22 were practicing is that we've been overdosing joints with
23 corticosteroids. And I think that's been recognized
24 worldwide, that if you are going to use corticosteroids in
25 a joint, that you don't need to use levels of

1 corticosteroids that we had been using.

2 But it has been -- without her program, we would
3 not be able to have the regulations that we have here
4 today. She has brought in over \$1 million to the Maddy
5 Laboratory for the Pharmacology Program from California
6 Department of Food and Agriculture, Southern California
7 Equine Foundation, Dolly Green Research Foundation, Racing
8 Medication Testing Consortium, AQHA, and many others.

9 And by the way, when we were talking about
10 bisphosphonates, I just mentioned that she had increased
11 the sensitivity for detecting bisphosphonates by almost
12 tenfold. And we have actually been working on a procedure
13 to detect bisphosphonates in postmortem bone samples. And
14 we were able to find the clodronate, which is the osphos
15 product in a horse 18 months after it was administered
16 osphos. So it's a very sensitive test and we'll be able to
17 incorporate that into our Postmortem Program.

18 The next discussion was led by Dr. Ben Moeller,
19 who is now Chief Chemist at the Maddy Laboratory. He did
20 his PhD under Dr. Stanley as well. And we're fortunate to
21 have him because Dr. Stanley was recruited away to the
22 University of Kentucky. He served -- Dr. Stanley did a
23 great job when he was here and really set up the
24 laboratory.

25 But we need -- we do a very good job in small

1 molecule detection. That's primarily what we do. But drug
2 testing, particularly antidoping testing, is a cat-and-
3 mouse game. And by that I mean every time you plug a hole
4 there will be another hole someplace else. They're going
5 to get into peptides, proteins, and even gene doping. And
6 this industry is going to have to be prepared for that.

7 Unlike human sports testing, however, we not only
8 do antidoping, which is the integrity part of it, but we
9 also do safety testing. And that's why we regulate drugs
10 that we ignore in human sports, like many of the
11 nonsteroidal anti-inflammatories and corticosteroids that
12 we've been talking about.

13 But the industry has to be strategically prepared
14 for what's going to come next because, as Dr. Caitlin from
15 the UCLA Laboratory said when he was on the Racing
16 Medication Racing Consortium Scientific Advisory Committee,
17 sometimes the cheaters are better funded and have better
18 imagination than we do, so you always have to be prepared.

19 The last presentation was from Dr. Spriet, who
20 gave a presentation on the new PET scan at Santa Anita.
21 And the results are exciting, in fact, very exciting. Dr.
22 Spriet's validation for the PET in clinical medicine is
23 being funded by the Grayson-Jockey Club Research
24 Foundation. And the Oak Tree Charitable Foundation has
25 contributed additional funds to tie in the MRI unit that we

1 have at Santa Anita, along with PET, to try to identify
2 which of these imaging techniques is best for which type of
3 lesion.

4 I want to comment on diagnostic imaging.
5 Everybody wants a simple answer to equine catastrophic
6 injuries. That really only demonstrates the lack of
7 knowledge of how complex this problem is. It isn't just
8 track surfaces. It isn't just the horse. It isn't just
9 medication. It isn't just training. This is a multi-
10 factorial problem and it needs a very broad approach as to
11 how we make racing safer. And I think this Board, if you
12 look at our history, has done a very, very good job of
13 that. And some of the things we've done here today, I
14 think, supports that.

15 Returning to diagnostic imaging, just as in
16 humans, there's no single diagnostic imaging technique that
17 will identify all the lesions you want. Some are more
18 amenable to plain radiography, some will be ultrasound,
19 some will be nuclear medicine, some will be PET, some will
20 be MRI, some may be CT. I think we have to recognize that
21 there's not going to be a one-size-fits-all. What we need
22 to do is have a better recognition of when horses have to
23 be sent to diagnostic imaging. And certainly at Santa
24 Anita, we have as good of imaging capabilities of anywhere
25 in the world.

1 So there are some other items that we'll be
2 discussing later on that were on the agenda that are the
3 next three items. And I'll let -- I think Rob Brodnik will
4 be handling those individually and I'll be supporting him
5 when necessary.

6 CHAIRMAN FERRARO: Any questions from the Board?
7 Heather Wilson?

8 MS. WILSON: Good morning. Nice to see you in
9 Sacramento. This is regarding the various scanners that
10 are being implemented.

11 Positron emission tomography, or PET scans,
12 involve the injection of radiation. Other scanning
13 devices, such as CT or MRI may or may not use contrast.
14 Contrast is typically eliminated via the kidneys which we
15 already know are taking a beating during the plethora of
16 other drugs that are being given these nonconsenting
17 animals, particularly Lasix, also known as furosemide.

18 Regardless of the type of scan, the horses will
19 be receiving sedation. They must hold still, they must
20 cooperate, and they cannot move, especially when you
21 consider how loud an MRI is. These horses cannot possibly
22 comprehend what is happening to them, so they must be
23 controlled and subjugated with medications.

24 Regarding PET scans in equines, a 2016 study
25 states that, "The use of general anesthesia allowed the

1 proximity and the contact time with the patient, the horse,
2 to be minimized for the staff involved." So clearly, being
3 on the receiving end of that needle with the radiation
4 cannot be very healthy.

5 ¹⁸F-sodium fluoride, the radioactive isotope used
6 in PET scans, is eliminated by the kidney. How do you plan
7 on not contaminating the groundwater with hundreds of
8 horses every year urinating radioactive waste? How do you
9 plan on not contaminating the other horses?

10 Intravenous radiation is absorbed into every
11 organ in the body, not only the bones. These poor animals
12 do not have the right to refuse these exams, their
13 accompanying anesthetic drugs for sedation, contrast dye
14 and/or radiation.

15 And why are you doing these scans in the first
16 place? Because you are placing their lives at risk. You
17 are forcing your will on them and now you are trying to
18 save face.

19 An example comes from a publication, 2018, from
20 the Equine Veterinary Education Journal, and I quote, "For
21 thoroughbreds racing in the counterclockwise direction
22 only, the predisposition for medial sesamoid fractures of
23 the right forelimb is logical," in other words, human-
24 created risk.

25 Scanning horses and injecting them with even more

1 drugs and substances will not save them and it will
2 certainly not save this vile and corrupt blood sport.

3 Thank you.

4 CHAIRMAN FERRARO: Thank you.

5 Thank you, Dr. Arthur.

6 Before we go on to the next item, we're going to
7 take a ten-minute break please.

8 (Off the record at 11:01 a.m.)

9 (On the record at 11:14 a.m.)

10 CHAIRMAN FERRARO: All right, we'll reconvene, if
11 everyone's ready, please?

12 All right, the next item on our agenda, number
13 11, discussion and action by the Board regarding the
14 proposed amendments to CHRB Rule 1685, Equipment
15 Requirement, to modify riding crop specifications.

16 Rob?

17 MR. BRODNIK: Good morning. Robert Brodник,
18 California Horse Racing Board.

19 This item is back from Committee. The language
20 was amended after the last Board meeting to allow for a
21 crop similar to the GT-360 to be used. But the terms
22 within this amendment are generic, so others can use it as
23 well, as long as they meet the specifications.

24 I'm happy to answer any questions about the
25 language itself. A vote on this today would send it out

1 for a 45-day public comment.

2 CHAIRMAN FERRARO: So the vote, it goes out 45
3 days and comes back --

4 MR. BRODNIK: Correct.

5 CHAIRMAN FERRARO: -- for a comment period?
6 Okay.

7 Can we hear from the riders? I know you want to
8 say something, so I'll let you go first.

9 MR. GUSMAN: Mr. Chairman, Members of the Board,
10 Shane Gusman on behalf of the Jockeys' Guild. Just a
11 couple of brief points. We have some riders with us that
12 want to talk about how the rule would impact their sport.

13 And we would start off by saying that, and I've
14 said this before, we are for, totally for and support
15 innovations and equipment that make the sport safer, both
16 for the rider and for the horse, 100 percent for that.
17 What we want to ensure, though, is that it actually works
18 in practice and that it doesn't have any unintended
19 consequences in use. And I think the way the rule is
20 drafted and the specifications may have some of those
21 unintended consequences, and I'll let the riders speak to
22 that.

23 The other issue that I think, in adopting any
24 kind of equipment rules, that the Board needs to look at
25 is, is this equipment, on day one, readily available for

1 100 percent of the jockey community in the state of
2 California to be able to obtain? I don't know if we have
3 an answer, an adequate answer to that.

4 And, secondly, I would caution adopting a rule
5 that is so specific that perhaps only one manufacturer can
6 satisfy the rule. And maybe you guys have done the due
7 diligence, I don't know, I haven't heard this publicly, but
8 whether there's actually a patent or patent pending on the
9 way the rule has specified, that only someone who is
10 holding a patent could satisfy that equipment
11 specification?

12 So these are just issues that I think should be
13 flushed out before moving forward with adoption of the
14 rule.

15 MR. GRYDER: My name is Aaron Gryder. I've been
16 a jockey for 33 years. Much like several of the other
17 riders, most of the riders in the country, we want these
18 changes. We want things to be safer, all of us, for the
19 horses. A riding crop is not to injure a horse by any
20 means. It's a tool to guide them. It's a tool of safety.
21 They are animals or horses that have been ridden and the
22 crop can be a tool to where if you tap them on the shoulder
23 they know if they're ready to duck or whatever it may be.

24 But I think right now, as we get into these
25 different crops, I think it's sometimes a little bit too

1 early. I don't know that we've had the testing that is
2 necessary for us to say this one is the one that needs to
3 be done.

4 You know, the creator of it was one of the best
5 riders that ever rode. He's an idol of mine. But the
6 majority of the riders have not been comfortable with this
7 version of it. I think that there has to be many more
8 versions to perfect it. And as a rider, it's a big change
9 for us which is fine. We're ready to adapt to the changes.

10 But the thing about safety is, and I brought this
11 up just because it's my bag but it's got a strap on it, the
12 reins, the way a rider holds the reins, they would double
13 over their reins. So two reins, which is much thicker than
14 this arm on my bag, is in your hand with three fingers over
15 and two fingers under. Inside of that, you would have a
16 riding crop. So when you go to pull the riding crop from
17 your left to your right you've got to get it through that
18 same spot that's holding your two reins. Now to do that
19 with a round, circular popper, you have to open your
20 arms -- or your hand quite a bit, where it could cause to
21 pull a rein out. There's going to be, definitely, some
22 adjusting.

23 Definitely, it's a great concept, but I do
24 believe that we have to go much deeper into it before we
25 vote on it and say this is the one that has to be..

1 I've ridden over 100,000 thoroughbreds in my
2 career, 30,000 of them in races. There has never, ever
3 been a time in my career during a race of just on horseback
4 that I have cut a horse, put a welt on a horse, or injured
5 a horse because of a riding crop. I don't believe that an
6 edge on a riding crop has ever cut a horse. A stitching on
7 a riding crop has never cut a horse. There's stitching on
8 a saddle and there's an edge on a saddle. There's
9 stitching on reins as well.

10 It's the way a riding crop, if it is not used
11 properly, that it can put a welt on a horse, and that's
12 what we're all trying to get away with. We all want new
13 whips, new rules, but I don't believe that it can be to one
14 standard and to be on one that most of the riders are yet
15 to be comfortable with. Again, it needs to be adjusted.
16 We have to have many versions.

17 But when those rules are put in place, we all
18 know when we get on the freeway, most places, it's 55 miles
19 an hour. Some places it's 65 miles an hour. But nobody is
20 telling us, oh, we have to drive a Toyota. You know, as
21 long as we're within these rules we believe we have the
22 choice to the specifications to use something that's
23 comfortable to us. They don't tell the Dodgers, when they
24 go in the outfield, just grab a mitt. These are the ones
25 we've got for you. Grab one. Everybody's comfortable with

1 different things as long as it's within the rules.

2 And I think before we say that we have to use
3 this specific whip that would put a lot of other people
4 behind the eight ball because they make -- they're living
5 off of making racing equipment, it might put them out of
6 business, I think that we need to really look at it and see
7 what the standards are and what the rules will be and then
8 adjust to that.

9 MR. JENSEN: My name is Cody Jensen, a 25-year
10 veteran Quarter Horse rider, and I'm here to speak on
11 behalf of the Quarter Horse riders.

12 The 360 crop right now, the way we have it,
13 doesn't do a whole lot of good for us on the Quarter Horse
14 side. There's really only one version that's available for
15 it now. On the Quarter Horse side, we've got to have
16 something a lot lighter, a lot quicker, a lot more
17 responsive than the version that it's got right now. And,
18 unfortunately, right now that's kind of the only thing
19 available.

20 And without necessarily having, maybe, competing
21 manufacturers developing things that will work on our side,
22 the version that's now is just too heavy, too unwieldy,
23 really hard to use when you're going those kind of speeds,
24 when your race is over in less than 20 seconds. We need
25 something that's really light, really easy to handle,

1 really responsive, really quick. And, unfortunately, right
2 now that's all that's available when it comes to this round
3 popper.

4 I think it's a very -- it's in its infancy when
5 it came out with, you know, this style. I know he's put a
6 lot of R&D into it. And it's just getting out there,
7 getting there and getting in their hands and stuff like
8 that, but there's a lot of modifications that need to kind
9 of go into it to where it can get to work with both sides
10 of the sport, to where all the riders are comfortable with
11 it.

12 Unfortunately, there's only a couple of riders
13 that have gone to it 100 percent of the time because they
14 feel comfortable with it. Most of the riders are like,
15 hey, this shows a lot of potential, we really like the way
16 this is going, but it's not quite there yet. We've got to
17 take a little weight out of it. We've got to take -- make
18 sure the handability, how it handles and everything, is a
19 little more online with what we need to have out there to
20 do our job and do it correctly.

21 CHAIRMAN FERRARO: Questions from the Board?

22 MR. HAIRE: (Off mike.) Darrell Haire, Western
23 Regional Manager for the Jockeys' Guild.

24 THE REPORTER: Microphone?

25 EXECUTIVE DIRECTOR BAEDEKER: Green button.

1 MR. HAIRE: Darrell Haire. It's not on.

2 EXECUTIVE DIRECTOR BAEDEKER: There's a little
3 lever down there.

4 MR. HAIRE: Okay. Darrell Haire, Western
5 Regional Manager for the Jockeys' Guild.

6 As Aaron said, the riding crop, it's not -- the
7 riding crop, it's where you hit a horse that can affect
8 them. And the riders now are more conscious of where
9 they're making contact with a horse. So these are equine,
10 more friendly. And the riders, again, they're not -- we
11 don't see them cutting them or leaving welts. There's not
12 many riders that are being fined.

13 So we would just like to have more options and
14 more testing on these riding crop to make sure and work
15 with the Commission to come up with a riding crop that's
16 really safe in a manner, too, where you can switch sticks
17 without getting tangled up in the mane because, as Quarter
18 Horses, it's that quick. So you have to have something
19 that the riders really feel comfortable with.

20 So, again, I think we need to have more options
21 with these riding crops.

22 CHAIRMAN FERRARO: Questions from the Board?

23 Are you aware that the Thoroughbred Safety
24 Consortium is considering the same rule we are? Do you
25 know that, so that it would a national agreement?

1 MR. HAIRE: And we've worked with them, the
2 Jockeys' Guild. And what they come up -- because we want
3 uniformity, so it's not totally what the California Horse
4 Racing Board is coming up with, so it's a different version
5 of it. But we are working close and we want to come up
6 with something that works for, whether it's Keeneland or
7 Del Mar or New York, something that works for everybody.

8 And we've been working right along over the
9 years, so I think we can come up with something, a riding
10 crop, that suits everybody but not just one. It just
11 doesn't make sense, really, to have one riding crop when
12 there's different -- whether it's a baseball mitt,
13 everybody has their preference, riders have their
14 preference, the flexibility, it's all different.

15 MR. JENSEN: Yeah, well, nobody, nobody, none of
16 the riders are against the 360 popper as it is. It's just
17 that right now, in the form that it's at, if you adopt that
18 as the only form and leave no room for improvements and for
19 variations upon it that still fit within the round form of
20 it is what we're looking at. Right now there's only one
21 option, only one manufacturer, one option that creates that
22 style. And that's very limited in the size, length,
23 weight, handability of what it is.

24 What we're asking for is to leave it open to
25 where there's improvements being made that can be approved,

1 that are also in the same style, that are more applicable
2 to the different styles and the different variations in
3 riders and racing between thoroughbreds and Quarter Horses.

4 There has to be some variation. Right now it's just one
5 and done. That's the only popper.

6 In the current cushion popper there's a lot of
7 variations that fit with inside the rules that you can get
8 that works for what you want and what you need. Right now
9 we're just stuck with one. We would like to have it open
10 enough, to where if this is adopted to where we go to the
11 360, that there's still room for variations and
12 improvements upon it and not just in this particular form
13 that it's at right now.

14 COMMISSIONER SOLIS: I, personally, knowing that
15 we're going to change these new rules where we're going to
16 hit downward, it worries me, just like Aaron said, that
17 it's a little round, it's bulky. You have your reins and
18 when you pull it up it could get stuck. And a lot of
19 times, even when you have your stick up, you may -- the
20 whip could get stuck in the mane. And that concerns me
21 because if you're going to start hitting -- using the whip
22 downward it could -- you know, that split second that
23 you're pulling up the whip and it gets stuck, it could
24 cause an accident, so that concerns me.

25 CHAIRMAN FERRARO: Thank you. We're going to

1 take some public comments now.

2 MR. JENSEN: Thank you.

3 CHAIRMAN FERRARO: Pat Cuviello.

4 MR. CUVIELLO: Good afternoon -- or Good morning.

5 Is this on? Is this on? Okay. Good morning,
6 Commissioners. Pat Cuviello, California resident.

7 The difference between a baseball glove and a
8 riding crop, and I appreciate that the Board is looking at
9 riding crops because it's an acknowledgment that they cause
10 pain to the horse, as the Board mentioned last time at this
11 meeting in Sacramento, but the difference between a
12 baseball mitt and a riding crop is the riding crop has one
13 purpose and that's to cause pain to the horse so the horse
14 will run faster. And that is the inherent problem with
15 trying to regulate something like a riding crop is because
16 you're trying to make it more palatable to cause less pain
17 but it's still to cause pain.

18 And it's similar to the circus. I worked on the
19 circus issue for many years. And to use the elephants,
20 they had what they called a bullhook. It looks like a
21 fireplace poker. These bullhooks, when I first started,
22 were about three feet long and big heavy sticks. The
23 circus tried to make it more palatable, so they made these
24 bullhooks about 18 inches long, a little smaller, so they
25 could even shove them up their sleeve. It didn't work

1 because people knew they were to cause pain.

2 And you can't regulate pain. You can't regulate
3 pain. You can't say, oh, we're going to make it less
4 painful because people don't like when animals are --
5 they're causing them pain to use them for sport or for
6 entertainment, such as the circus.

7 The things that were once acceptable are no
8 longer acceptable. Our society is changing and that's why
9 the circus is gone. Horse racing has been around for
10 years. People are understanding now that horses are
11 drugged, horses are -- they understand the whips that cause
12 pain. They don't like this.

13 The Board should -- if we have to whip horses to
14 race them, then that's a problem. We shouldn't be racing
15 horses, number one. Just like if we had to beat elephants
16 to use them in circuses, we shouldn't be using elephants.
17 If we have to whip tigers in circuses to get them to
18 perform tricks, we shouldn't be using tigers in circuses.
19 It's the same with a riding crop. We shouldn't be whipping
20 horses. If we have to whip horses to get them to run
21 races, it should be banned all together.

22 And that's what this Board should -- ban the
23 riding crop. And if they can't race them without it then
24 they shouldn't be racing them without it. But if they can
25 race them without it, I'm sure they can, then they're fine

1 without the riding crop. Same with the bullhook. If they
2 can't do it without the bullhook, then they shouldn't be
3 doing it. And if they can do it without the bullhook, then
4 they can do it.

5 Thank you.

6 CHAIRMAN FERRARO: Denise Bolbol.

7 MS. BOLBOL: Good morning. So I won't repeat
8 what Pat just said but I do agree with him.

9 And I have to tell you that, you know, this is a
10 public meeting and you have public comments because you're
11 supposed to care about what we think. You're supposed to
12 care about what Californians think, not just industry
13 people. You're actually supposed to -- it's not supposed
14 to be where I just talk to you and you guys look at me with
15 blank looks and then you go about and do what you're going
16 to do and pretend like this is all fine and normal. You're
17 supposed to actually care about what we're saying here and
18 try to think, how do we accommodate what the public
19 sentiment is?

20 And, you know, having the meeting in the middle
21 of the week and on a workday, that sort of thing, it's hard
22 for people to take off from work. I almost couldn't come
23 today because I had a meeting for work. Luckily, it got
24 canceled and I could come.

25 But it's -- so when you hear from us, and we're

1 just normal people, not in the industry making money on
2 this industry, we represent a lot more people than are here
3 today. And I'm going to work on getting a petition going
4 so you can see how many Californians agree with you're
5 saying.

6 Trying to fix and abusive weapon, because it is a
7 weapon, it's designed specifically and it's used
8 specifically to -- you can call it a cue or whatever, they
9 used to call it a cue with the circus to -- but to hit an
10 animal with a weapon, something that's designed for hitting
11 them, you can't fix that. I mean you can come up with, oh,
12 well, it's not going to cut their skin, oh, okay, and this
13 and out, but you're still whacking the animal with it.
14 You're still whacking the animal with it and so you can't
15 fix that. The only way you can fix that is by banning it.

16 So I think this Board, you're going to come to a
17 crossroads pretty soon and it's going to be, basically, do
18 you guys care about what Californians think or are you just
19 trying to put Band-Aids on things so the industry can
20 continue business as usual? And I think that's a question
21 you're going to have to ask yourselves.

22 But you guys are going to make yourselves
23 irrelevant because, at some point, it becomes ridiculous
24 that I come and talk to you when you don't even respond to
25 me. You don't even seem to care about what regular people

1 are saying, regular Californians are saying.

2 And so I would urge you, don't be going through
3 all this with the jockeys. Ban the whip, just ban it and
4 be done with it. And I think they did say, you guys did
5 look at that initially and you did know that, yeah, so if
6 everybody has an even playing field and there is no whip in
7 California, that's the way to go, so that's what I would
8 urge you to do.

9 Thank you.

10 CHAIRMAN FERRARO: Thank you.

11 Heather Wilson?

12 MS. WILSON: Good morning again. Heather Wilson
13 with Horse Racing Wrongs.

14 Who can forget Dr. Rick Arthur's famous quote at
15 the International Conference of Horse Racing Authorities on
16 October 7th, 2019? "There are those who argue that
17 whipping doesn't hurt horses but that's nonsense and we all
18 know that. Whips are noxious stimuli. They hurt, that's
19 why they're used. Run fast or I'll hit you again."

20 This country has a shameful history of how we
21 have treated other humans. When I hear the word whip what
22 comes to mind is how we have historically used this
23 instrument to control, dominate and subjugate others in
24 order to make them work harder, to work faster, to punish
25 them for not obeying, or for trying to escape. There's

1 actually zero difference when it comes to horses.

2 In what other sport do the athletes have to be
3 whipped in order to enhance performance? In what other
4 sport are the athletes dropping dead on a daily basis?
5 None. That is because horse racing is not a sport. And
6 these animals are not athletes.

7 Instead, these horses should be reserved to
8 enslaved equines. And slavery of any kind has absolutely
9 no place in a civilized society.

10 At the CHRB meeting at Los Alamitos last
11 December, someone was whining that there would be a 50
12 percent reduction in the purse if whips were banned, yet
13 again making our case for us that these precious iconic
14 animals are nothing more than objects to make money for
15 you.

16 The problem is not the whips. The problem is
17 horse racing. It is 2020. We must evolve and only allow
18 sports betting on consenting human athletes who are not
19 being whipped. It is high time to abolish this so-called
20 sport, just as we have abolished other atrocities in this
21 country. The whips are not what needs to be phased out, it
22 is horse racing.

23 Thank you.

24 CHAIRMAN FERRARO: Tweed Conrad.

25 MS. CONRAD: Hi. I very much appreciate all the

1 strides that you guys have made in the last couple of
2 years. I really feel like you are doing your best within
3 certain parameters to make this a safer sport.

4 I also hear the Jockeys' Guild, that they have
5 sort of an honor system of how they use the whip and where
6 and that sort of thing.

7 But I do I know a couple of vets at UC Davis, and
8 possibly Dr. Ferraro could confirm this because he had
9 worked at UC Davis, that a lot of those horses come in
10 broken, bloody and beaten and can never race again. So
11 there are jockeys that are still abusing this honor system
12 or whatever it is. I don't pretend to understand how this
13 works.

14 But I also understand that -- (clears throat)
15 excuse me -- the Jockey Club -- Jockeys' Guild members were
16 saying that they don't want to just have one instrument.
17 And as a business owner, I can see that. You don't want to
18 just be forced to buy one thing.

19 So I'm wondering if there can be some kind of --
20 and don't get me wrong, I agree with Pat, I don't think you
21 need, if the horse wants to run, I don't think you need to
22 strike it. And I don't think that two-year-old horses need
23 medications because they should be healthy already. So
24 those are the core values here.

25 But I know that things don't change overnight.

1 And you guys are trying to find a way to make it safer for
2 the riders and the horses. I understand and appreciate
3 that very much. We've made a lot of strides in the -- you
4 have made a lot of strides in the last couple of years.

5 So maybe there's some interim step that we can
6 take by just banning the whips that have the seams on them
7 and the angles and then within that, once we've taken that
8 out, anything that could cut the animal, it seems to me a
9 more viable option than forcing jockeys to buy a certain
10 type of whip.

11 So that's my thought. Thank you.

12 CHAIRMAN FERRARO: Thank you.

13 Any comments from the Board?

14 COMMISSIONER MITCHELL: I have some questions.

15 CHAIRMAN FERRARO: Yeah.

16 COMMISSIONER MITCHELL: So in this, the staff
17 report, it says that in May of 2019, Mr. Dominguez proposed
18 this new language for these riding crops.

19 How long -- do we know how long, these crops have
20 been available to jockeys and how much -- how often they've
21 been used? Do we have any information on that? No.

22 Shane?

23 CHAIRMAN FERRARO: I don't think that information
24 is -- maybe he's got some.

25 MR. GUSMAN: I can partially answer that

1 question. We did a survey of our members and our
2 understand is, is that there's only one person using this
3 particular riding crop nationwide right now on a regular
4 basis.

5 EXECUTIVE DIRECTOR BAEDEKER: Commissioner, I
6 think it was about a year ago, maybe a little longer than
7 that, that this particular foam popper crop, 360 crop, was
8 introduced. And it was used in a couple of experimental
9 situations, I think once in New York. I think riders at
10 Santa Anita tried using it but I can't give you the
11 specifics on that. But I do think it's been around a
12 little bit more than a year.

13 COMMISSIONER MITCHELL: So -- oh, go ahead.

14 MR. GRYDER: It is possible that it's been a
15 little bit more than a year. I know that they were
16 supplied to us at Santa Anita. There is more than one
17 rider using it. I mean, it's a small number that's using
18 it regularly and feels comfortable with it.

19 But, you know, I know Ramon has good intentions
20 and he's going to continue modifying, as well as other
21 versions of it from other people that we need to see but,
22 you know, it's got a long way to go. I think that I love
23 the idea of the cushion on it. I love the idea of
24 everything. We just need to find it to be a little bit
25 easier to handle in your hand with your reins, to the

1 horses when they're tapped with it. I just -- you know, we
2 all are looking for the same thing. But I just think there
3 has to be more than one version. It's been around but not
4 a lot of riders have felt comfortable with this exact
5 version yet.

6 COMMISSIONER MITCHELL: Okay.

7 COMMISSIONER GONZALES: Go ahead, Wendy.

8 COMMISSIONER MITCHELL: Oh.

9 COMMISSIONER GONZALES: Yeah. I'm sorry.

10 COMMISSIONER MITCHELL: So I guess my concern
11 here is that we're using -- we're going to be mandating
12 something that's really untested and I am concerned. I
13 don't know if there's a way to like phase this in or to
14 give it a trial period in order for jockeys to try it out
15 before it's used on -- before it's mandated, only because I
16 feel like, you know, it sounds great but I have never been
17 on the back of a 1,200 pound horse going 40 miles an hour,
18 so I don't feel that we have enough information to make
19 decisions on what should be used in order to -- for what's
20 going to be effective because it's not really been tested.

21 So that's my concern here. I don't -- you know,
22 I also have concerns, as I shared with Commissioner Solis
23 earlier, in the government, it's not our job to pick
24 companies and pick, you know, individuals that manufacturer
25 something. You know, we need to put parameters on things

1 so that there is a market and people can look to improve it
2 and others can be in the market. I'm concerned. And I'm
3 sorry I wasn't able to attend the Medication meeting last
4 week. But I'm concerned that the parameters that we've set
5 in this rule are strictly to this one sort of popper and
6 that it's not -- it doesn't allow for any flexibility for
7 others to manufacturer and improve the riding crop.

8 And given, you know, we have a new rule being
9 promulgated on the whip and how -- you know, the down hand,
10 et cetera, so that creates a whole other layer of sort of
11 complication that I worry about, you know, safety, et
12 cetera.

13 So those are my concerns.

14 COMMISSIONER GONZALES: Good points.

15 Well, can Staff let me know, or maybe the jockey
16 representatives, what is the current policy on the seams
17 and edges?

18 And I do appreciate public comment reminding us
19 about the importance of addressing it.

20 Does anyone -- can anyone touch on it? Because I
21 believe that's what we're trying to do, is to get away with
22 anything that would injure our horses.

23 MR. GRyder: Well, I don't know exactly the
24 specs. I'd be wrongfully stating them if I could tell you
25 exactly. But I know a couple years back we went to the Pro

1 Cushion [sic], the cushion popper, where it was longer and
2 flatter. It was much kinder. It was -- we did that a
3 couple years ago.

4 As far as the stitching, again, I don't think
5 there's any specs on that stitching in the past. But the
6 popper, itself, became very soft.

7 I recently bought two riding crops from the same
8 gentleman that had always made mine and I sent them back
9 two weeks ago. I got them, I looked at them, they looked
10 fine. But as I felt the popper, I don't want to feel
11 anything but the cushion, and that's my preference, on top
12 of what the ruling is, because I don't use it as a weapon.
13 And I understand it has its purpose but it's not to hurt a
14 horse. So I sent those back and, you know, spoke with him
15 last week and said, "Please, make them to my standards
16 where all I feel is the cushion in them and that's what I
17 want."

18 So I don't think there was any specific -- or I'd
19 be wrong if I could tell you what the specific layout was
20 as far as the stitching and everything else. But the
21 stitching the edges have never cut a horse if the whip or
22 the crop was done properly. And ever since we've had the
23 Pro Cushion poppers the last couple years, that has been
24 the case.

25 COMMISSIONER GONZALES: All right. Thank you for

1 your answer.

2 MR. GRYDER: Thank you.

3 CHAIRMAN FERRARO: Alex, do you have comments?

4 COMMISSIONER SOLIS: Well, we keep moving the
5 lane. I mean, we're moving forward to have the more strict
6 rules in the country. If I was riding, I like to have
7 options, really. That's my feeling. I mean I have nothing
8 against the 360, I mean, I like it, but I like to have
9 options.

10 COMMISSIONER GONZALES: And currently, just a
11 question, a broader question, there are currently options?
12 There's nothing that excludes 360 or any others that are
13 coming in; right?

14 COMMISSIONER MITCHELL: No.

15 COMMISSIONER GONZALES: I mean --

16 COMMISSIONER MITCHELL: It does because the
17 current regulation says a flap popper --

18 COMMISSIONER GONZALES: Um-hmm.

19 COMMISSIONER MITCHELL: -- so -- and that it's
20 sewn over, so it does actually preclude --

21 COMMISSIONER GONZALES: The 360?

22 COMMISSIONER MITCHELL: -- the round. Yes.

23 CHAIRMAN FERRARO: I asked you before but I don't
24 think I really got an answer from you.

25 I see that the Thoroughbred Safety Consortium,

1 that's all the major tracks in the country, are considering
2 this same rule. Have you discussed that with them?

3 MR. GUSMAN: We have discussed it. And my
4 understanding, and I could be wrong, but last discussion
5 with the Guild leadership, who is in discussions with that
6 group and has been meeting regularly with them, that the
7 rule that they are considering isn't the same as this rule
8 that you're considering today. That's my --

9 CHAIRMAN FERRARO: Do you what the difference is?

10 MR. GUSMAN: -- that's my understanding. And I
11 don't know the differences. That's what I've been told. I
12 don't -- I haven't seen the rule itself.

13 CHAIRMAN FERRARO: Because I read the written one
14 and, to me, it looked exactly the same but I could be
15 wrong.

16 MR. GUSMAN: I mean, to some of the points that
17 have been raised, one of the things that we were looking at
18 considering was, to the point Board Member Gonzales raised,
19 was if you amended the rule to allow for the 360, to allow
20 for the circular popper, but you made it an or rather than
21 just a mandatory only the circular popper --

22 COMMISSIONER GONZALES: Sure.

23 MR. GUSMAN: -- that why you would options and
24 you would have your gradual movement to that. As he's
25 perfecting that, you would have the movement of the jockey

1 community, probably, towards that ultimate goal with the
2 circular popper.

3 CHAIRMAN FERRARO: Right.

4 MR. GUSMAN: But right now, they're just not used
5 to it. And, as Aaron stated, you know, switching, you can
6 cause issues that might have unintended consequences, as
7 we're trying to make this safer for the horse, and you
8 could cause an accident that actually, you know, results in
9 a fatality --

10 COMMISSIONER GONZALES: Right.

11 MR. GUSMAN: -- and an injury or, worse, to a
12 rider.

13 COMMISSIONER MITCHELL: Yeah. But what I know
14 about human nature is no one likes change. And so if we
15 put, this is my problem with that, is if we put in an or,
16 everyone's going to stay with what they know; right?

17 MR. GUSMAN: Um-hmm.

18 COMMISSIONER MITCHELL: So how do we craft a
19 policy that allows us to transition to a cylindrical after,
20 you know, it's been tested and there are part of it?

21 MR. GUSMAN: Well, I think that's part of it.
22 Maybe you have a time period of testing and perfection from
23 the manufacturers. And maybe you get to a place where
24 there's multiple manufacturers.

25 I think the unknown here is, is we don't know if

1 there will be multiple manufacturers of this particular
2 technology that is mandated in the rule because we don't
3 know if the current manufacturer has intellectual property
4 rights over that.

5 COMMISSIONER MITCHELL: Over a cylindrical foam?
6 I mean --

7 MR. GUSMAN: You'll be surprised what you can
8 patent.

9 COMMISSIONER MITCHELL: I'd like to ask Staff,
10 Rob, do you know about the other rule that Dr. Ferraro is
11 referencing?

12 MR. BRODNIK: No, I don't. I don't have any
13 information on that at this time.

14 COMMISSIONER MITCHELL: Okay.

15 COMMISSIONER GONZALES: I mean, you know, we're
16 trying to get this right. And we do appreciate the
17 leadership of the Guild, the jockeys that make the trip up
18 here. The fact that we are the most restrictive in the
19 country with what we've already done and we, unfortunately,
20 could not incorporate the crop dimensions in that last rule
21 that we adopted, I'd be willing to, just from my personal
22 standpoint is to give us a little bit more time to confirm
23 where the Thoroughbred Safety Coalition is at, to take in
24 the comments we just received from the public, obviously to
25 take in the comments, I would be, you know, inclined to use

1 the or, to allow for that flexibility.

2 And then we, ultimately, have just a great team
3 of stewards. And I complimented them at the last meeting,
4 and I'll do it again now, I really believe that I've seen.
5 I really have. I know we're still getting some fines and
6 penalties. And to the point of the public, they probably
7 should be a lot more stiff. But I am noticing this
8 cultural change within the ranks of the jockeys where
9 they're hand riding more and they're being a lot more
10 selective, and perhaps it's just to gear up for change that
11 is on the way.

12 So, you know, just I'd be willing to give it just
13 a little bit more time, just a little bit more time to pull
14 this together. But we're here at the very end of
15 addressing the riding crop in its entirety but, again,
16 that's just my personal opinion, to delay this just a
17 little bit more until we get more information.

18 CHAIRMAN FERRARO: So what's the pleasure? Do
19 you want to just table this until next month?

20 COMMISSIONER GONZALES: I'd be willing to do
21 that --

22 CHAIRMAN FERRARO: Or do you want to vote --

23 COMMISSIONER GONZALES: -- Dr. Ferraro.

24 CHAIRMAN FERRARO: -- it down and look at --

25 COMMISSIONER GONZALES: I mean, I don't know --

1 CHAIRMAN FERRARO: -- another rule?

2 COMMISSIONER GONZALES: -- if Commissioner Solis,
3 Wendy, are you okay with that?

4 COMMISSIONER MITCHELL: I'm fine with that but I
5 would like Staff to come back and report on what the other
6 regulations -- what the other groups are looking at so that
7 we're not all over the map, because this is a very
8 specific, like 2.5 inches measured around the width, you
9 know, et cetera. So I don't want to create something
10 that's completely different or slightly different from what
11 other organizations are looking at. I mean, we want to be
12 the most restrictive and the most protective but with an
13 eye to makes sense from a public policy perspective and
14 what's really going to impact change and not just, you
15 know, put something that makes us feel good.

16 CHAIRMAN FERRARO: Tom Robbins, are you still
17 here? We might get an answer for you.

18 COMMISSIONER MITCHELL: Okay.

19 CHAIRMAN FERRARO: No.

20 Any racetrack representative that's been talking
21 with the Consortium? No? Okay.

22 We'll have to come back to it then.

23 COMMISSIONER MITCHELL: Okay.

24 CHAIRMAN FERRARO: So is that the motion, to
25 table?

1 COMMISSIONER GONZALES: I'll move to table this
2 item, pending more information from Staff and incorporating
3 some of the recommendations were made. So, yes, I'm
4 comfortable making that motion to table.

5 CHAIRMAN FERRARO: Second?

6 COMMISSIONER MITCHELL: Yes.

7 CHAIRMAN FERRARO: Commissioner Solis?

8 COMMISSIONER SOLIS: Yes.

9 CHAIRMAN FERRARO: Commissioner Gonzales?

10 COMMISSIONER GONZALES: Yes, sir.

11 CHAIRMAN FERRARO: Yes.

12 COMMISSIONER MITCHELL: Yes.

13 CHAIRMAN FERRARO: It's tabled.

14 COMMISSIONER GONZALES: Okay.

15 CHAIRMAN FERRARO: Where are we? Item number 12
16 is off the agenda. We move on to 13, discussion and action
17 by the Board regarding the proposed amendments to CHRB Rule
18 1501, Worker's Compensation Insurance Required, and Rule
19 1502, Program Trainer Prohibited, to clarify the parameters
20 of program training prohibition.

21 MR. BRODNIK: Good morning. Robert Brodник,
22 California Horse Racing Board.

23 Item 13 addresses the issue of program training.
24 Presently, the Board prosecutes instances of program
25 training but the current language is limited in scope.

1 This proposed amendment seeks to clarify and expressly
2 prohibit acts of program or paper training as it presents a
3 significant risk to the horse, the wagering public, and
4 other licensees. The proposed amendment clarifies that
5 this conduct is prohibited. And the proposed subsection
6 amendment to (b) would define what exactly program training
7 is.

8 I'm happy to answer any questions about the
9 proposed text. A vote on this today would send it out for
10 a 45-day public comment.

11 CHAIRMAN FERRARO: Questions? Do we have a
12 motion to approve?

13 COMMISSIONER MITCHELL: Move.

14 CHAIRMAN FERRARO: Second.

15 COMMISSIONER SOLIS: Yes.

16 COMMISSIONER GONZALES: Yes.

17 CHAIRMAN FERRARO: Yes.

18 COMMISSIONER MITCHELL: Yes.

19 MR. BRODNIK: Thank you.

20 CHAIRMAN FERRARO: Okay, item number 14 is our
21 public comment period.

22 EXECUTIVE DIRECTOR BAEDEKER: That's 12.

23 CHAIRMAN FERRARO: Well, we missed that, didn't
24 we?

25 Martha, you want to start?

1 MS. SULLIVAN: Sure. Maybe we can catch an early
2 plane that way, maybe?

3 MS. SULLIVAN: I've got a late flight.

4 I've done some more research on an issue that
5 jumped out at me at the last meeting which is that the
6 racing stewards who interpret and enforce the rules and
7 regulations of this body, you know, and also the laws, the
8 state laws governing horse racing in the state, are
9 independent contractors. And I understand from subsequent
10 emails with the Executive Director that this is in the
11 Business and Professions Code from, you know, 20-30 years
12 ago, that the veterinarians and racing stewards, due to
13 their unique knowledge, aren't appropriate civil service
14 employees and are personal service contractors instead.

15 I find this pretty problematic. And I think that
16 when more of the public understands this, they're going to
17 find it pretty problematic, as well. There's a
18 contradiction, to me, that there are CHRB investigators who
19 investigate complaints of violations of CHRB Rules and
20 enforcement said rules and state laws, they are civil
21 service employees. So I don't quite get the difference
22 between the two classifications. I think a lot of the
23 public would find it very difficult to understand how a
24 state body can have independent contractors enforcing state
25 law and state rules.

1 And I just want to share an example of a licensed
2 steward because I don't remember -- I'm trying to remember
3 the last time I saw an umpire with the Major League
4 Baseball, you know, with Major League Baseball, or a
5 referee with the NFL, writing for the sports bookies or the
6 commentator on a sports network. And that's what this
7 gentleman does.

8 He's -- in addition to his print career at Daily
9 Racing Form and as a freelancer for several industry
10 publications, Mr. White has also toiled as a racing steward
11 in various locales, one in Idaho, and he's been a licensed
12 CHRB Steward since 2010. His most recent CHRB assignment
13 put him in the steward's stand at this year's Los Alamitos
14 Summer Thoroughbred Meet in July.

15 Following the 1993 Del Mar meeting, White hired
16 on with the newly-created HRTV, working as an on-air racing
17 personality for some 20 years until taking his current
18 position as Santa Anita's morning linemaker.

19 So this is one of this Board's licensed racing
20 stewards. It seems like a conflict of interest to me.

21 CHAIRMAN FERRARO: Thank you, Martha.

22 Mike Sage.

23 MR. SAGE: Hello. I'm Mike Sage from Santa
24 Clara.

25 Last month, I, along with Martha and a dozen

1 other Californians, attended your Board meeting and we
2 asked you to, quote, "Show us that you are listening and
3 agendize for your next meeting the removal of horse racing
4 from state properties," unquote. Unfortunately, you have
5 not responded. By not responding to our request, you show
6 that you do not care or listen to Californians.

7 Let's be clear, horse racing is animal abuse.
8 It's time the State of California end subsidizing the horse
9 racing industry. California should not subsidize or profit
10 from an industry that, undeniably, causes harm, suffering
11 and a death to animals, all in the name of entertainment
12 and greed.

13 You, the California Horse Racing Board, have the
14 authority to regulate horse racing and betting. The
15 majority of Californians do not support horse racing.

16 California taxpayers are forced to subsidize
17 state-owned properties, including more than eight
18 fairgrounds that have horse racing and betting.
19 Californians have requested that you agendize the removal
20 or horse racing from state properties. You refuse to even
21 respond to this reasonable request and refuse to put this
22 item on your agenda.

23 You allow and the racing industry inflicts
24 inexcusable abuse on these innocent animals from the
25 torturous training, solitary confinement, blatant abuse of

1 whipping, tying down horses tongues, and the many other
2 sick things done to these horses, all in the name of
3 entertainment and greed. And you all sit here as if those
4 atrocities are normal and acceptable. You need to take
5 meaningful action, not just trying to fix the whip which,
6 in the end, is still a whip that is abusive.

7 Again, I ask you to put on your next agenda,
8 prohibit horse racing and betting on state-owned
9 properties.

10 Thank you.

11 CHAIRMAN FERRARO: Thank you.

12 Pardon the pronunciation, Syed Rizvi (phonetic).

13 MR. RIZVI: Syed Rizvi from San Jose, California.

14 You're appointed by the Governor to listen to
15 Californians. That is what this public meeting is about.
16 You are supposed to listen to the citizens, citizen
17 concern. You're supposed to listen to the citizen concern
18 and respond to us.

19 A vast majority of Californians do not support
20 horse racing. We are again requesting that you put on your
21 next agenda this item, prohibit horse racing and betting on
22 the state-owned properties.

23 Currently, horse racing is betting -- horse
24 racing and betting occurs on the following state-owned
25 properties: California Expo here in Sacramento; Alameda

1 County Fair at Pleasanton; Big Fresno Fair; Humboldt County
2 in Ferndale; Sonoma County Fair in Santa Rosa. In
3 addition, at least nine other fairgrounds have off-track
4 betting.

5 Horse racing causes horses terrible suffering and
6 often death. This Board and the State of California can no
7 longer look the other way as horses are tortured and abused
8 and many suffer death, all in the name of entertainment.

9 Please take action to restrict horse racing and
10 betting to private properties only. By prohibiting horse
11 racing and betting on the state properties, you will be
12 responsive to the majority of California who do not support
13 abusive industry.

14 Thank you.

15 CHAIRMAN FERRARO: Joe Kaplan.

16 MR. KAPLAN: My name is Joe Kaplan. I've been a
17 Davis resident for over 20 years.

18 Speciesism is the assumption of human superiority
19 leading to the exploitation of animals. To quote Alice
20 Walker, "The animals of the world exist for their own
21 reasons. They were not made for humans any more than Black
22 people were made for Whites or woman for men," end quote.

23 Animals, like horses, belong in nature, living
24 out their lives in their own social communities. We must
25 protect their habitats but leave them alone, and certainly

1 not exploiting them by drugging them or whipping them for
2 entertainment and profit.

3 I urge this Board to end horse racing on public
4 properties in California because no horse should be made to
5 suffer for our pleasure. So why waste your time with
6 fruitless attempts at making an inherently violent
7 tradition safer when there is a much better solution? Send
8 horse racing to the ash heap of history where it belongs.

9 Thank you.

10 CHAIRMAN FERRARO: Bonnie Crocker.

11 MS. CROCKER: On the morning of February 12th,
12 2020, as I prepared my presentation for today's meeting, I
13 came across a quote by Elie Wiesel. This Romanian-born,
14 Jewish Holocaust survivor won the 1986 Nobel Peace Prize
15 for speaking out against violence, repression and racism.
16 Wiesel said, "There may be times when we are powerless to
17 prevent injustice but there must never be a time when we
18 fail to protest."

19 That is why my Horse Racing Wrong's colleagues
20 and I are here. We have taken time from our busy lives and
21 jobs. We flew on airplanes or drove long distances because
22 we will not fail to protest the injustice, pain, and death
23 suffered by the horses enslaved in the horse racing
24 industry.

25 California Senate Bill 469 was signed into State

1 Law by California Governor Gavin Newsom on June 26th, 2019.
2 Special provisions within the law give the California Horse
3 Racing Board the power and the responsibility to suspend or
4 revoke the horse racing license of any California track
5 that fails to protect the safety of the horses. Members of
6 the Board here today, can you not see that your laborious
7 discussions and limited racing suspensions are failing to
8 stop the suffering and killing of horses?

9 As a Board thus far you have failed your
10 responsibility to protect the lives of racehorses. You can
11 and you will be held individually liable, personally
12 accountable, for your actions and failures. It is time for
13 full revocation of horse racing licenses, time to ban horse
14 racing.

15 In 2019, more than 100 racehorses were killed in
16 California. Santa Anita alone killed 44 horses between
17 December of 2018 and December 28th of 2019. There have
18 been 16 California kills so far in 2020. Santa Anita
19 killed eight horses since the beginning of this year's
20 winter meet. This is unacceptable.

21 Horse racing is a serial killer and you are
22 allowing it to get away with murder for profit.

23 I will reference, once again, the morning of
24 February 12th, 2020, as I was considering the profound
25 calls for justice contained within the quotes of the

1 Romanian-born author Elie Wiesel, yet another horse was
2 killed at Santa Anita. She was only two years old. Her
3 name was Miss Romania. Quite coincidental and poignant for
4 me, most certainly prompting here and now a reminder for
5 those who need one, each horse that is killed by the horse
6 racing industry has a name and a soul.

7 Here are the names of the 27 most recent
8 California kills. Truest Reward. Golden Birthday.
9 Buckstopper Kit. Harliss. Uncontainable. Tikkun Olam.
10 Double Touch. Miss Romania. Ruby Roundhouse. Elegant
11 Sundown. Jest Famous. Eyell Be Back. Super Beauty.
12 Katies Easy Moves. It Is Over. Data Hawk. Cowboy
13 Coffee. Run free at last, sweet angels. You will not be
14 forgotten.

15 CHAIRMAN FERRARO: Heather Wilson.

16 MS. WILSON: This is regarding the PET ankle
17 scanner at Santa Anita which has been touted in the media
18 and at this meeting. This technology has not been proven
19 to help horses. Three of the eight dead horses at Santa
20 Anita so far for this year were killed because they
21 sustained ankle fractures, or fetlock fractures. Their
22 names were Golden Birthday, Harliss and Uncontainable. The
23 remaining five horses at Santa Anita perished from other
24 medical causes or from fractures to other parts of their
25 bodies.

1 As we have already seen for 2020, and the year
2 has just begun, there are numerous other ways in which
3 these poor horses can and do perish. Their injuries and
4 causes of death cannot be prevented with an ankle scanner.

5 This is the CHRB postmortem reports for the last
6 ten years. These are your numbers. This is your data.
7 The total number of dead horses is just shy of 2,300.
8 Nearly one-quarter of these horses, 24 percent, or 545 to
9 be exact, succumbed to non-musculoskeletal issues,
10 examples, cardiac arrest, colic, and bleeding ulcers.
11 These are common causes of death in stressed racehorses
12 that PET scanners will not do anything for.

13 Of the 2,002 horses that did die from
14 musculoskeletal trauma, 1,099 were not in the ankle; that
15 is 55 percent. These fatalities were due to fractures in
16 other parts of their bodies.

17 I personally reached out to UC Davis and they
18 confirmed that they will only be routinely scanning the
19 fetlock.

20 The two most disturbing things that were
21 described in the so-called scientific veterinary
22 literature, one, all of these problems that the racehorses
23 are having are 100 percent human derived. These risk
24 factors for trauma are human created.

25 The second item, these horses are seen as nothing

1 more than chattel. These orthopedic studies were
2 describing in there, quote unquote, "findings," how the
3 earnings of these horses are affected. I have never seen a
4 human scientific paper that describes earnings following a
5 medical intervention. This is disgusting.

6 Here is an excerpt, a direct quote from a 2018
7 study. "Standardbreds with forelimb atypical proximal
8 sesamoid bone fractures earned significantly less money per
9 start after injury."

10 Using state-of-the-art, sophisticated, cutting-
11 edge technology to resuscitate and antiquated, obsolescent,
12 so-called sport that just needs to die is a costly exercise
13 in futility. Every single dead horse is a failed
14 experiment.

15 Thank you.

16 CHAIRMAN FERRARO: Pat CuvIELLO.

17 MR. CUVIELLO: Hello again. Pat CuvIELLO.

18 This is the California Horse Racing Board and
19 it's meant to represent all of California. And the
20 majority of Californians do not support horse racing by
21 attending horse races or by betting on horse races. And
22 the least this Board can do is stop subsidizing horse
23 racing with California taxpayer money and get horse
24 racing -- ban it from state properties, state fairgrounds.
25 That's the least they can do if they represent the majority

1 of Californians.

2 Unfortunately, in my limited experience here, I'm
3 getting the sense that the Board is not representing
4 California, it's representing the horse racing industry.
5 It's trying to do things for the horse racing industry.
6 It's not even representing the horses. I don't see one
7 Commissioner up there who represents the horses. And I
8 don't know why the Governor is stacking this Board like
9 this. It just doesn't make any sense to me. It's like a
10 rubber-stamp board.

11 I mean, I'm hearing things that the industry is
12 regulating itself. That's not consolation. That doesn't
13 give me solace, the industry is -- that's what we hear
14 about all exploitative industries, they're regulating
15 themselves, they're doing a good job. How do we know
16 they're doing a good job? Because you tell us they're
17 doing a good job? Because they tell us they're doing a
18 good job? That's crazy. There's no regulation here. It's
19 just, it's insane.

20 Anyway, the Board needs to represent all
21 Californians. And if you're going to allow horse racing,
22 do to allow it on state property. Don't use our tax money
23 to subsidize horse racing, which the majority of
24 Californians do not support by not participating in it.

25 Thank you.

1 CHAIRMAN FERRARO: Denise Bolbol.

2 MS. BOLBOL: So we give public comments, you
3 ignore us, and you go on and just do your business as
4 usual. Some don't even pretend to care. Some pretend to
5 listen. And I don't know where it goes; it comes in one
6 ear and goes out the other. You don't even respond to the
7 issues that we're raising.

8 You have a reasonable request on the table, ban
9 horse racing on state properties. It's simple. California
10 subsidizes and pays for these state properties. Ban horse
11 racing on state properties.

12 But I can almost bet you won't address this
13 issue. And I have to say, I agree with Pat, why is Gavin
14 Newsom stacking this Board with a bunch of rubber-stamp
15 people for the industry? You guys are industry hacks,
16 that's what you are, just to promote the industry, keep the
17 industry, satisfy the industry. And you don't give one
18 iota about what regular Californians think. You don't give
19 one iota.

20 And then you pretend like, oh, we didn't have the
21 power to do what was right. So the legislature, under this
22 fog of confusion, thinks you folks are going to do the
23 right thing and they give you this power that you refuse to
24 use. I don't understand how you think this is protecting
25 the industry.

1 You guys are literally digging your own grave
2 because you're proving what you're saying. You don't care
3 about the horses. You don't care about what normal
4 Californians think. And you're just promoting this
5 industry. And you guys are going to get yourself into this
6 fix that you deserve because horse racing will die. And
7 you might have been able to extend the life of this
8 abusive, horrible industry, you might have been able to by
9 doing what's right, but you won't even do what's right, and
10 I'm just really, really disappointed.

11 I did not know about this Horse Racing Board. I
12 just learned about this in the last 60 days, and I have to
13 tell you how very disappointing it is to me. You hear, oh,
14 the legislature passed legislation to give you guys the
15 power to do something for the horses and you don't do it.
16 What are you trying to do? You're trying to fix the whip.
17 It's crazy.

18 So I'm going to say it again, please put it on
19 your agenda. I'm sure you won't do it but I've got to ask
20 because then when we go to the legislature and tell them
21 what do-nothings you all are, they're going to see it
22 because it's all on the record, we asked and we asked and
23 we asked and you refused.

24 CHAIRMAN FERRARO: Oscar de la Torre.

25 MR. DE LA TORRE: Good afternoon everyone. My

1 name is Oscar de la Torre, City of Los Angeles. I'm an
2 advocate for workers in the horse racing industry and proud
3 to be an advocate, especially for backstretch workers and
4 their families.

5 Last December at Santa Anita, I had the privilege
6 to attend their annual holiday celebration that is
7 organized by staff at Santa Anita for all the backstretch
8 workers and their families. More than 500 workers and
9 their families enjoyed food, received gifts, and celebrated
10 culture.

11 A true community exists in the backstretch of
12 most racetracks in the state. And the workers I talk to
13 are very concerned. They have concerns about the threats
14 that they see emanating from the White House. They're
15 concerned about the threats that people in their own
16 community are advocating for an extreme ban on their jobs.

17 Workers support reasonable reforms that will
18 strengthen protections for the horses under their care.
19 These are the real animal rights activists, purveyors of
20 good care for these horses that they love. These are
21 people that, when you talk to them and you ask them, what
22 does it feel like when a horse breaks down that you take
23 care of, they tear up. You can't fake that. That's real.

24 And for those that are advocating for a ban, it's
25 irresponsible. And what I hear that you all are doing is

1 trying to be responsible. How do you balance, you know,
2 these needs, these important needs in terms of protecting
3 horses, but also protecting the individuals that care for
4 the horses, for the workers that make up the horse racing
5 industry?

6 The compassion that we see, that we have for the
7 horses, must extend to the workers that take care of them,
8 and that's very important. And to all for an outright ban
9 and not care about the consequences or the human cost of a
10 ban is irresponsible.

11 Those who advocate for an extreme ban on horse
12 racing are not considering the human cost of their demands.
13 Thousands of workers and their families would negatively
14 be -- would be negatively impacted if they lose jobs,
15 housing, and health benefits. Indeed, a community that is
16 a source of support for a very vulnerable population, for
17 families, would be destroyed.

18 This Board should be very proud of the progress
19 that has been made so far in strengthening protections for
20 horses. Animal rights activists and the media should be
21 proud of the policy changes that is transforming this
22 industry. But we should not stop at just protecting
23 horses. We must ensure that these protections also are
24 afforded to the workers and the humans that take care of
25 the horses.

1 There is a real human crisis in our state. In
2 Los Angeles alone there are 60,000 people imperiled by
3 homelessness. In 2019, more than 1,000 of our country men
4 and women died of homelessness on the streets of Los
5 Angeles alone, 1,000 people, and we can't name one. The
6 media does not report every fatality that happens in our
7 streets and we have a real human crisis.

8 And horse racing is part of the solution, as
9 imperfect as it may be. We should strive to eliminate or
10 reduce the problem, which is accidental horse racing
11 fatalities. And your work here on this Board is ensuring
12 that California sets the standard nationally for horse
13 safety. But we must not stop there. We must make sure
14 that the compassion that we have for horses extends to the
15 humans that take care of them on a day-to-day basis.

16 Thank you very much.

17 CHAIRMAN FERRARO: Thank you.

18 That concludes the public session of the Board
19 meeting.

20 I move we adjourn.

21 COMMISSIONER MITCHELL: Second.

22 CHAIRMAN FERRARO: Commissioner?

23 COMMISSIONER MITCHELL: Second. Yes.

24 COMMISSIONER GONZALES: Yes, in favor here.

25 CHAIRMAN FERRARO: Yes.

1 COMMISSIONER SOLIS: Yes.

2 CHAIRMAN FERRARO: And we have a closed session
3 to follow.

4 (The regular meeting of the California Horse Racing Board
5 concluded at 12:20 p.m.)

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CERTIFICATE OF REPORTER

I do hereby certify that the testimony in the foregoing hearing was taken at the time and place therein stated; that the testimony of said witnesses were reported by me, a certified electronic court reporter and a disinterested person, and was under my supervision thereafter transcribed into typewriting.

And I further certify that I am not of counsel or attorney for either or any of the parties to said hearing nor in any way interested in the outcome of the cause named in said caption.

IN WITNESS WHEREOF, I have hereunto set my hand this 27th day of February, 2020.



MARTHA L. NELSON, CERT**367

CERTIFICATE OF TRANSCRIBER

I do hereby certify that the testimony in the foregoing hearing was taken at the time and place therein stated; that the testimony of said witnesses were transcribed by me, a certified transcriber and a disinterested person, and was under my supervision thereafter transcribed into typewriting.

And I further certify that I am not of counsel or attorney for either or any of the parties to said hearing nor in any way interested in the outcome of the cause named in said caption.

I certify that the foregoing is a correct transcript, to the best of my ability, from the electronic sound recording of the proceedings in the above-entitled matter.



MARTHA L. NELSON, CERT**367

February 27, 2020