

STAFF ANALYSIS
DISCUSSION AND ACTION REGARDING AN UPDATE
ON THE DEVELOPMENT OF THE PROPOSED CHRB
RULE 1500.2, RANDOM DRUG TESTING OF RACING PARTICIPANTS,
TO ALLOW RANDOM DRUG TESTING OF EXERCISE RIDERS
AND/OR RACING OFFICIALS AND STEWARDS WHOSE NAMES
APPEAR ON THE OFFICIAL PROGRAMS, AS WELL AS
OUTRIDERS, AND THE STARTING GATE CREW

Jockey and Driver Welfare Committee Meeting
September 18, 2013

BACKGROUND

Business and Professions Code section 19420 provides that the Board has jurisdiction and supervision in this State where horse races with wagering on their results are held or conducted, and over all persons or things having to do with the operation of such meetings. Business and Professions Code section 19440 states the Board shall have all powers necessary and proper to enable it to carry out fully and effectually the purposes of this chapter. Responsibilities of the Board include, but are not limited to, adopting rules and regulations for the protection of the public and the control of horse racing. 19520 states every person who participates in, or has anything to do with the racing of horses shall be licensed by the Board pursuant to rules and regulations that the Board may adopt. Business and Professions Code section 19521 provides that an original license issued pursuant to this article shall be issued for a period of the calendar year in which it is issued, and shall be renewable for a period, not to exceed three years, which the Board may, by regulation establish. The license shall be valid at all horse racing meetings in this state during the period for which it is issued, unless it is suspended or revoked prior to the expiration of the period.

In October 2011 the Board added Rule 1500.1, Random Drug Testing, to allow for random drug testing of California jockeys, apprentice jockeys and drivers. The regulation called for random drug testing of a narrow class of licensees, as the Board believed it was more critical get a limited program in place to test those who are directly involved with the horse and whose actions could affect both riders/drivers and the horse. When adopting Rule 1500.1 the Board indicated it would return at a later time to add additional classes of licensees who may work closely with horses or who may be responsible for the integrity of the sport.

At the July 2013 Jockey and Driver Welfare Committee Meeting the Committee discussed the addition of the proposed Rule 1500.2. The Committee determined the purpose of the program was to try to reduce the number of accidents involving those working horses in the morning. The drug testing protocol should also cover any licensee who handled a horse. A comprehensive drug testing program would involve any licensee who had a role in getting the horse to the race track or in putting an exercise rider on the horse in the morning.

ANALYSIS

The proposed addition of Rule 1500.2, Random Testing of Racing Participants, is closely modeled after Rule 1500.1. The proposed regulation provides a framework under which designated Board licensees may be subjected to random drug testing. The proposed addition of Rule 1500.2 provides that drug testing shall be conducted on a daily basis, as well as upon reasonable suspicion. Board licensees subject to random drug testing include those classes of licensees whose duties take them into direct contact with the horse or whose duties involve the integrity of the sport. The classes of licensees are:

- Racing officials and stewards whose names appear on the official program
- Trainers
- Outriders
- Starting gate crew
- Exercise riders
- Hot walkers
- Grooms

The proposed regulation also provides for a split sample program and reserves the right to direct a racing participant to submit to drug testing by methods including, but not limited to, blood, hair follicle or skin.

The proposed regulation states drug testing will be conducted on a daily basis before or after the performance of duties. The names of persons to be tested will be chosen from among licensees whose names appear on the official program the day drug testing is conducted, as well as the outriders, the starting gate crew, and trainers who participate in the race meeting. Exercise riders, hot walkers and grooms who work for trainers participating in the race meeting shall also be subject to the daily draw. The proposed regulation requires the supervising investigator to draw four names each day, and if a name is selected more than once during a race meeting, it shall be eliminated and another selection made.

Costs: The cost to the Board of one human drug test is \$30 per sample. It is estimated that the Board will conduct at least 12 drug tests per day, with an estimated 300 race days per year, for a total estimated cost of \$108,000 per fiscal year. The estimated costs are for drug testing only and do not include stewards/staff time or other associated costs.

The proposed regulation provides for a split sample program, and a method of informing the licensee if a confirmed positive finding of an illegal drug, controlled substance or prescription drug is reported. Licensees will have the option of requesting the testing of the split sample provided he or she pays for the transporting and testing of the split. The results of the drug test and the split sample test are confidential and will remain confidential unless or until the Board files an official complaint or accusation. While the proposed split sample provisions are modeled on California's equine split sample program outlined in Board Rule 1859.25, Split Sample Testing, many racing jurisdictions provide for a human split sample. Delaware, Illinois and Louisiana provide for split

sample testing as does the ARCI Model Rule. In all cases the split results from urine samples.

Finally, the proposed regulation reserves the right to direct a licensee to submit to a drug test by methods including, but not limited to, blood, hair follicle or skin. This provides the Board with flexibility in testing methods should it determine it wishes to go beyond urine. In the past, the Board has required testing by such methods as hair, and it has had a contract with a laboratory to draw blood.

RECOMMENDATION

This item is presented for Committee discussion and action.

CALIFORNIA HORSE RACING BOARD
TITLE 4. CALIFORNIA CODE OF REGULATIONS
ARTICLE 4. OCCUPATIONAL LICENSES
PROPOSED ADDITION OF
RULE 1500.2. DAILY DRUG TESTING OF RACING PARTICIPANTS

Jockey and Driver Welfare Committee Meeting
September 18, 2013

1500.2. Daily Drug Testing of Racing Participants.

(a) To ensure the safety and integrity of horse racing, the following classes of license are subject to daily drug testing, as well as testing based upon reasonable suspicion, as provided in this Division:

- (1) Racing officials and stewards whose names appear on the official program;
- (2) Trainers;
- (3) Outriders;
- (4) Starting gate crew;
- (5) Exercise riders;
- (6) Hot walkers;
- (7) Grooms.

Failure to submit to or to complete a drug test at the time, location, and manner directed by the Board or its representatives shall constitute a refusal to be tested. A licensee who fails to submit to or to complete a drug test shall immediately be prohibited from participating in any race meeting at a facility under the jurisdiction of the Board until a negative test result is achieved.

(b) Drug testing shall be conducted on a daily basis before or after the licensee's performance of duties. The names of all racing officials and stewards who appear on the official program the day drug testing is conducted, as well as the names of the outriders,

the starting gate crew, and trainers who participate in the race meeting and exercise riders, hot walkers and grooms who work for such trainers, shall be placed in a secured container which shall be in the custody of the supervising investigator. Prior to the first race of the program, the supervising investigator shall randomly draw four names. If a name is selected more than once during a race meeting, it shall be eliminated and another selection made.

(c) Each urine specimen received from a selected licensee shall be divided into two separate parts. One portion shall be designated as the racing participant official test sample and shall be tested by a Board approved official laboratory. The remaining portion of the specimen shall be known as the racing participant split sample and shall be available for testing at a Board approved independent laboratory upon the request of the individual who provided the specimen. The Board makes no guarantees as to the amount of the specimen that will be available for the racing participant split sample. All specimens taken by representatives of the Board are under the jurisdiction of and shall remain the property of the Board at all times.

(f) For the purposes of this regulation “Board approved official laboratory” and “Board approved independent laboratory” means a California laboratory certified by the United States Department of Health and Human Services under the National Laboratory Certification Program as meeting the minimum standards to engage in urine drug testing for federal agencies. A list of certified laboratories shall be available at the CHRB headquarters office.

(g) Each urine specimen shall be tested for the following prohibited drugs or classes of drugs:

(1) Marijuana metabolites.

(2) Cocaine metabolites.

(3) Amphetamines.

(4) Opiate metabolites.

(5) Phencyclidine (PCP).

(h) The Board approved official laboratory shall immediately and confidentially report to the Executive Director or his designee any positive finding for any of the drugs or classes of drugs described in subsection (g)(1) through (g)(5) of this regulation. The Board approved official laboratory shall also transmit a confidential written report of the finding to the Executive Director within five working days after the notification is made.

(i) When the Executive Director or his designee is notified of a positive finding by the Board approved official laboratory, the Executive Director or his designee shall notify a supervising investigator. The supervising investigator shall confidentially notify the licensee who shall:

(1) Immediately be prohibited from participating in any race meeting at a facility under the jurisdiction of the Board, and

(2) Shall have 72 hours from the date he or she is notified to request that the racing participant split sample of the official racing participant test sample that was found to contain a prohibited drug or class of drug, be tested by an Board approved independent laboratory.

(j) If the racing participant wishes to have the racing participant split sample tested, he or she shall comply with the following procedures:

(1) The request shall be made on the form CHRB-217B (New 7/13) Request to Release Racing Participant Split Sample, which is hereby incorporated by reference. Form CHRB-217B shall be made available at all CHRB offices, and at the CHRB website.

(2) The racing participant requesting to have the racing participant split sample tested shall be responsible for all charges and costs incurred in transporting and testing the racing participant split sample. By signing CHRB-217B the racing participant certifies he or she has made arrangements for payment to the designated independent Board approved laboratory for laboratory testing services.

(3) Verification of payment for costs incurred in transporting and testing the racing participant split sample must be received by the CHRB within five working days from the CHRB receipt of CHRB-217B. If such verification of payment is not received, the racing participant split sample will not be released or shipped to the designated Board approved independent laboratory and the racing participant will have relinquished his/her right to have the split sample tested. If a complaint issues, the only test results that will be considered will be the results from the Board approved official laboratory.

(k) Upon receipt of a valid request on CHRB-217B, CHRB-217C (New 7/13) Authorization to Release Racing Participant Split Sample Evidence, which is hereby incorporated by reference, shall be completed and the Board shall ensure that the racing participant split sample is sent to the designated Board approved independent laboratory for testing.

(1) If the findings by the Board approved independent laboratory fail to confirm the findings of a prohibited drug or class of drug as reported by the Board approved

official laboratory, it shall be presumed that a prohibited drug or class of drug was not present in the official racing participant test sample.

(l) A licensee who fails to request the testing of the racing participant split sample in accordance with the procedures specified in this rule shall be deemed to have waived his or her right to have the split sample tested.

(m) Unless or until the Board files an official complaint or accusation, results of the official racing participant test sample and the racing participant split sample shall be, and shall remain confidential. No test results may be released to any person or organization unless such release is explicitly required under this regulation. Only the Executive Director or the Executive Director's designee, the Board, and the licensee shall receive the results.

(n) The Board may take into consideration the possession of a valid and current Medical Marijuana Program Identification Card issued in accordance with the Medical Marijuana Program of the California Department of Public Health in determining whether or not to file an official complaint or accusation against a racing participant who tests positive for marijuana metabolites.

(o) For the purposes of this regulation, daily random drug testing shall be accomplished by the taking of urine specimens; however, the Board retains the right to direct a racing participant to submit to a drug test by methods including, but not limited to, blood, hair follicle or skin.

Authority: Sections 19420, 19440 and 19520,
Business and Professions Code.
Reference: Sections 19440, 19520 and 19521,
Business and Professions Code.

STAFF ANALYSIS
DISCUSSION AND ACTION REGARDING THE
PROPOSED ADDITION OF
CHRB RULE 1498.1 EXERCISE RIDER PHYSICAL EXAMINATION,
TO REQUIRE THAT EXERCISE RIDERS UNDERGO AN
ANNUAL PHYSICAL EXAMINATION PRIOR TO THE
FIRST RACE MEETING OF THE YEAR IN WHICH THEY
PARTICIPATE

Jockey and Driver Welfare Committee Meeting
September 18, 2013

BACKGROUND

Business and Professions Code section 19420 provides that the Board has jurisdiction and supervision in this State where horse races with wagering on their results are held or conducted, and over all persons or things having to do with the operation of such meetings. Business and Professions Code section 19440 states the Board shall have all powers necessary and proper to enable it to carry out fully and effectually the purposes of this chapter. Responsibilities of the Board include, but are not limited to, adopting rules and regulations for the protection of the public and the control of horse racing. Business and Professions Code section 19520 states every person who participates in, or has anything to do with the racing of horses shall be licensed by the Board pursuant to rules and regulations that the Board may adopt. Business and Professions Code section 19521 provides that an original license issued pursuant to this article shall be issued for a period of the calendar year in which it is issued, and shall be renewable for a period, not to exceed three years, which the Board may, by regulation establish. The license shall be valid at all horse racing meetings in this state during the period for which it is issued, unless it is suspended or revoked prior to the expiration of the period.

Board Rule 1498, Physical Examination currently requires that jockeys and apprentice jockeys pass a physical examination at least once a year before the commencement of the first race meeting in which such jockey or apprentice jockey intends to participate, or at such other time as the Board may direct. The Board or the stewards may refuse to allow any jockey or apprentice jockey to ride until he or she has successfully passed such examination.

The proposed addition of Rule 1498.1 was discussed at the July 2013 Jockey and Driver Welfare Committee Meeting. Among the issues discussed was the quality of the physicals that might be available to exercise riders, where exercise riders might obtain a physical and the associated costs.

ANALYSIS

At the May 2013 Medication and Track Safety Committee Meeting the committee discussed jockey and exercise rider injuries by horse activity and incident location within the inclosure. The committee learned that while jockeys are required to have at least one physical examination at the beginning of the racing year, exercise riders are not. This means the industry has no

information regarding the physical capabilities of licensees who perform a dangerous job. An exercise rider who has pre-existing injuries, or who is injured on the job, can return to riding without undergoing any type of examination. Injuries to exercise riders result in continued high costs for the industry, and impaired riders can be a danger to themselves, and other exercise riders and horses.

The proposed addition of Rule 1498.1, Exercise Rider Physical Examination, will require that every licensed exercise rider undergo a physical examination at least once a year before the commencement of the first race meeting of the year in which the exercise rider intends to participate, or at such other times as the Board may direct. In addition, the proposed rule states the Board or the stewards may require that any exercise rider be re-examined at any time, and the Board or the stewards may refuse to allow any exercise rider to exercise a horse until he or she has successfully passed such examination.

RECOMMENDATION

This item is presented for committee discussion and action.

CALIFORNIA HORSE RACING BOARD
TITLE 4. CALIFORNIA CODE OF REGULATIONS
ARTICLE 4. OCCUPATIONAL LICENSES
PROPOSED ADDITION OF
RULE 1498.1 EXERCISE RIDER PHYSICAL EXAMINATION

Jockey and Driver Welfare Committee Meeting
September 18, 2013

1498.1 Exercise Rider Physical Examination.

(a) All exercise riders must pass a physical examination at least once a year before the commencement of the first race meeting of the year in which such exercise rider intends to participate, or at such other time as the Board may direct. Such examination will be given by a doctor designated or approved by the Board, and the examination shall include a visual acuity examination and a hearing examination.

(c) The Board or the stewards may require that any exercise rider be re-examined at any time, and the Board or the stewards may refuse to allow any exercise rider to exercise a horse until he or she has successfully passed such examination.

Authority: Sections 19420, 19440 and 19520,
Business and Professions Code.

Reference: Sections 19440, 19520 and 19521,
Business and Professions Code.