CALIFORNIA HORSE RACING BOARD
1010 Hurley Way, Suite 300
Sacramento, CA 95825
www.chrb.ca.gov
(916) 263-6000 Fax (916) 263-6042

LEGISLATIVE, LEGAL AND REGULATIONS COMMITTEE MEETING

of the **California Horse Racing Board** will be held on **Wednesday, December 17, 2014**, commencing at **1:30 p.m.**, in the Finish Line Room at the **Los Alamitos Race Course, 4961 Katella Avenue, Los Alamitos,** California. Non-committee Board members attending the committee meeting may not participate in the public discussion, official committee vote, or committee closed session.

AGENDA

Agenda Items

1. Discussion and action regarding the **review of CHRB Rule 1699, Riding Rules, as it pertains to the criteria for disqualifications in a horserace.**

2. Discussion concerning the **alleged conflict between CHRB Rule, 1844(e), Authorized Medication, governing the presence of Clenbuterol in race horses and the Los Alamitos Quarter Horse Racing Association's apparent decision not to allow the presence of Clenbuterol in quarter horses entered to race at the Los Alamitos Race Course.**

3. Discussion regarding **CHRB Rule 1989(b), Removal or Denial of Access.**

4. Discussion and action regarding the **CHRB Governing Procedures notice for disciplinary hearing.**

5. **General Business:** Communications, reports, requests for future actions of the Committee.

Additional information regarding this meeting may be obtained from Jacqueline Wagner at the CHRB Administrative Office, 1010 Hurley Way, Suite 300, Sacramento, CA 95825; telephone (916) 263-6000; fax (916) 263-6042. A copy of this notice can be located on the CHRB website at www.chrb.ca.gov. *Information for requesting disability related accommodation for persons with a disability who require aids or services in order to participate in this public meeting, should contact Jacqueline Wagner.

LEGISLATIVE, LEGAL AND REGULATIONS COMMITTEE
Commissioner Jesse H. Choper, Chairman
2nd Vice Chairman Richard Rosenberg, Member
Rick Baedeker, Executive Director
Jacqueline Wagner, Assistant Executive Director

STAFF ANALYSIS
DISCUSSION AND ACTION REGARDING THE REVIEW OF CHRB RULE 1699, RIDING RULES, AS IT PERTAINS TO THE CRITERIA FOR DISQUALIFICATIONS IN A HORSERACE

Legislative, Legal and Regulations Committee
December 17, 2014

BACKGROUND

CHRB Rule 1699, Riding Rules, reads as follows: *During the running of the race:*

(a) A leading horse is entitled to any part of the course but when another horse is attempting to pass in a clear opening the leading horse shall not cross over so as to compel the passing horse to shorten its stride.

(b) A horse shall not interfere with or cause any other horse to lose stride, ground or position in a part of the race where the horse loses the opportunity to place where it might be reasonably expected to finish.

(c) A horse which interferes with another and thereby causes any other horse to lose stride, ground or position, when such other horse is not at fault and when such interference occurs in a part of the race where the horse interfered with loses the opportunity to place where it might, in the opinion of the Stewards, be reasonably expected to finish, may be disqualified and placed behind the horse so interfered with.

(d) Jockeys shall not ride carelessly, or willfully, so as to permit their mount to interfere with or impede any other horse.

(e) Jockeys shall not willfully strike or strike at another horse or jockey so as to impede, interfere with, intimidate, or injure.

(f) If a jockey rides in a manner contrary to this rule, the mount may be disqualified and the jockey may be suspended or otherwise disciplined by the Stewards.

The Stewards' Committee reviewed Rule 1699, Riding Rules, at its March 2014 meeting and then again at its November 2014 meeting. The rule was subsequently discussed by the Board at is November 19, 2014 Regular meeting in an effort to determine whether the current rule could be improved and perhaps provide more clearly defined guidelines for stewards conducting inquiries. At the November 19, 2014 Regular Board meeting Chairman Winner referred the matter to the Legislative, Legal and Regulations committee for further public discussion.

ANALYSIS

Discussions regarding Rule 1699 almost always focus on the wording that requires stewards to form opinions as to whether interference occurred and, if so, whether the interference cost the horse or horses interfered with a placing. Suggested alternatives to amend the rule have

included: 1) amending Rule 1699 to state that any foul is cause for disqualification regardless of whether it cost a horse a placing; 2) eliminating the references to location (i.e. "a part of the race) and changing the "placing" reference to something broader, such as "affecting a horse's performance in a negative way." ; 3) adding language that gives the benefit of any doubt to the aggrieved party (i.e. the horse interfered with).

The CHRB solicited input from stakeholders and the public for suggestions for improving Rule 1699. Comments received are attached for your reference. Additionally, the Stewards' Committee at its November 2014 meeting reviewed proposed amendments to Rule 1699 suggested by the Board's Executive Director, which most of the stewards in California supported. That proposed text is also is also attached for discussion.

The Race Track Industry Program at the University of Arizona regularly reviews and compares racing regulations in North American racing jurisdiction, and one such review focused on rules for disqualification. That review also is included in the committee package.

RECOMMENDATION:

This item is presented for discussion.

CALIFORNIA HORSE RACING BOARD
TITLE 4. CALIFORNIA CODE OF REGULATIONS
ARTICLE 8. RUNNING THE RACE
RULE 1699. RIDING RULES

Legislative, Legal and Regulations Committee Meeting
December 17, 2014

1699. Riding Rules.

During the running of the race:

(a) A leading horse is entitled to any part of the course but when another horse is attempting to pass in a clear opening the leading horse shall not cross over so as to compel the passing horse to shorten its stride.

(b) A horse shall not interfere with or cause any other horse to lose stride, ground or position in a part of the race where the horse loses the opportunity to place where it might be reasonably expected to finish.

(c) A horse which interferes with another and thereby causes any other horse to lose stride, ground or position, when such other horse is not at fault and when such interference occurs in a part of the race where the horse interfered with loses the opportunity to place where it might, in the opinion of the Stewards, be reasonably expected to finish, may be disqualified and placed behind the horse so interfered with.

(d) Jockeys shall not ride carelessly, or willfully, so as to permit their mount to interfere with or impede any other horse.

(e) Jockeys shall not willfully strike or strike at another horse or jockey so as to impede, interfere with, intimidate, or injure.

(f) If a jockey rides in a manner contrary to this rule, the mount may be disqualified and the jockey may be suspended or otherwise disciplined by the Stewards.

Authority: Section 19562,
Business and Professions Code.

Reference: Sections 19461 and 19562,
Business and Professions Code.

CALIFORNIA HORSE RACING BOARD
TITLE 4. CALIFORNIA CODE OF REGULATIONS
ARTICLE 8. RUNNING THE RACE
PROPOSED AMENDMENT OF
RULE 1699. RIDING RULES

As Proposed at the November Stewards Committee Meeting

Legislative, Legal and Regulations Committee Meeting
December 17, 2014

1699. Riding Rules.

During the running of the race:

(a) A leading horse is entitled to any part of the course but when another horse is attempting to pass in a clear opening the leading horse shall not cross over so as to compel the passing horse to shorten its stride.

(b) A horse shall not alter course and thereby bump, impede, force or float in or out or otherwise interfere with or cause any other horse to lose stride, ground, momentum or position ~~in a part of the race where the horse loses the opportunity to place where it might be reasonably expected to finish~~.

(c) A horse which interferes with another and thereby causes any other horse to lose stride, ground, momentum, or position, when such other horse is not at fault and when ~~such interference occurs in a part of the race where~~ the horse interfered with loses the opportunity to place where it might, in the opinion of the Stewards, be reasonably expected to finish, may be disqualified and placed behind the horse so interfered with. Such an opinion should be weighted in favor of the horse interfered with when such horse is not at fault.

(d) Jockeys shall not ride carelessly or willfully so as to permit their mount to interfere with or impede any other horse.

(e) Jockeys shall not willfully strike or strike at another horse or jockey so as to impede, interfere with, intimidate, or injure.

(f) If a jockey rides in a manner contrary to this rule, the mount may be disqualified and the jockey may be suspended or otherwise disciplined by the Stewards.

Authority: Section 19562,
Business and Professions Code.

Reference: Sections 19461 and 19562,
Business and Professions Code.

From: Marten, Mike
Sent: Monday, November 17, 2014 10:45 PM
To: Marten, Mike
Subject: Suggested text for 1699

Commissioners, Executives and Stewards

Mike Wellman, a TOC director, asked me to distribute his suggested language for Rule 1699

From: Mike Wellman
Sent: Monday, November 17, 2014 2:58 PM
To: Marten, Mike
Subject: RE: CHRB Meeting Advisory

Mike,
Unfortunately I am unable to attend on Wednesday but feel there is no real reason to note the Steward part of b)....possibly it should read

b) A horse that does interfere significantly with or causes any other horse to lose stride, ground or position that this interference causes the victimized horse and/ or other horses in race to lose its fair opportunity to place where it might if the incident in question did not occur.

From: george
Sent: Thursday, November 27, 2014 12:59 PM
To: Marten, Mike
Subject: Rule 1699

Mike

Happy Holidays!

Paulick Report was saying to e mail you with suggestions on this interference rule, here's my take.

Personally, i was one who thought Bayern should have been disqualified, but i don't like much about Baffert so maybe that clouded my judgment, not sure.

Anyway, my general feeling is that anything that might be tweeked to create MORE disqualifications is not something that i'm in favor of.

Im in favor of paying the winners in all but the most extreme cases. Bayern was right on the borderline of an "extreme case" and that if he was disqualified, i wouldn't have had a problem with it.

However, if you "nitpick" and start making MORE dq's and not less, that's not something i'm in favor of.

I know there was an outcry after the Classic and the knee jerk reaction might be to start DQing horses left and right to appease the masses, but i think California gets it right most times,
they're pretty good at paying winners, which is all that really matters.

If you want to fine and suspend the jock, that's one thing, but i feel that for the integrity of the product, you have to leave the bettors who picked the winner out of it and pay them off.

Its like the old saying about criminals and people say its better to let 100 actual crooks go in order to not lock up one innocent and that's how i feel about DQs, i would say that
its important to make mistakes by leaving horse UP and not make mistakes by taking the rightful money away from the winners.

The standard for a disqualification should be thru the roof, this is a contact sport and part of racing is that horses won't maintain exact straight lines all the time, you still have to find a way
to pay off the winning bettors in all cases but the most extreme.

Lean towards NOT disqualifying, i think that despite outcries over the Bayern incident, i would rather see less DQs than more.

Thanks
George B

From: Dave
Sent: Thursday, November 27, 2014 5:53 PM
To: Marten, Mike
Subject: Kreskin or Shakespeare

Get rid of the attempted prose and put the rule book back in reality. There is NO territory between the starting gate and the finish line that is out of bounds or that determines beyond the realm of interference for betting or other consideration. Racing and Stakes races in particular are to determine pedigree and are wagered upon for public participation. But first and foremost the event is for sport! Jockeys Know it. Trainers know it. The stupidity of of what took place was in contradiction of "during the running of a race" which includes every piece of real estate utilized for the contest. Interference can be by precipitated by the horse or the jockey separately or in combination at which time a determination can be made that the jockey is to be held blameless in some instances. But held blameless does NOT conclude that the incident is not to be considered injurious to the competitors. And the rules should dismiss any predaliction of stewards to determine that based on odds or form that the impeded horse should not have an equal chance to perform in the contest. The object, intent or interpretation of the original rules of racing in any recognized jurisdiction have never been construed toward happenstance or assessment of anything other than the contest and its actual outcome.

David Stevenson

Lindo

From: jlindo
Sent: Monday, December 01, 2014 1:09 PM
To: Marten, Mike
Subject: Public opinion on Stewards decisions

Hi Mike;

You asked for public opinions on how the Ca Stewards make their decisions and the rules we have that they use.

First of all, I completely agree that going back to the "a foul is a foul" guidelines would be a huge mistake. There are very limited times when judgement should come into play when it is MORE THAN OBVIOUS that a foul DID not affect the outcome of a race.

However, I believe the Ca stewards have taken their leeway into a gray area that leaves them open to much deserved criticism. Given the explanation in the Breeders Cup Classic that the "interference occurred at a point in the race where it did not alter the order of finish" is LUDICROUS when a foul occurs at the start or very early in the race.

1) There is no way to know how much the interference costs a dedicated frontrunner (like Moreno) in terms of lengths when his running style is totally compromised at the start.

2) The interference completely changed the pace scenario of the race, thus affecting the outcome.

3) The fact that the stewards acknowledged the interference then makes them use a crystal ball to determine how many lengths it cost each of those horses who were impacted at the start. That is simply too much vagueness for the wagering public to expect a consistent and accurate decision.

When there is ANY DOUBT as to how much interference may have impacted the outcome of the race and the finishing positions of those affected, the horse in question MUST BE DISQUALIFIED.

To me it is very simple. It would lead to much less speculation, more accuracy, more consistency, and make the jockeys adjust to the rules instead of putting the outcome into the hands of the stewards.

Let the decision be made on the field of play and not in the replay booth.

This has been brewing for a long time and Ca was exposed big time in the Breeders Cup.

How about the CHRB being proactive for once and changing the wording and stressing that if there is any doubt the outcome has been affected by the interference then a change MUST BE MADE???

I watch every race every day from California, have been an owner in California for 30 years, and have been wagering on the races in California for over 40 years. I believe I am qualified to have an opinion on this matter.

Jon Lindo

From: tjmichela
Sent: Tuesday, December 02, 2014 6:44 PM
To: Marten, Mike
Cc: gcowden2
Subject: Per CHRB advisory issued November 26, 2014 concerning Rule 1699 suggestions.

Mike,

Having worked in the past as a Steward for six years I do understand how some rules can present a problem for the Stewards. In most states, but not all, where I worked the "Foul is A Foul" rule was used. A truly very easy rule to interpret and to use without abuse. Rule 1699 presents a problem when a Steward reads too much into it as is the case in the BC Classic. Based on Scott Chaney's public statement an hour or so after the race it was very apparent that he acted not as a Judge during the inquiry but as a "defense counsel" defending the winner in the race. That is not his function. This was a prime example of his Law Degree causing much more harm then good. So, is the problem really with the rule or with the Stewards irresponsible interpretation of the rule? It is total incompetence to disregard the start of a race when applying Rule 1699. In the BC Classic at least two horses were so affected by the No. 7's actions at the start that it could not do anything but result in a lessor placing for those horses. Mr. Chaney's post race comments were absurd, ridiculous, and without foundation. As a former Steward I was totally embarrassed by his decision and his public statements. I am sure the end result of the BC Classic decision is a lack of public trust in horse racing thus it was not in the best interest of horse racing. Not to mention just plain incorrect.

Any rule change should include the "start of a race" and that "if a foul, contact or interference during the running of a race could reasonably be expected to affect a horses performance in a negative way then the offending horse should be placed behind the offended horse or horses or placed last."

Thank You,

Mr. Ted Michelakos

Wagner, Jacqueline

From: Marten, Mike
Sent: Wednesday, December 10, 2014 8:11 AM
To: Wagner, Jacqueline; Richard Rosenberg ; Jesse Choper
Subject: FW: CHRB Rule 1699, Riding Rules, as it pertains to the criteria for disqualifications in a horserace.

One more communication on 1699 to include in the committee package.

From: Kimberly Nish
Sent: Tuesday, December 09, 2014 7:53 PM
To: Marten, Mike
Cc:
Subject: CHRB Rule 1699, Riding Rules, as it pertains to the criteria for disqualifications in a horserace.

Dear Sirs,

This letter is in response to your request for public commentary on review of CHRB Rule 1699, Riding Rules, as it pertains to the criteria for disqualifications in a horserace.

We live in a society of rules, and those rules are set in two ways: one is direct legislation, but the other is the unwritten rules established by precedent of rulings from those set to oversee and interpret those rules. Bluntly put the precedent resulting from the ruling of the stewards during the Breeder's Cup Classic should not and can not be allowed to stand. The current rule forces stewards and jockeys into the roles of clairvoyants and requires jockeys to put their livelihood on the line if an incident happens.

There has always been and will always be contact at the start of a race. The unwritten rule is that you get ONE jump, after which a jockey must control his mount and move them onto a straight path. In the 2014 Breeder's Cup Classic that rule was thrown out the window and a different rule was stated. That being: 'If whatever happens, happens early enough in the race-it doesn't count' because the stewards and the jockeys would need to predict the future and determine where the horses would finish to determine if it would cost them a placing or not. And contact can actually break bones, completely taking horses out of the race-BUT as long as it happens early, it is ok? Only if a rider is unseated into a sea of hooves of 1000 lb animals would there be a disqualification.

This precedent is unbelievably dangerous, for the jockeys, for the horses, for the sport. We cannot allow the start of a race to turn into a free for all where anything goes. The stewards statement to the press that 'If Mike Smith had been unseated, Bayern would have been taken down' was just scary! It basically implied that anything up to unseating him would be allowed. And when big money is on the line, who is to say that a horse that is encouraged to do something will stop before that line? There will be those that try!

I understand the CHRB has a difficult task, because it also needs to protect the field. Rightly, a foul may not result in a disqualification when a horse is tiring and in the stewards' opinions would have no hope of finishing in the money. But they should not have their hands tied at other stages of the race, and according to statements made at the Breeder's Cup, it seems like they possibly felt they were.

So I would recommend a minor alteration, but one that will allow the stewards to act with greater authority.

Currently the relevant part of the rule reads:

"horse which interferes with another and thereby causes any other horse to lose stride, ground or position, when such other horse is not at fault and when such interference occurs in a part of the race where the horse interfered with loses the opportunity to place where it might, in the opinion of the Stewards, be reasonably expected to finish, may be disqualified and placed behind the horse so interfered with."

I would add:
"However if such interference is deemed significant (or extreme) such horse may be disqualified and placed behind horse(s) so interfered with, without regard to the other horses placing."

This way the rule will allow for that one jump, and still protect the field.

And while we are reviewing this rule; I would also like to look at another precedent established at the Breeder's Cup. NO place in the rule above does it require a jockey's testimony. Horse racing is a VERY SMALL sport that is incredibly intertwined. One moment the participants are on the same side and in the next race, they are opponents.

No other sport requires the athletes to testify against themselves, their bosses at that moment or the one in 30 minutes. If the stewards decide to look into a race, it is just that by rule-the STEWARDS decision. If the stewards call an inquiry, it needs to be only on the stewards without the jockeys involved. Jockeys' involvement should be for jockeys' objections only.

And lastly, I will admit to having a 'horse' in this race. He came back from the Breeder's Cup Classic bruised and sore, but thankfully he and the jockey came back! Here's hoping the CHRB will act to ensure the ned horse comes back as well.

Sincerely,

Kimberly Nish
KMN Racing, LLC

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CHRB
2014 DEC 10 AM 10:03

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December 10, 2014

Ms. Jackie Wagner
Assistant Executive Director
California Horse Racing Board
1010 Hurley Way, Suite 300
Sacramento, CA 95825

RE: CHRB Rule 1699

Dear Ms. Wagner:

I am writing to the California Horse Racing Board relative to its Legislative, Legal and Regulations Committee meeting scheduled for December 17, 2014, to review CHRB Rule 1699.

As you know, I have been involved in thoroughbred horse racing for owner five decades. I served as CHRB hearing officer in the early 1990s; am an approved Steward in this State; have bred, raced and trained horses and our offices have represented many prominent industry participants including serving as local counsel to the Breeder's Cup in each of the years it has been conducted in California.

I am writing to oppose any change to rule 1699.

There is an adage in the law that bad facts make for bad law. As this committee meeting and this subject are based entirely on the running of the 2014 Breeders' Cup Classic, I wish to suggest that the start of that race was a unique set of occurrences not likely to happen again.

It would be unwise to change a rule that has worked well for at least fifteen years based upon a few split seconds at the beginning of that race. There is not good reason for the California Horse Racing Board to yield to the outpouring of emotional response related to the question of whether or not a disqualification should have occurred by stripping the Stewards of their discretion to evaluate the affects of fouls.

To do otherwise would result in a mindlessly arbitrary rule that no matter when or where a foul happened and regardless of its severity, an automatic disqualification must be assessed.

Ms. Jackie Wagner
RE: CHRB Rule 1699
December 10, 2014
Page 2

If the commissioners feel that a steward or stewards are repeatedly making poor analytical judgments, simply do not renew their contracts.

The rule is not broken. There is no need to change it.

Sincerely,

Wallace Brown & Schwartz

Steve R. Schwartz

SRS

This comparison of rules in various racing jurisdictions was done in 2010 by Steve Barham, a student in the Race Track Industry Program at the University of Arizona.

The full report, including citations, can be found at the RTIP website listed as DQ Standards for Fouls in Races.

ARCI Model Rule

The offending horse may be disqualified, if in the opinion of the stewards, the foul altered the finish of the race, regardless of whether the foul was accidental, willful or the result of careless riding.

Arizona

If a horse is ridden or drifts out of its lane in such a manner that it interferes with or impedes another horse in any way, a foul has been committed. The offending horse may be disqualified if the outcome of the race is affected by the foul and replaced at the discretion of the stewards in a manner as to correct the effect of the interference as nearly as possible. The provisions of this subsection shall apply to fouls caused by the horse or the jockey and fouls caused either carelessly or purposefully.

Arkansas

When clear, a horse may be taken to any part of the course, but no horse shall cross or weave in front of other horses in such a way as to impede them or constitute or cause interference or intimidation that affects the outcome of the race.

California

A horse which interferes with another and thereby causes any other horse to lose stride, ground or position, when such other horse is not at fault and when such interference occurs in a part of the race where the horse interfered with loses the opportunity to place where it might, in the opinion of the Stewards, be reasonably expected to finish, may be disqualified and placed behind the horse so interfered with.

Colorado

7.716 - In a straightaway race every horse must maintain position as nearly as possible in the lane in which it starts. Every horse in the race iss entitled to racing room and may not be deliberately impeded. If a horse is ridden or drifts out of it's lane in a manner that interferes with or impedes another horse in any way, it is a foul, and the offending horse may be disqualified when in the opinion of the stewards, the outcome of the race was affected by the foul. 7.718 - In races involving a turn(s), a horse is entitled to any part of the racing strip as long as it does not interfere with or impede the progress of any other horse(s). If, in the opinion of the stewards, a horse interferes with or impedes the progress of any other horse(s), the horse may be disqualified and the jockey may be penalized. Every horse in the race is entitled to racing room and may not be deliberately impeded. If a horse is ridden or drifts either in or out, in a manner that it
interferes with or impedes another horse in any way, it is a foul, and the offending horse may be disqualified when, in the opinion of the stewards, the outcome of the race was affected by the foul.

Delaware

A leading horse, when clear, is entitled to any part of the track. If a leading horse or any other horse in a race swerves or is ridden to either side so as to interfere with or intimidate or impede any other horse or Jockey, it is a foul. If a Jockey strikes another horse or Jockey, it is a foul. If, in the opinion of the Stewards, a foul alters the finish of a race, any offending horse may be disqualified by the Stewards.

Florida

The offending horse shall be disqualified if, in the opinion of the stewards, the racing infraction altered the outcome of the race, regardless of whether the infraction was accidental, willful, or the result of careless riding.

Idaho

060.03 - (Straightaway Races) Offending Horse. The offending horse may be disqualified when, in the opinion of the Stewards, the outcome of the race was affected by the foul. This applies whether the foul was caused by the horse or by the rider, irrespective of cause. 070 (Races around a Turn) 01. Race Around a Turn. In a race run around a turn, a horse that is in the clear may be taken to any part of the track, except that weaving back and forth in front of another horse may be considered interference or intimidation and may be penalized. 02. Jostles. If a horse or Jockey jostles another horse, the aggressor may be disqualified unless the jostled horse or Jockey was at fault or the jostle was wholly caused by the fault of some other horse or Jockey. 03. Crossing Another Horse. A horse crossing another so as to actually impede it is disqualified, unless the impeded horse was partly in fault or the crossing was wholly caused by the fault of some other horse or Jockey.

Illinois

b) A horse crossing in front of another horse so as actually to impede the latter may be disqualified, unless the impeded horse was partly in fault or the crossing was wholly caused by the fault of some other horse or jockey. c) If a horse or jockey jostles another horse, the aggressor may be disqualified, unless the impeded horse or his jockey was partly infault or the jostling was wholly caused by the fault of some other horse or jockey.

Indiana

The offending horse may be disqualified if, in the opinion of the stewards, the foul altered the finish of the race, regardless of whether the foul was accidental, willful, or the result of careless riding.

Iowa

The offending horse may be disqualified if, in the opinion of the stewards, the foul altered the finish of the race, regardless of whether the foul was accidental, willful, or the result of careless riding.

Kansas

The stewards shall be vested with the discretion to determine the propeiety and nature of a disqualification and whether it applies to any other part of an entry. The stewards' decision shall be final.

Kentucky

Fouls. A leading horse if clear is entitled to any part of the track. If a leading horse or any other horse in a race swerves or is ridden to either side so as to interfere with, intimidate, or impede any other horse or jockey, or to cause the same result, this action shall be deemed a foul. If a jockey strikes another horse or jockey, it is a foul. If in the opinion of the stewards a foul alters the finish of a race, an offending horse may be disqualified by the stewards.

Louisiana

A leading horse is entitled to any part of the track, but if any horse swerves, or is ridden to either side, so as to interfere with or impede any other horse, it is a foul. The offending horse may be disqualified, if in the opinion of the stewards the foul altered the finish of the race, regardless of whether the foul was accidental, willful or the result of careless riding.

Maryland

During the running of a race: (1) Unless caused wholly or partly by someother horse, a horse may not (a) Carry another horse in or out, (b) Cross or weave in front of another horse without sufficient clearance, (c) Jostle another horse, Intimidate another horse, or (e) Impede another horse; and (2) A jockey may not: (a) Strike another horse or jockey, (b) Ride in a careless manner, or (c) Unnecessarily cause the horse the jockey is riding to shorten its stride with a veiw toward claiming foul against another horse or jockey in the race. A-1. A horse may be disqualified if it, or the jockey riding it, is involved in a violation of § A of this regulation.

Massachusetts

The offending horse may be disqualified, if in the opinion of the stewards, the foul altered the finish of the race, regardless of whether the foul was accidental, willful or the result of careless riding.

Michigan

A leading horse is entitled to any part of the track, but if any horse swerves, or is ridden to either side, so as to interfere with or impede any other horse, it is a foul and the horse may be disqualified if, in the opinion of the stewards, the incident altered the finish of the race, whether the foul was willful or the result of carless riding.

Minnesota

When clear, a horse may be taken to any part of the course but no horse shall cross or weave in front of other horses in such a way as to impede them or constitute or cause interference or intimidation such that it would affect the outcome of the race.

Montana

(2) When clear, a horse may be taken to any part of the course, however, crossing or weaving in front of contenders may constitute interference or intimidation for which the offender may be disqualified and the jockey disciplined. (3) A horse crossing another so as actually to impede him is disqualified, unless the impeded horse was partly in fault, or crossing was wholly caused by the fault of some other horse or jockey. (4) If a horse or jockey jostle another horse, the aggressor may be disqualified, unless the jostled horse or his jockey was partly at fault or the jostle was wholly caused by the fault of another horse or jockey.

Nebraska

Unless the stewards determine that a foul did not affect the outcome of a race, the stewards shall place the horse who has committed a foul behind such horses as in their judgment were fouled by the offending horse, or they may place it last.

Nevada

An offending horse may be disqualified if, in the opinion of the board of stewards, a foul altered the finish of the race, regardless of whether the foul was accidental, willful or the result of careless riding.

New Mexico

The offending horse may be disqualified, if in the opinion of the stewards, the foul altered the finish of the race, regardless of whether the foul was accidental, willful or the result of careless riding.

New York

A horse crossing another may be disqualified, if in the judgment of the stewards, it interferes with, impedes or intimidates another horse, or the foul altered the finish of the race, regardless of whether the foul was accidental, willful, or the result of careless riding. The stewards may also take into consideration mitigating factors, such as whether the impeded horse was partly at fault or the crossing was wholly caused by the fault of some other horse or jockey.

North Dakota

Extent of disqualification. Upon any claim of foul submitted to them, the stewards shall determine the extent of any disqualification and shall place any horse found to be disqualified behind the others in the race with which it interfered or may place the offending horse last in the race.

Ohio

A leading horse when clear is entitled to any part of the track. If a leading horse, or any other horse in a race, swerves or is ridden to either side so as to interfere with or intimidate or impede any other horse or jockey, or to cause same, it is a foul. If a jockey strikes another horse or jockey, it is a foul. If in the opinion of the stewards, a foul has been committed, any offending horses may be disqualified by the stewards and the jockey fined and/or suspended.

Oklahoma

325:60-1-19 Riding Rules In a straightaway race, every horse must maintain position as nearly as possible in the lane in which it starts. If a horse in ridden, drifts, or swerves out of it's lane in such a manner that it interferes with or impedes another horse, a foul occurs. ... 325:60-1-20 Stewards to Determine Fouls and Extent of Disqualification The Stewards shall determine the extent of interference in cases of fouls or riding infractions. They may disqualify the offending horse and place it behind such other horses as in their judgement it interfered with, or they may place it last. The Stewards may determine that a horse shall be unplaced.

Oregon

The stewards may disqualify any horse which is the subject of fraudulent or corrupt practices, or any horse whose jockey has committed a violation of the rules of horse racing. A horse which interferes with, impedes or intimidates another horse may be disqualified by the stewards unless the impeded horse or jockey was partly at fault or the interference was wholly caused by some other horse or jockey.

Pennsylvania

163.234 During the running of a race, when clear, a horse may be taken to another part of the course but a horse may not cross or weave in front of other horses in such a way that would impede them or constitute or cause interference or intimidation. 163.281 (k) The stewards are vested with power to determine the extent of disqualification in cases of fouls. They may place the offending horse behind the horses in their judgment it interfered with, or they may place it last.

South Dakota

Impeding another horse a foul. If a horse swerves or is ridden to either side of the track so as to interfere with or impede another horse, it is a foul. The horse may be disqualified, and the stewards may fine or suspend the jockey. When a horse is disqualified by the stewards, every horse in the race owned wholly or in part by the same owner or trained by the same trainer may be disqualified upon a finding of just cause by the stewards.

Texas

(a) A leading horse in a race around a turn is entitled to any part of the course; however, when another horse is attempting to pass in a clear opening, the leading horse may not impede the passing horse by crossing over so as to compel the passing horse to shorten its stride. A leading horse in a straightaway race must maintain a course as nearly as possible in the lane in which it starts. (b) A horse may not interfere with or cause another horse to lose stride, lose ground, or lose position in a part of the race where the horse interfered with loses the opportunity to place where the horse might be reasonably expected to finish. (c) The stewards may disqualify a horse who interferes with another horse in violation of this section and may place the horse behind the horse interfered with.

Virginia

11VAC10-140-210During a race, no jockey shall strike, strike at or touch another jockey or another jockey's horse or equipment, or jostle another horse to interfere with that jockey or horse. 11VAC10-70-150 The stewards, in their discretion, may determine the extent of any disqualification and may place any disqualified horse behind others in the race with which it interfered or may place the offending horse last in the race.

Washington

A horse may not interfere with another horse and thereby cause the other horse to lose ground or position, or cause the other horse to break stride. When this interference occurs in the part of the race where the other horse loses the opportunity to place where it might reasonably be expected to finish, the stewards may disqualify the interfering horse.

West Virginia

10.14. The stewards shall determine the extent of disqualification in cases of fouls. The stewards may place the offending horse behind the horse or horses that, in their judgment, the offending horse interfered with or they may place the offending horse last. 59.3. When clear, a horse may be taken to any part of the racing strip, but no horse shall cross or weave in front of other horses in such a way as to impede them or constitute or cause interference. 59.4. No horse or jockey shall willfully jostle another horse.

Wyoming

(b) When a race is around a turn a horse may be taken to any part of the course when clear, but no horse shall cross or weave in front of other horses in such a way as to impede them or constitute or cause interference or intimidation. (c) When a race is run on a straightaway every horse must maintain position as nearly as possible in the lane in which he starts. If a horse is ridden, drifts, or swerves out of his lane in such a manner that he interferes with or impedes another horse it is a foul. The offending horse may be disqualified, when in the opinion of the stewards, the outcome of the race was affected. This shall apply whether the foul was caused by the horse or by the rider and whether it was caused willfully or by carelessness.

STAFF ANALYSIS
DISCUSSION CONCERNING THE ALLEGED CONFLICT BETWEEN CHRB, RULE 1844(e), AUTHORIZED MEDICATION, GOVERING THE PRESENCE OF CLENBUTEROL IN RACE HORSES AND THE LOS ALAMITOS QUARTER HORSE RACING ASSOCIATION'S APPARENT DECISION NOT TO ALLOW THE PRESENCE OF CLENBUTEROL IN QUARTER HORSES ENTERED TO RACE AT THE LOS ALAMITOS RACE COURSE

Legislative, Legal and Regulations Committee Meeting
December 17, 2014

Rule 1844, Authorized Medication, provides that "consistent with the intent of these rules, drug substances and medications authorized by the Board for use may be administered to safeguard the health of the horse entered to race provided that:
(a) No person shall administer a drug substance to any horse entered to race except upon authorization of the official veterinarian in conformance with these rules.
(b) No drug substance, other than authorized bleeder medication, shall be administered to a horse entered to race within 24 hours of the race in which entered.
(e) Official urine test samples may contain one of the following drug substances, their metabolites or analogs, in an amount that does not exceed the specific levels: .....
(6) Clenbuterol, 140 picograms per milliliter.....
(g) Official blood test samples shall not contain any drug substances, or their metabolites or analogs listed in subsection (e)-(1) (12)." [**Please note: the official version of current Rule 1844 (g) reads "in subsection (e)-(1)-(12)."**]

As a consequence, the current Board Rule allows for the presence of Clenbuterol, not to exceed 140 picograms per milliliter.

The Board staff has been informed (verbally) the Los Alamitos Quarter Horse Racing Association (LAQHRA) has banned the presence of any amount of Clenbuterol in race horses entered to race at the Los Alamitos Race Course. The LAQHRA utilizes the medium of a "house rule" to impose the Clenbuterol ban. The contractual basis for the "house rule" is the LAQHRA Application for Stalls which each trainer signs. The Application provides, in part, that the trainer understands and agrees:
A. The Track will and can do whatever it deems best to insure the integrity and public confidence in horse racing, and that the track will and does have a zero tolerance for the use or possession of medications that are not authorized under the law or for any conduct which the Track deems to be inimical to the best interests of the Track or racing.
B. Trainer acknowledges that Track is a privately owned entity, and has the absolute right to exclude Trainer from the Course and deny the right to use stalls or any other facilities at the Course, other than on the basis of racial or sexual discrimination.
C. Trainer shall comply with all directives or requirements of the CHRB or Track regarding inoculations, testing and health care for horses .... in their care.....
Taken together, the CHRB Rule permits the presence of Clenbuterol in urine while the LAQHRA is imposing a total ban of Clenbuterol. Thus, the discussion for the Committee is whether, in the best interests of horse racing, a "house rule" may supersede a CHRB Rule.

RECOMMENDATION

The item is presented for Board discussion only.

CALIFORNIA HORSE RACING BOARD
TITLE 4. CALIFORNIA CODE OF REGULATIONS
ARTICLE 15. VETERINARY PRACTICES
RULE 1844. AUTHORIZED MEDICATION

Legislative, Legal and Regulations Committee Meeting
December 17, 2014

1844. Authorized Medication.

Consistent with the intent of these rules, drug substances and medications authorized by the Board for use may be administered to safeguard the health of the horse entered to race provided that:

(a) No person shall administer a drug substance to any horse entered to race except upon authorization of the official veterinarian in conformance with these rules.

(b) No drug substance, other than authorized bleeder medication, shall be administered to a horse entered to race within 24 hours of the race in which entered.

(c) Not more than one approved non-steroidal anti-inflammatory drug substance (NSAID) may be administered to a horse that is entered to race and shall be only one of the following authorized drug substances:

(1) Phenylbutazone in a dosage amount that the test sample shall contain not more than 2 micrograms of the drug substance per milliliter of blood plasma or serum.

(2) Flunixin in a dosage amount that the test sample shall contain not more than 20 nanograms of the drug substance per milliliter of blood plasma or serum.

(3) Ketoprofen in a dosage amount that the test sample shall contain not more than 10 nanograms of the drug substance per milliliter of blood plasma or serum.

(4) Metabolites or analogues of approved NSAIDs may be present in post race test samples.

(d) If the official chemist reports that a blood test sample contains an authorized NSAID in excess of the limit for that drug substance under this rule, the official veterinarian shall, in conjunction with the veterinarian who administered or prescribed the authorized drug substance, establish a dosage amount or time of administration of the drug substance that will comply with the limits under this rule; or the official veterinarian may, if in his/her judgment no such reduced dosage amount or amendment to time of administration will result in a test sample level within the limits of this rule, withdraw authorization for the use of any one NSAID.

(e) Official urine test samples may contain one of the following drug substances, their metabolites and analogs, in an amount that does not exceed the specified levels:

(1) Acepromazine; 10 nanograms per milliliter

(2) Mepivacaine; 10 nanograms per milliliter

(3) Albuterol; 1 nanograms per milliliter

(4) Procaine; 25 nanograms per milliliter

(5) Salicylates; 750 micrograms per milliliter

(6) Clenbuterol; 140 picograms per milliliter

(7) Omeprazole; 1 nanogram per milliliter

(8) Nandrolone; 1 nanograms per milliliter for geldings, fillies and mares; 45 nanograms for males other than geldings.

(9) Boldenone; 15 nanograms per milliliter in males other than geldings.

(10) Testosterone; 20 nanograms per milliliter in geldings.

(A) Testosterone at any level in males other than geldings is not a violation of this regulation.

(11) Testosterone; 55 nanograms per milliliter in fillies or mares.

(12) Butorphanol 300 nanograms per milliliter

(f) Official blood test samples may contain the following drug substances, their metabolites and analogs, in an amount that does not exceed the specified levels in serum or plasma:

(1) Bethamethasone; 10 picograms per milliliter

(2) Dantrolene; 100 picograms per milliliter

(3) Detomidine; 1 nanogram per milliliter

(4) Dexamethasone; 5 picograms per milliliter

(5) Diclofenac; 5 nanograms per milliliter

(6) Dimethylsulfoxide (DMSO); 10 micrograms per milliliter

(7) Firocoxib; 20 nanograms per milliliter

(8) Lidocaine; 20 picograms per milliliter

(9) Methocarbamol; 1 nanogram per milliliter

(10) Methylprednisolone; 100 picograms per milliliter

(11) Glycopyrrolate; 3 picograms per milliliter

(12) Prednisolone; 1 nanogram per milliliter

(13) Triamcinolone Acetonide; 100 picograms per milliliter

(14) Xylazine; 10 picograms per milliliter of serum or plasma

(15) Butorphanol; 2 nanograms per milliliter

(g) Official blood test samples shall not contain any of the drug substances, or their metabolites or analogs listed in subsection (e)(1)(12).

(h) Procaine, following administration of procaine penicillin, is an authorized medication provided:

(1) Official blood test samples shall not contain any procaine, or its metabolites or analogs in excess of 25 nanograms per milliliter.

(2) all procaine penicillin administrations have been reported pursuant to Rule 1842 of this division,

(3) procaine penicillin was not administered after entry to race,

(4) the horse was under surveillance for a minimum of six hours prior to racing.

(i) All expenses related to surveillance and testing for procaine under subsection (h) of this regulation shall be paid by the owner of the horse.

Authority: Sections 19440 and 19562,
Business and Professions Code.

Reference: Sections 19580 and 19581,
Business and Professions Code.

STAFF ANALYSIS
DISCUSSION REGARDING CHRB RULE 1989 (b), REMOVAL OR DENIAL OF ACCESS

Legislative, Legal and Regulations Committee Meeting
December 17, 2014

Rule 1989, Removal or Denial of Access provides "(b) Any person may be removed or denied access for any reason deemed appropriate by the association, fair or simulcast facility notwithstanding the fact that such person is not specified in the rules."

The Rule cited gives an association, fair or simulcast facility unlimited discretion to remove any person for any reason they deem appropriate. The question for the Committee to consider is what should be the appropriate recourse for an individual so removed.

In cases where a person is prohibited from participating in pari-mutuel wagering, there is process set forth in the CHRB Rules. Rule 1980, Persons Prohibited from Wagering, lists the classes of persons who are prohibited from participating in pari-mutuel wagering. Rule 1981, Duty to Exclude Prohibited Persons, requires the association, fair or simulcast facility to exclude and eject such individuals. Rule 1982, Notice of Exclusion or Ejection, provides the individual so ejected or excluded to be notified of the reason by the association. The excluded or ejected person, in return, can request a hearing on the matter, pursuant to Rule 1983, Application for Hearing. The hearing can be held before the Board, a referee designated by the Board or before a Hearing Officer of the Office of Administrative Hearings. See, Rule 1984, Place and Notice of Hearing.

In the case of Removal or Denial of Access under Rule 1989, there is no such hearing process.

RECOMMENDATION

The item is presented for Board discussion only.

CALIFORNIA HORSE RACING BOARD
TITLE 4. CALIFORNIA CODE OF REGULATIONS
ARTICLE 19. POLICING THE PUBLIC INCLOSURE
RULE 1989. REMOVAL OR DENIAL OF ACCESS

Legislative, Legal and Regulations Committee Meeting
December 17, 2014

1989. Removal or Denial of Access.

(a) An association, fair or simulcast facility may remove from its premises any person who:

(1) Is disorderly as defined in section 647 of the Penal Code.

(2) Interferes with any racing operation.

(3) Solicits or engages in any act of prostitution.

(4) Begs, is boisterous, or is otherwise offensive to other persons.

(5) Commits any public offense.

(6) Is intoxicated.

(b) Any person may be removed or denied access for any reason deemed appropriate by the association, fair or simulcast facility notwithstanding the fact that such reason is not specified in the rules.

Authority: Section 19440,
Business and Professions Code.

Reference: Section 19440,
Business and Professions Code; and
Section 647, Penal Code.

STAFF ANALYSIS
DISCUSSION AND ACTION REGARDING THE CHRB GOVERNING PROCEDURES NOTICE FOR DISCIPLINARY HEARING

Legislative, Legal and Regulations Committee Meeting
December 17, 2014

There are three separate and distinct Governing Procedures for CHRB disciplinary hearings.

1. Governing Procedure for Disciplinary Hearing before the Board of Stewards.

The category of hearings for which this Governing Procedure is appropriate are non-Class 1, 2 or 3 Drug Positive Violations and non-revocation of licensure disciplinary hearings.

The Committee should move to revise the existing Governing Procedure for Hearings before the Board of Stewards as this a typographical error in Paragraph 9. The correct evidentiary provisions of the Administrative Procedure Act (APA), Government Code section 11500 et seq., are sections 11513 (Evidence), 11514 (Affidavits) and 11515 (Official Notice). In present version, section 11513 is repeated and section 11514 is not cited.

2. Governing Procedures for Disciplinary Hearing before the Board of Stewards or Hearing Officer Non-Revocation Enforcement Proceedings Alleging Class 1, 2 or 3 Drug Positive Violation.

The category for hearings for which this Governing Procedure is appropriate are Class 1, 2, or 3 Drug Positives wherein the Enforcement Unit/Executive Director are not seeking revocation of licensure. In such cases, certain sections of Chapter 5 of the APA apply. To wit, sections 11507.6 (Request for Discovery), 11513 (Evidence), 11514 (Affidavits) and 11515 (Official Notice) are available to ensure Licensees can assemble a proper defense.

In these cases, Business and Professions Code section 19517.5 provides that a Licensee can elected to have the Matter heard by a Board of Stewards or a Hearing Officer approved by pool composed of a Board Member, a representative of a racing association, a representative of the trainer's organization and a representative of the horse owner's organization.

3. Governing Procedures for Disciplinary Hearing before Board of Stewards or Hearing Officer Revocation Enforcement Proceedings Alleging Class 1, 2 or 3 Drug Positive Violation.

The category of hearings for which this Governing Procedure is appropriate are Class 1, 2 or 3 Drug Positives where the Enforcement Unit/Executive Director are seeking revocation of licensure. In these cases, Chapter 5 of the APA will apply, except for provisions that are inconsistent with Business and Professions Code section 19517.5 or any other section of the Horse Racing Law.

Attorney Carlo Fisco and the California Thoroughbred Trainers (CTT) organization opine that a CHRB Licensee is entitled to an Administrative Law Judge when charged with a Class I, II or III Drug Positive Violation, regardless of whether revocation is sought. In furtherance of their position, attorney Fisco and the CTT rely upon Business and Professions Code section 19461, which states all license revocation matters shall be conducted in accordance with Chapter 5 of

the APA. Chapter 5 envisions an Administrative Law Judge from the Office of Administrative Hearings serving as the presiding officer. See, Government sections 11500 and 11502.

However, Business and Professions Code section 19517.5 provides that a Licensee may elect to have an alleged Class 1, 2 or 2 drug positive violation heard by "**either** a Board of Stewards **or** a hearing officer appointed by the board." (Emphasis added) Section 19517.5 was years after Business and Professions Code section 19461. Therefore, the Legislature must have intended to override section 19461 in cases of Class 1, 2 or 3 drug positive violations.

RECOMMENDATION

The item is presented for Board discussion and action by the Committee. Staff recommends correcting the typographical error in Paragraph 9 of the Governing Procedures for Hearings before the Board of Stewards.

GOVERNING PROCEDURE FOR DISCIPLINARY HEARING BEFORE BOARD OF STEWARDS

1. You are entitled to reasonable advance notice of the charges against you. You are also entitled to receive, in advance of the hearing, copies of all investigative reports and support documentation which the California Horse Racing Board (CHRB) investigators relied upon in bringing the charges against you, and the CHRB will exchange with you copies of all documents which each party intends to put in evidence at the hearing.

2. You will have an opportunity to present your side of the case and rebut the case against you, including the opportunity to cross-examine witnesses who testify against you. You must bring all of your witnesses and all of your evidence to the hearing.

3. You are entitled to be represented by an attorney at the hearing.

4. The hearing shall be open to the public.

5. All or part of the hearing may be conducted telephonically to the extent that all parties agree and to the extent that each participant has an opportunity to participate in and to hear the proceeding while it is taking place.

6. If you believe that a steward on the Board of Stewards who will hear your case is biased or prejudiced against you or has an interest in the outcome of the proceeding, you may challenge that steward. Upon such challenge, the steward may either disqualify him/herself or put the decision to the Board of Stewards, who must then decide whether you have stated a basis for disqualification of that steward. If a steward is disqualified, another steward, will be appointed for purposes of hearing the matter. If the steward is not disqualified, you may challenge the decision not to disqualify the steward as a separate matter on appeal. The decision of the Board of Stewards regarding such challenge is final.

7. While the proceeding is pending, beginning with the issuance of the Complaint and Notice to Appear, you may not communicate, in any manner, directly or indirectly, with the Board of Stewards regarding any issue in the proceeding, unless, at or before the time the communication is made, the communication is shared with all the parties to the proceeding including the CHRB, and an opportunity is afforded to all parties to participate in the communication. This rule applies equally to the CHRB and its representatives. Nothing herein precluded communications made on the record at the hearing. Applicable exception to, and clarifications of, this rule are found in Government Code sections 11430.10 through 11430.80.

8. You may request a subpoena for the production of witnesses at the hearing and/or the production of documents at a reasonable time and place or at the hearing. The Executive Director of the CHRB shall issue subpoenas at the request of any party to the matter for the purpose of compelling attendance of a witness at the hearing or the production of documents. The Board of Stewards, hearing officer or referee will decide disputes.

9. The Stewards may refer your matter to the CHRB if license revocation is determined to be appropriate. In that case, Chapter 5 of the Administrative Procedure Act will apply to the proceedings to revoke your license and will supplant any inconsistent provisions herein. Chapter 5 is Government Code sections 11500 et seq. If the matter is not referred to the CHRB, the proceedings will be held before the Board of Stewards, Hearing Officer or Referee under the evidentiary provisions of Government Code sections 11513, 11513 and 11515, but Chapter 5 will not otherwise apply.

10. A verbatim record of the proceedings will be made, using either a shorthand reporter or a tape recorder. You may request a record of the hearing from the CHRB. A tape or transcript of the hearing will be provided to you free of charge.

11. You will receive a written decision after the hearing. The written decision will include a statement of the factual and legal basis for the decision. The statement of the factual basis for the decision shall be based on the evidence of record and on matters officially noticed in the proceeding. The decision will also include a description of the penalty imposed, if any. The Board of Stewards will take action upon a majority decision. In the event the decision is not unanimous, one or more dissenting or concurring decisions shall be filed. Each steward shall file his/her own written decision or join in a written decision on the matter.

12. You may appeal the decision of the Board of Stewards' decision to the CHRB. Appeals must be received by a CHRB employee at any of its offices not later than 72 hours from the date of the decision.

13. If you timely appeal a decision, the matter will be heard on behalf of the CHRB by an administrative law judge (ALJ), a referee or a hearing officer designated by the CHRB. The ALJ, referee or hearing officer will draft a proposed decision and submit it to the CHRB. On appeal, you bear the burden of proving the facts necessary to sustain the appeal. The CHRB will consider evidence that was presented to the Board of Stewards. It will also consider whether the stewards mistakenly interpreted the law, whether new evidence of a convincing nature is produced, and whether the best interests of racing and the state may be better served by overruling the stewards' decision.

14. The CHRB may adopt, modify and adopt, or reject the proposed decision of the ALJ, referee or hearing officer.

15. If you are dissatisfied with the CHRB's decision, you may appeal that decision to the Superior Court.

GOVERNING PROCEDURE FOR DISCIPLINARY HEARING BEFORE BOARD OF STEWARDS OR HEARING OFFICER NON-REVOCATION ENFORCEMENT PROCEEDINGS ALLEGING CLASS 1, 2, OR 3 DRUG POSITIVE VIOLATION

1. Your matter will be heard by the Board of Stewards or by a hearing officer. Below, the term "Presiding Officer" shall refer to the individual or individuals who will hear your case whether it be stewards or a hearing officer.

2. You are entitled to reasonable advance notice of the charges against you. You are also entitled to receive, in advance of the hearing, copies of all investigative reports and support documentation which the California Horse Racing Board (CHRB) investigators relied upon in bringing the charges against you, and the CHRB will exchange with you copies of all documents which each party intends to put in evidence at the hearing.

3. You will have an opportunity to present your side of the case and rebut the case against you, including the opportunity to cross-examine witnesses who testify against you. You must bring all of your witnesses and all of your evidence to the hearing.

4. You are entitled to be represented by an attorney at the hearing.

5. The hearing shall be open to the public.

6. All or part of the hearing may be conducted telephonically to the extent that all parties agree and to the extent that each participant has an opportunity to participate in and to hear the proceeding while it is taking place.

7. If you believe that the Presiding Officer is biased or prejudiced against you or has an interest in the outcome of the proceeding, you may challenge the Officer. Upon such challenge, the Officer may disqualify him/herself. If your challenge is to a steward, the steward may put the decision to the Board of Stewards, who must then decide whether you have stated a basis for disqualification of the steward. If your challenge is to a hearing officer, the hearing officer may put the decision to the Executive Director. If a Presiding Officer is disqualified, another Presiding Officer will be appointed as a replacement. If the challenged Officer is not disqualified, you may challenge the decision not to disqualify the Officer as a separate matter on appeal. The decision of the challenged Presiding Officer, the Board of Stewards or Executive Director regarding such challenge is final.

8. From the time the Complaint and Notice to Appear issues until the CHRB renders its decision, you may not communicate, in any manner, directly or indirectly, with the Presiding Officer regarding

any issue in the proceeding, unless, at or before the time the communication is made, the communication is shared with all parties to the proceeding including the CHRB, and an opportunity is afforded to all parties to participate in the communication. This rule applies equally to the CHRB and its representatives. Nothing herein precludes communications made on the record at the hearing. Applicable exceptions to, and clarifications of, this rule are found in Government Code sections 11430.10 through 11430.80.

9. You may request a subpoena for the production of witnesses at the hearing and/or the production of documents at a reasonable time and place or at the hearing. The Executive Director of the CHRB shall issue subpoenas at the request of any party to the matter for the purpose of compelling attendance of a witness at the hearing or the production of documents. The Presiding Officer will decide disputes.

10. The hearing will be conducted under the evidentiary provisions of Government Code sections 11507.6, 11513, 11514 and 11515. Otherwise, the only disciplinary proceedings to which Chapter 5 of the Administrative Procedure Act apply are license revocation proceedings, and the Board does not anticipate seeking a revocation of your license in this matter. Chapter 5 is Government Code sections 11500 et seq.

11. A verbatim record of the proceedings will be made, using either a shorthand reporter or a tape recorder. You may request a record of the hearing from the CHRB. A tape or transcript of the hearing will be provided to you free of charge.

12. The Presiding Officer will draft a proposed decision and submit it to the CHRB. The CHRB may adopt, modify and adopt, or reject the proposed decision of the Presiding Officer. The CHRB's written decision will include a statement of the factual and legal basis for the decision. The statement of the factual basis for the decision shall be based on the evidence of record and on matters officially noticed in the proceeding. The decision will also include a description of the penalty imposed, if any.

13. If you are dissatisfied with the CHRB's decision, you may appeal that decision to the Superior Court.

GOVERNING PROCEDURE FOR DISCIPLINARY HEARING BEFORE BOARD OF STEWARDS OR HEARING OFFICER REVOCATION ENFORCEMENT PROCEEDINGS ALLEGING CLASS 1, 2, OR 3 DRUG POSITIVE VIOLATION

1. Your matter will be heard by the Board of Stewards or by a hearing officer. Below, the term "Presiding Officer" shall refer to the individual or individuals who will hear your case whether it be stewards or a hearing officer.

2. You are entitled to reasonable advance notice of the charges against you. You are also entitled to receive, in advance of the hearing, copies of all investigative reports and support documentation which the California Horse Racing Board (CHRB) investigators relied upon in bringing the charges against you, and the CHRB will exchange with you copies of all documents which each party intends to put in evidence at the hearing.

3. You will have an opportunity to present your side of the case and rebut the case against you, including the opportunity to cross-examine witnesses who testify against you. You must bring all of your witnesses and all of your evidence to the hearing.

4. You are entitled to be represented by an attorney at the hearing.

5. The hearing shall be open to the public.

6. All or part of the hearing may be conducted telephonically to the extent that all parties agree and to the extent that each participant has an opportunity to participate in and to hear the proceeding while it is taking place.

7. If you believe that the Presiding Officer is biased or prejudiced against you or has an interest in the outcome of the proceeding, you may challenge the Officer. Upon such challenge, the Officer may disqualify him/herself. If your challenge is to a steward, the steward may put the decision to the Board of Stewards, who must then decide whether you have stated a basis for disqualification of the steward. If your challenge is to a hearing officer, the hearing officer my put the decision to the Executive Director. If a Presiding Officer is disqualified, another Presiding Officer will be appointed as a replacement. If the challenged Officer is not disqualified, you may challenge the decision not to disqualify the Officer as a separate matter on appeal. The decision of the challenged Presiding Officer, Board of Stewards or Executive Director regarding such challenge is final.

8. From the time the Complaint and Notice to Appear issues until the CHRB renders its decision, you may not communicate, in any manner, directly or indirectly, with the Presiding Officer regarding

any issue in the proceeding, unless, at or before the time the communication is made, the communication is shared with all parties to the proceeding including the CHRB, and an opportunity is afforded to all parties to participate in the communication. This rule applies equally to the CHRB and its representatives. Nothing herein precludes communications made on the record at the hearing. Applicable exceptions to, and clarifications of, this rule are found in Government Code sections 11430.10 through 11430.80.

9. You may request a subpoena for the production of witnesses at the hearing and/or the production of documents at a reasonable time and place or at the hearing. The Executive Director of the CHRB shall issue subpoenas at the request of any party to the matter for the purpose of compelling attendance of a witness at the hearing or the production of documents. The Presiding Officer will decide disputes.

10. Chapter 5 of the Administrative Procedure Act (Government Code section 11500 et seq.) is applicable to this proceeding except for the provisions of Chapter 5 that are inconsistent with Business & Professions Code, section 19517.5 or any other section of the Horse Racing Law (Chapters 4 and 4.5, Division 8 of the Business & Professions Code.)

11. A verbatim record of the proceedings will be made, using either a shorthand reporter or a tape recorder. You may request a record of the hearing from the CHRB. A tape or transcript of the hearing will be provided to you free of charge.

12. The Presiding Officer will draft a proposed decision and submit it to the CHRB. The CHRB may adopt, modify and adopt, or reject the proposed decision of the Presiding Officer. The CHRB's written decision will include a statement of the factual and legal basis for the decision. The statement of the factual basis for the decision shall be based on the evidence of record and on matters officially noticed in the proceeding. The decision will also include a description of the penalty imposed, if any.

13. If you are dissatisfied with the CHRB's decision, you may appeal that decision to the Superior Court.