

## **CALIFORNIA HORSE RACING BOARD - RULES NOTICED TO THE PUBLIC:**

### **NOTIFICATION OF CHANGE OF DATE AND LOCATION OF THE REGULATORY HEARING FOR THE PROPOSED AMENDMENT OF RULE 1766. DESIGNATED RACES**

Pursuant to the requirements of Government Code Section 11346.8 of the California Code of Regulations, the California Horse Racing Board is providing notice that the proposed adoption of Rule 1766 will be the subject of a regulatory hearing on **Tuesday, June 22, 2010, at the Hollywood Park Casino, 3883 West Century Boulevard, Inglewood, California, at 9:30 a.m.**, or as soon thereafter as the business before the Board will permit. The regulatory hearing was originally scheduled for Thursday, July 22, 2010, at the Del Mar Satellite Wagering Facility, Surfside Race Place, 2260 Jimmy Durante Boulevard, Del Mar, California, at 9:30 a.m., but the date and location has been changed.

### **NOTICE OF PROPOSAL TO AMEND RULE 1766. DESIGNATED RACES**

The California Horse Racing Board (Board) proposes to amend the regulation described below after considering all comments, objections or recommendations regarding the proposed action.

### **PROPOSED REGULATORY ACTION**

The Board proposes to amend Rule 1766, Designated Races. The proposed amendment provides that suspended jockeys or drivers, who participate in more than one designated race in California, or in one or more designated race in another jurisdiction while under suspension in California, shall complete their term of suspension on the equivalent day of the week following the day on which they participated in the designated race(s).

### **PUBLIC HEARING**

The Board will hold a public hearing starting at **9:30 a.m., Thursday, July 22, 2010**, or as soon after that as business before the Board will permit, at the **Del Mar Simulcast Facility, Surfside Race Place, 2260 Jimmy Durante Boulevard, Del Mar, California**. At the hearing, any person may present statements or arguments orally or in writing about the proposed action described in the informative digest. It is requested, but not required, that persons making oral comments at the hearing submit a written copy of their testimony at the hearing.

### **WRITTEN COMMENT PERIOD**

Any interested persons, or their authorized representative, may submit written comments about the proposed regulatory action to the Board. The written comment period closes at **5:00 p.m. on June 21, 2010**. All comments must be received by that time at the Board; however, written comments may still be submitted at the public hearing. Submit comments to:

Harold Coburn, Regulations Analyst

California Horse Racing Board  
1010 Hurley Way, Suite 300  
Sacramento, CA 95825  
Telephone: (916) 263-6397  
Fax: (916) 263-6022  
E-mail: [HaroldC@chr.ca.gov](mailto:HaroldC@chr.ca.gov)

## AUTHORITY AND REFERENCE

Authority cited: sections 19440 and 19460, Business and Professions Code.

Reference cited: sections 19460, 19461 and 19520, Business and Professions Code.

Business and Professions Code sections 19440 and 19460 authorize the Board to adopt the proposed regulation, which would implement, interpret, or make specific sections 19460, 19461 and 19520 of the Business and Professions Code.

## INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Business and Professions Code section 19440 provides that 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 shall include adopting rules and regulations for the protection of the public and the control of horse racing and pari-mutuel wagering. Business and Professions Code section 19460 states all licenses granted under this chapter shall be in writing and are subject to all rules, regulations, and conditions from time to time prescribed by the Board. Business and Professions Code section 19461 provides that every license granted under this chapter is subject to suspension or revocation by the Board in any case where the Board has reason to believe that any condition regarding it has not been complied with, or that any law, or any rule or regulation of the Board affecting it has been broken or violated. 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. No person required to be licensed by this article may participate in any capacity in any horse race meeting without a valid and unrevoked license authorizing that participation.

Rule 1766 requires the board of stewards appointed for a race meeting to designate certain races in which a jockey or driver who is under suspension for ten days or less may participate despite the fact that the jockey or driver is technically under suspension at the time the race is run. Designated races are typically those with a higher level of horse and larger purses.

Rule 1766 allows a jockey or driver who is under suspension for ten days or less to participate in one designated race on a particular day, and still have that day count as a day of suspension. This exception is granted because jockey/driver suspensions of ten or fewer days are usually the result of minor riding/driving infractions. Jockeys and drivers are often engaged for higher quality races well in advance of the race date, and preventing suspended jockeys or drivers from participating in such races may have the unintended effect of punishing one horse owner for a jockey's or driver's infraction committed while riding/driving another owner's horse. The exception also allows the jockey or driver the possibility of earning some income during his or her suspension. If jockeys or drivers do not participate in a race, they do not have the possibility of earning a fee. However, if a jockey or driver participates in more than one (California) designated race in one day, or one or more

designated race in another jurisdiction, that day shall not count as a day of suspension. These caveats are meant to discourage suspended jockeys and drivers from taking advantage of the exception by participating in multiple designated races in a single day, or from simply leaving California to ride in out-of-state races.

In cases where the suspended jockey or driver participates in more than one designated race in a day, or one or more designated race in another jurisdiction, the board of stewards will issue a ruling suspending the jockey or driver for one additional day; in effect, the ruling states the day on which the jockey or driver will complete his or her original suspension.

Some have suggested that Rule 1766 allows jockeys and drivers to “pick and choose” the suspension days they serve. The typical race week runs Wednesday through Sunday. The long weekend – Friday through Sunday - attracts a larger fan base, so it may feature better races with higher purses. Conversely, Wednesdays and Thursdays often have fewer high quality races and lower purses. A jockey or driver who is on suspension Friday, Saturday and Sunday may decide to ride/drive in more than one designated race on Saturday with the expectation of serving an additional suspension day the following Wednesday or Thursday; the “bread and butter” days with less rewarding purses. The jockey/driver chose to take the chance of a bigger pay check on Saturday, with the penalty of not riding/driving on a day that might not offer such a high return. To prevent the actual or perceived manipulation of suspension days, the Board proposes to amend Rule 1766 by adding subsection 1766(h). The new subsection provides that jockeys and drivers who participate in more than one designated race in California, or who participate in one or more designated race in another jurisdiction, shall complete their term of suspension on the equivalent day of the week following the day on which they participated in the designated race(s). This means the jockey/driver who rode/drove in more than one designated race on a Saturday, would complete his or her term of suspension the following Friday, Saturday or Sunday; days that tend to feature the same quality of races. The new subsection 1766(h) will also provide consistency throughout California. All boards of stewards issue rulings to add additional days of suspension for jockeys or drivers who participated in more than one designated race in California, or one or more designated race in another jurisdiction. However, not all boards of stewards would add an equivalent day; the practice varies from track to track. Subsection 1766(h) provides direction for boards of stewards and ensures all suspended jockeys/drivers will understand the consequences of when and where they choose to ride/drive in designated races.

## DISCLOSURES REGARDING THE PROPOSED ACTION

Mandate on local agencies and school districts: none.

Cost or savings to any state agency: none.

Cost to any local agency or school district that must be reimbursed in accordance with Government Code sections 17500 through 17630: none.

Other non-discretionary cost or savings imposed upon local agencies: none.

Cost or savings in federal funding to the state: none.

The Board has made an initial determination that the proposed amendment to Rule 1766 will not have a significant statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states.

Cost impacts on representative private persons or businesses: The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Significant effect on housing costs: none.

The adoption of the proposed amendment to Rule 1766 will not (1) create or eliminate jobs within California; (2) create new businesses or eliminate existing businesses within California; or (3) affect the expansion of businesses currently doing business within California.

Affect on small businesses: none. The proposal to amend Rule 1766 does not have an effect on small businesses because it does not apply to small businesses. Rule 1766 requires that a suspended jockey or driver who participates in more than one designated race a day in California, or who participates in one or more designated race in another jurisdiction, shall serve a subsequent day of suspension on an equivalent day of the week following the day in which the jockey/driver participated in the designated race(s).

#### CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5, subdivision (a)(13), the Board must determine that no reasonable alternative it considered, or that has otherwise been identified and brought to the attention of the Board, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

The Board invites interested persons to present statements or arguments with respect to alternatives to the proposed regulation at the scheduled hearing or during the written comment period.

#### CONTACT PERSONS

Inquiries concerning the substance of the proposed action and requests for copies of the proposed text of the regulation, the initial statement of reasons, the modified text of the regulation, if any, and other information upon which the rulemaking is based should be directed to

Harold Coburn, Regulation Analyst  
California Horse Racing Board  
Policy and Regulation Unit  
1010 Hurley Way, Suite 300  
Sacramento, CA 95825  
Telephone (916) 263-6397  
E-mail: [HaroldC@chr.ca.gov](mailto:HaroldC@chr.ca.gov)

If the person named above is not available, interested parties may contact:

Colleen Germek, Regulation Analyst  
Telephone: (916) 274-6049

#### AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATION

The Board will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office, at the above address, as of the date this notice is published in the Notice Register. The rulemaking file consists of this notice, the proposed text of the regulation, and the initial statement of reasons. Copies may be obtained by contacting Harold Coburn, or the alternate contact person, at the address, phone numbers, or e-mail address listed above.

#### AVAILABILITY OF MODIFIED TEXT

After holding the hearing and considering all timely and relevant comments received, the Board may adopt the proposed regulation substantially as described in this notice. If modifications are made which are sufficiently related to the originally proposed text, the modified text – with changes clearly marked – shall be made available to the public for at least 15 days prior to the date on which the Board adopts the regulation. Requests for copies of any modified regulations should be sent to the attention of Harold Coburn at the address stated above. The Board will accept written comments on the modified regulation for 15 days after the date on which it is made available.

#### AVAILABILITY OF FINAL STATEMENT OF REASONS

Requests for copies of the final statement of reasons, which will be available after the Board has adopted the proposed regulation in its current or in a modified form, should be sent to the attention of Harold Coburn at the address stated above.

#### BOARD WEB SITE ACCESS

The Board will have the entire rulemaking file available for inspection throughout the rulemaking process at its web site. The rulemaking file consists of the notice, the proposed text of the regulation, and the initial statement of reasons. The Board's web site address is [www.chrb.ca.gov](http://www.chrb.ca.gov).

#### INITIAL STATEMENT OF REASONS

##### RULE 1766, DESIGNATED RACES

#### SPECIFIC PURPOSE OF THE REGULATION

The Board proposes to amend Rule 1766, Designated Races. The proposed amendment provides that suspended jockeys or drivers, who participate in more than one designated race in California, or in one or more designated race in another jurisdiction while under suspension in California, shall complete their term of suspension on the equivalent day of the week following the day on which they participated in the designated race(s). This will address the actual/perceived manipulation of suspension days by suspended jockeys and drivers who may elect to ride in more than one California designated race, or in one or more designated race in

another jurisdiction, on a day that could provide greater returns than the day on which they may serve an additional day of suspension.

## NECESSITY

Rule 1766 requires the board of stewards appointed for a race meeting to designate certain races in which a jockey or driver who is under suspension for ten days or less may participate despite the fact that the jockey or driver is technically under suspension at the time the race is run. Designated races are typically those with a higher level of horse and larger purses.

Rule 1766 allows a jockey or driver who is under suspension for ten days or less to participate in one designated race on a particular day, and still have that day count as a day of suspension. This exception is granted because jockey/driver suspensions of ten or fewer days are usually the result of minor riding/driving infractions. Jockeys and drivers are often engaged for higher quality races well in advance of the race date, and preventing suspended jockeys or drivers from participating in such races may have the unintended effect of punishing one horse owner for a jockey's or driver's infraction committed while riding/driving another owner's horse. The exception also allows the jockey or driver the possibility of earning some income during his or her suspension. If jockeys or drivers do not participate in a race, they do not have the possibility of earning a fee. However, if a jockey or driver participates in more than one (California) designated race in one day, or one or more designated race in another jurisdiction, that day shall not count as a day of suspension. These caveats are meant to discourage suspended jockeys and drivers from taking advantage of the exception by participating in multiple designated races in a single day, or from simply leaving California to ride in out-of-state races.

In cases where the suspended jockey or driver participates in more than one designated race in a day, or one or more designated race in another jurisdiction, the board of stewards will issue a ruling suspending the jockey or driver for one additional day; in effect, the ruling states the day on which the jockey or driver will complete his or her original suspension.

Some have suggested that Rule 1766 allows jockeys and drivers to “pick and choose” the suspension days they serve. The typical race week runs Wednesday through Sunday. The long weekend – Friday through Sunday - attracts a larger fan base, so it may feature better races with higher purses. Conversely, Wednesdays and Thursdays often have fewer high quality races and lower purses. A jockey or driver who is on suspension Friday, Saturday and Sunday may decide to ride/drive in more than one designated race on Saturday with the expectation of serving an additional suspension day the following Wednesday or Thursday; the “bread and butter” days with less rewarding purses. The jockey/driver chose to take the chance of a bigger pay check on Saturday, with the penalty of not riding/driving on a day that might not offer such a high return. To prevent the actual or perceived manipulation of suspension days, the Board proposes to amend Rule 1766 by adding subsection 1766(h). The new subsection provides that jockeys and drivers who participate in more than one designated race in California, or who participate in one or more designated race in another jurisdiction, shall complete their term of suspension on the equivalent day of the week following the day on which they participated in the designated race(s). This means the jockey/driver who rode/drove in more than one designated race on a Saturday, would complete his or her term of suspension the following Friday, Saturday or Sunday; days that tend to feature the same quality of races. The new subsection 1766(h) will also provide consistency throughout California. All boards of stewards issue rulings to add additional days of suspension for jockeys or drivers who participated in more than one designated race in California, or one or more designated race in another jurisdiction. However, not all boards of stewards would add an equivalent day; the practice

varies from track to track. Subsection 1766(h) provides direction for boards of stewards and ensures all suspended jockeys/drivers will understand the consequences of when and where they choose to ride/drive in designated races.

#### **TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS OR DOCUMENTS.**

The Board did not rely on any technical, theoretical, and/or empirical study, reports or documents in proposing the amendment of the regulation.

The amendment of Rule 1766 has no significant adverse economic impact on small business.

The amendment of Rule 1766 has no significant adverse economic impact on business.

#### **ALTERNATIVE TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE IMPACT ON AFFECTED PRIVATE PERSONS OR BUSINESSES.**

The Board has determined that there were no alternatives considered which would be more effective in carrying out the purposes of the proposed regulation or would be more effective and less burdensome to affected private persons or businesses than the proposed regulation.

#### **PROPOSED TEXT AMENDMENT**

##### **1766. Designated Races.**

(a) The Board of Stewards appointed for a race meeting shall, immediately prior to the commencement of that meeting, designate the stakes, futurities or futurity trials or other races in which a jockey or a driver who is under suspension for ten ~~(40)~~ days or less for a riding or driving infraction will be permitted to compete, notwithstanding the fact that such jockey or driver is technically under suspension at the time the designated race is to be run.

(b) Official rulings for riding or driving infractions of ten ~~(40)~~ days or less shall state: "The term of this suspension shall not prohibit participation in designated races in California." However, the Board of Stewards may prohibit a jockey or a driver from participating in designated races if such jockey or driver has previously been suspended at least twice during the race meeting specified in subsection (a) of this rule.

(c) Prior to the commencement of a meeting, a listing of the races designated in accordance with subsection (a) of this rule shall be submitted in writing to the Board. A copy of the list of designated races shall be posted in the Jockey or Driver's Room, and any other such place deemed appropriate by the stewards.

(d) A suspended jockey or driver must be named at the time of entry to participate in any designated race.

(e) A day in which a suspended jockey or driver participates in one designated race in California shall count as a suspension day.

(f) A day in which a suspended jockey or driver participates in more than one designated race in California shall not count as a suspension day.

(g) Notwithstanding the above, a day in which a jockey or a driver participates in one or more designated races in another jurisdiction while under suspension in California shall not count as a suspension day.

(h) A jockey or driver who participates in more than one designated race under subsection (f) of this regulation, or in one or more designated race under subsection (g) of this regulation, shall complete his or her term of suspension on the equivalent day of the week following the day on which the jockey or driver participated in the designated race(s).

Authority: Section 19460, Business and Professions Code.  
Reference: Sections 19460, 19461 and 19520, Business and Professions Code.

## **NOTICE OF PROPOSAL TO AMEND RULE 1844. AUTHORIZED MEDICATION**

The California Horse Racing Board (Board) proposes to amend the regulation described below after considering all comments, objections or recommendations regarding the proposed action.

### **PROPOSED REGULATORY ACTION**

The Board proposes to amend Rule 1844. Authorized Medication. The proposed amendment would increase the amount of procaine that may be present in an official urine test sample from 10 nanograms per milliliter to 50 nanograms per milliliter. The proposed amendment also adds a new subsection 1844(h), which states procaine, following administration of procaine penicillin, is an authorized medication. There may be no more than 25 nanograms per milliliter in the official blood test sample, provided the procaine penicillin administrations was reported pursuant to Rule 1842, Veterinarian Report. In addition, the procaine penicillin can not have been administered after entry to race, and the horse has to have been under surveillance for a minimum of six hours prior to racing. The horse owner shall be responsible for all costs associated with testing for procaine and for surveillance.

### **PUBLIC HEARING**

The Board will hold a public hearing starting at **9:30 a.m., Thursday, September 16, 2010**, or as soon after that as business before the Board will permit, at the **Los Angeles County Fair, Fairplex Park, 1101 West McKinley Avenue, Pomona, California**. At the hearing, any person may present statements or arguments orally or in writing about the proposed action described in the informative digest. It is requested, but not required, that persons making oral comments at the hearing submit a written copy of their testimony.

### **WRITTEN COMMENT PERIOD**

Any interested persons, or their authorized representative, may submit written comments about the proposed regulatory action to the Board. The written comment period closes at **5:00 p.m., on September 13, 2010**. The Board must receive all comments at that time; however, written comments may still be submitted at the public hearing. Submit comments to:

Harold Coburn, Regulation Analyst  
California Horse Racing Board  
1010 Hurley Way, Suite 300  
Sacramento, CA 95825  
Telephone (916) 263-6397

Fax: (916) 263-6022

E-Mail: [haroldc@chr.ca.gov](mailto:haroldc@chr.ca.gov)

## AUTHORITY AND REFERENCE

Authority cited: Sections 19440 and 19562, Business and Professions Code. Reference: Sections 19580 and 19581, Business and Professions Code.

Business and Professions Code sections 19440 and 19562 authorize the Board to adopt the proposed regulation, which would implement, interpret or make specific sections 19580 and 19581, Business and Professions Code.

## INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Business and Professions Code section 19440 provides that 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 shall include, but not be limited to, adopting rules and regulations for the protection of the public and the control of horse racing and pari-mutuel wagering. Business and Professions Code section 19562 states the Board may prescribe rules, regulations, and conditions, consistent with the provisions of this chapter, under which all horse races with wagering on their results shall be conducted in this State. Business and Professions Code section 19580 requires the Board to adopt regulations to establish policies, guidelines, and penalties relating to equine medication to preserve and enhance the integrity of horse racing in the State. Business and Professions Code section 19581 provides that no substance of any kind shall be administered by any means to a horse after it has been entered to race in a horse race, unless the Board has, by regulation, specifically authorized the use of the substance and the quantity and composition thereof.

The Board proposes to amend Rule 1844 to modify the permitted levels for procaine from procaine penicillin. Procaine penicillin is one of the most effective antibiotics for the treatment of equine infections, but its use creates an ongoing problem for those treating the horse because the procaine in the penicillin sometimes shows up as a positive in post-racing drug testing – and there is no way for the tests to distinguish between procaine residue from penicillin and procaine illegally administered as a pain blocker. In other words, if procaine penicillin is administered to a horse, the procaine and the penicillin will show in the official urine test sample, and there is no way to determine if the procaine was administered as “procaine” or as “procaine penicillin.” Procaine as a local anesthetic is better known as Novocain. To comply with the Board’s medication regulations, the administration of procaine penicillin must be stopped far enough in advance of a race to allow time for the procaine to clear the horse’s system to a permitted level.

Under the proposed amendment to Rule 1844, subsection 1844(e)(7) has been modified to increase the allowed administrative level of procaine permitted in the post-race official urine test sample from 10 nanograms per milliliter to 50 nanograms per milliliter. A new subsection 1844(h)(1) also allows procaine in the official blood test sample at a level not to exceed 25 nanograms per milliliter. A new subsection 1844(h) provides that procaine, following the administration of procaine penicillin, is authorized under specified conditions. The conditions are listed in subsections 1844(h)(1) through 1844(h)(4). Subsection 1844(h)(1) sets the level for procaine or its analogs in the official blood test sample. Although subsection 1844(e)(7) has been changed to allow 50 nanograms per milliliter of procaine in the official urine test sample, it is difficult to determine when the procaine was administered, as the drug may be expelled from horses’ systems at different rates. Levels of procaine can be regulated more effectively through blood samples, and its administration can be identified

within a certain time frame. This means levels identified in serum or plasma are more rigorous and defensible. If excessive levels of procaine are found in the official urine test sample, the official blood test sample can establish if the drug was administered within the guidelines of the Board's rules. A new subsection 1844(h)(2) requires that the procaine administration is reported pursuant to Rule 1842, Veterinarian Report. This means the veterinarian who treats the horse within the inclosure must report in writing to the official veterinarian the name of the horse treated; the name of the trainer of the horse and the time of treatment. Subsection 1844(h)(3) states procaine penicillin may not be administered to a horse after entry to race, which is consistent with the Board's medication regulations. Subsection 1844(h)(4) requires the horse to be under surveillance for a minimum of six hours prior to racing. The local anesthetic effect of procaine is no longer present beyond three hours after administration. Six-hour surveillance would eliminate any chance of improper use of procaine. A new subsection 1844(i) requires that the owner pay all expenses related to surveillance and testing for procaine under subsection 1844(h). This ensures the racing association and the Board are not burdened with the expense of surveillance for horses that have been administered procaine. Currently, the Board routinely tests for procaine, but if additional testing becomes necessary, subsection 1844(h) will allow the Board to require the owner to pay for such testing.

#### DISCLOSURE REGARDING THE PROPOSED ACTION

Mandate on local agencies and school districts: none.

Cost or savings to any state agency: none.

Cost to any local agency or school district that must be reimbursed in accordance with Government Code Section 17500 through 17630: none.

Other non-discretionary costs or savings imposed upon local agencies: none.

Cost or savings in federal funding to the state: none.

The Board has made an initial determination that the proposed amendment of Rule 1844 will not have a significant statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states.

Cost impact on representative private persons or businesses: The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Significant effect on housing costs: none.

The adoption of the proposed amendment of Rule 1844 will not (1) create or eliminate jobs within California; (2) create new businesses or eliminate existing businesses within California; or (3) affect the expansion of businesses currently doing business within California.

Effect on small businesses: none. The proposal to amend Rule 1844 does not affect small businesses because horse racing is not a small business under Government Code Section 11342.610.

## CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5, subdivision (a)(13), the Board must determine that no reasonable alternative considered, or that has otherwise been identified and brought to the attention of the Board, would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome on affected private persons than the proposed action.

The Board invites interested persons to present statements or arguments with respect to alternatives to the proposed regulation at the scheduled hearing or during the written comment period.

## CONTACT PERSON

Inquiries concerning the substance of the proposed action and requests for copies of the proposed text of the regulation, the initial statement of reasons, the modified text of the regulation, if any, and other information upon which the rulemaking is based should be directed to:

Harold Coburn, Regulation Analyst  
California Horse Racing Board  
1010 Hurley Way, Suite 300  
Sacramento, CA 95825  
Telephone: (916) 263-6397  
E-mail: [haroldc@chr.ca.gov](mailto:haroldc@chr.ca.gov)

If the person named above is not available, interested parties may contact:

Andrea Ogden, Regulation Analyst  
Telephone: (916) 263-6033  
E-mail: [andreao@chr.ca.gov](mailto:andreao@chr.ca.gov)

## AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATION

The Board will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its offices at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulation, and the initial statement of reasons. Copies may be obtained by contacting Harold Coburn, or the alternative contact person at the address, phone number or e-mail address listed above.

## AVAILABILITY OF MODIFIED TEXT

After holding a hearing and considering all timely and relevant comments received, the Board may adopt the proposed regulation substantially as described in this notice. If modifications are made which are sufficiently related to the originally proposed text, the modified text, with changes clearly marked, shall be made available to the public for at least 15 days prior to the date on which the Board adopts the regulation. Requests for copies of any modified regulations should be sent to the attention of Harold Coburn at the address stated above. The Board will accept written comments on the modified regulation for 15 days after the date on which it is made available.

## AVAILABILITY OF STATEMENT OF REASONS:

Requests for copies of the final statement of reasons, which will be made available after the Board has adopted the proposed regulation in its current or modified form, should be sent to the attention of Harold Coburn at the address stated above.

## BOARD WEB ACCESS

The Board will have the entire rulemaking file available for inspection throughout the rulemaking process at its web site. The rulemaking file consists of the notice, the proposed text of the regulation and the initial statement of reasons. The Board's web site address is: [www.chrb.ca.gov](http://www.chrb.ca.gov).

## INITIAL STATEMENT OF REASONS

### RULE 1844. AUTHORIZED MEDICATION.

#### SPECIFIC PURPOSE OF THE REGULATION

The proposed amendment to Rule 1844, Authorized Medication, would allow for the horse to receive the best medical treatment without compromising the integrity of racing, and return procaine penicillin to a first-choice option as an antibiotic for racetrack veterinarians. The proposed amendment increases the amount of procaine that may be present in an official urine test sample from 10 nanograms per milliliter to 50 nanograms per milliliter. It also adds a new subsection 1844(h), which states procaine, following administration of procaine penicillin, is an authorized medication. There may be no more than 25 nanograms per milliliter in the official blood test sample, and the procaine penicillin administrations have to have been reported pursuant to Rule 1842, Veterinarian Report. In addition, the procaine penicillin can not have been administered after entry to race, and the horse has to have been under surveillance for a minimum of six hours prior to racing. The horse owner shall pay all expenses related to surveillance and testing for procaine.

#### NECESSITY

The proposed amendment to Rule 1844 will modify the permitted levels for procaine from procaine penicillin. Procaine penicillin is one of the most effective antibiotics for the treatment of equine infections, but its use creates an ongoing problem for those treating the horse because the procaine in the penicillin sometimes shows up as a positive in post-racing drug testing – and there is no way for the tests to distinguish between procaine residue from penicillin and procaine illegally administered as a pain blocker. In other words, if procaine penicillin is administered to a horse, the procaine and the penicillin will show in the official urine test sample, and there is no way to determine if the procaine was administered as “procaine” or as “procaine penicillin.” Procaine as a local anesthetic is better known as Novocain. To comply with the Board's medication regulations, the administration of procaine penicillin must be stopped far enough in advance of a race to allow time for the procaine to clear the horse's system to a permitted level.

Under the proposed amendment to Rule 1844, subsection 1844(e)(7) has been modified to increase the allowed administrative level of procaine permitted in the post-race official urine test sample from 10 nanograms per milliliter to 50 nanograms per milliliter. A new subsection 1844(h)(1) also allows procaine in the official blood

test sample at a level not to exceed 25 nanograms per milliliter. A new subsection 1844(h) provides that procaine, following administration of procaine penicillin, is allowed under specified conditions. The conditions are listed in subsections 1844(h)(1) through 1844(h)(4). Subsection 1844(h)(1) sets the level for procaine or its analogs in the official blood test sample. Although subsection 1844(e)(7) has been changed to allow 50 nanograms per milliliter of procaine in the official urine test sample, it is difficult to determine when the procaine was administered, as the drug may be expelled from horses' systems at different rates. Levels of procaine can be regulated more effectively through blood samples, and its administration can be identified within a certain time frame. This means levels identified in serum or plasma are more rigorous and defensible. If excessive levels of procaine are found in the official urine test sample, the official blood test sample can establish if the drug was administered within the guidelines of the Board's rules. A new subsection 1844(h)(2) requires that the procaine administration is reported pursuant to Rule 1842, Veterinarian Report. This means the veterinarian who treats the horse within the inclosure must report in writing to the official veterinarian the name of the horse treated; the name of the trainer of the horse and the time of treatment. This informs the official veterinarian that the drug has been administered, and that surveillance will have to be arranged. Subsection 1844(h)(3) states procaine penicillin may not be administered to a horse after entry to race, which is consistent with the Board's medication regulations. Subsection 1844(h)(4) requires the horse to be under surveillance for a minimum of six hours prior to racing. The local anesthetic effect of procaine is no longer present beyond three hours after administration. Six-hour surveillance would eliminate any chance of improper use of procaine. A new subsection 1844(i) requires that the owner pay all expenses related to surveillance and testing for procaine under subsection 1844(h). This ensures the racing association and the Board are not burdened with the expense of surveillance for horses that have been administered procaine. Currently, the Board routinely tests for procaine, but if additional testing becomes necessary, subsection 1844(h) will allow the Board to require the owner to pay for such testing.

#### **TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS OR DOCUMENTS.**

The Board did not rely on any technical, theoretical, and/or empirical study, reports or documents in proposing the amendment of the regulation.

The amendment of Rule 1844 has no significant adverse economic impact on small business.

The amendment of Rule 1844 has no significant economic impact on business.

#### **ALTERNATIVE TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE IMPACT ON AFFECTED PRIVATE PERSONS OR BUSINESSES.**

The Board has determined that there were no alternatives considered which would be more effective in carrying out the purposes of the proposed regulation or would be more effective and less burdensome to affected private persons or businesses than the proposed regulation.

#### **PROPOSED TEXT AMENDMENT**

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 5 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 50 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 or analogs, in an amount that does not exceed the specified levels:

(1) Acepromazine; 25 nanograms per milliliter

(2) Mepivacaine; 10 nanograms per milliliter

(3) Promazine; 25 nanograms per milliliter

(4) Albuterol; 1 nanograms per milliliter

(5) Atropine; 10 nanograms per milliliter

(6) Benzocaine; 50 nanograms per milliliter

(7) Procaine; ~~40~~ 50 nanograms per milliliter

(8) Salicylates; 750 micrograms per milliliter

(9) Clenbuterol; 5 nanograms per milliliter

(10) Stanazolol; 1 nanograms per milliliter

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

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

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

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

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

(f) Official blood test samples may contain clenbuterol in an amount not to exceed 25 picograms per milliliter of serum or plasma.

(g) Official blood test samples shall not contain any of the drug substances, or their metabolites or analogs listed in subsection (e)(1)-(8), and (e)(10)-(14).

(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.