

NOTE: Government Code section 11340.85 requires the Board to post all notices, initial statement of reasons and texts of rules noticed to the public until 15 days after the proposed regulations are filed with the Secretary of State by the Office of Administrative Law.

CALIFORNIA HORSE RACING BOARD
TITLE 4, DIVISION 4, CALIFORNIA CODE OF REGULATIONS

NOTICE OF PROPOSAL TO AMEND
RULE 1536, STEWARDS' MINUTES

The California Horse Racing Board (Board, or CHRB) 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 1536, Stewards' Minutes. The proposed amendment would require the stewards to report on-track accidents involving exercise riders, or for harness racing, an employee riding in a jog cart or sulky not engaged in a race. The amendment would also modify form CHRB-201, Jockey/Driver Accident Report (Rev. 2/14) (CHRB-201), and add a new form CHRB-201A, Training Accident Report (New 2/14) (CHRB-201A). The proposed amendment to form CHRB-201 would capture the number of the race in which an on-track accident occurred and add a distribution list. The proposed addition of form CHRB-201A would require the name of the track; date and time of the incident; the name of the trainer and the exercise rider/employee; and the condition of the exercise rider/employee and the horse. In addition, a description of the actions of the horse and the accident would also be required.

PUBLIC HEARING

The Board will hold a public hearing starting at **9:30 a.m., Thursday, June 19, 2014**, or as soon after that as business before the Board will permit, at the **Santa Anita Park Race Track, Baldwin Terrace Room, 285 West Huntington Drive, Arcadia, 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 June 9, 2014**. The Board must receive all comments at that time; however, written comments may still be submitted at the public hearing. Submit comments to:

Leeland Turner, Regulation Analyst
California Horse Racing Board
1010 Hurley Way, Suite 300
Sacramento, CA 95825
Telephone: (916) 263-6026

Fax: (916) 263-6042

E-mail: ltturner@chr.ca.gov

AUTHORITY AND REFERENCE

Authority cited: Sections 19420, 19440 and 19481.3(e), Business and Professions Code.
Reference: Sections 19432, 19440 and 19481.3(e), Business and Professions Code.

Business and Professions Code sections 19420 and 19440 give the Board jurisdiction and supervision over meetings in California where horse races with wagering on their results are held, and authorize the Board to adopt, amend or repeal regulations.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Business and Professions Code section 19420 provides that jurisdiction and supervision over meetings 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, is vested in the CHRB. Business and Professions Code section 19440 states that the Board shall have all powers necessary and proper to enable it to adopt rules and regulations for the protection of the public and the control of horse racing. Business and Professions Code section 19432 provides that the Executive Director shall preserve all books, documents, and papers of the Board. Business and Professions Code section 19481.3(e) provides that the stewards shall investigate and prepare a report with respect to all on-track accidents involving jockeys that occur during the performance of their duties. The report shall, at a minimum, identify the circumstances of the accident, the likely causes, and the extent of any injuries.

Rule 1536, Stewards' Minutes, provides that the stewards shall maintain minutes and records of all proceedings before the stewards, and report all on-track accidents involving jockeys or drivers. The proposed amendment would change form CHRB-201 to collect the number of the race in which the accident occurred. Including the race number is necessary to provide a complete record of the accident. The proposed amendment to form CHRB-201 would add a distribution list, providing a quick reference identifier for the user as to where copies of the completed document should be forwarded. The proposed amendment would remove the reference to the distribution "described above" noted in the "Description of Accident" section of form CHRB-201. Removing the reference is necessary to eliminate confusion since a distribution list has been added to the bottom of the document. All other changes to form CHRB-201 are for purposes of clarity, grammar and consistency.

Although jockey and driver accidents are reported with the stewards' minutes, there are currently no reports of exercise rider accidents. The Board has no way of tracking the number of exercise rider accidents or their severity. The proposed amendment to Rule 1536 will add subsection 1536(c) which will require that a report of all on-track accidents involving exercise riders, or for harness racing, an employee riding in a jog cart or sulky not engaged in a race, be forwarded to the Board as an attachment to the stewards' minutes. Form CHRB-201A will require the name of the exercise rider/employee, the name of the horse owner, the name of the trainer, the name of the horse, and the date and time of the accident. It also will require the circumstances of the accident, the accident's likely causes, and the extent of injury to the exercise rider/employee. Requiring answers to the questions on form CHRB-201A is necessary to ensure data collected on training accidents will be useful for future analysis. The information required on the form CHRB-201A will mirror that required on the form CHRB-201, providing consistency in the type

of information gathered for jockey/driver and exercise rider/employee accidents. The proposed amendment to Rule 1536 states that form CHRB-201A is incorporated by reference as it would be cumbersome, unduly expensive, or otherwise impractical to publish the document in the California Code of Regulations.

The amendment to Rule 1536 to capture data on exercise rider accidents will allow the Board to broaden its current database of on-track related accidents. The Board has determined that the amendment to Rule 1536 is necessary to ensure that accident data involving jockeys and exercise riders is recorded. Horse racing is an inherently dangerous sport. Horses outweigh riders by a thousand pounds or more and have a propensity to respond to situations based on fright and flight which increases the possibility for an accident. Jockeys, drivers, exercise riders and horses are very valuable and their health and safety is of great importance to the industry. The data currently collected on jockey and driver accidents provides that on average, a licensed jockey in California can expect to have a fall every 502 rides in Thoroughbred races and every 318 rides in quarter horse races. While jockey fall rates were lower, injury rates were similar to those in other racing jurisdictions. Any information that can be gleaned from past horse racing or exercise riding accidents is invaluable industry data. The collected data allows for research into finding out how to mitigate injuries and identify risk factors. Data collection is important as it helps the industry to make decisions about issues affecting the health and welfare of rider and horse. Workers' compensation rates vary depending on recent claims history and changes in the frequency and cost of claims to the industry. Therefore, reducing the possibility of injury to riders and horses while training and during race meeting could assist with stabilizing or lowering workers' compensation rates.

POLICY STATEMENT OVERVIEW OF ANTICIPATED BENEFITS OF PROPOSAL

The proposed amendment to Rule 1536 promotes the protection of worker, public, and equine safety. The proposed amendment would require the stewards to report on-track accidents involving exercise riders, or for harness racing, an employee riding in a jog cart or sulky not engaged in a race. Although jockey and driver accidents are currently reported with the stewards' minutes, there are currently no reports of training accidents. The Board has no way of tracking the numbers of exercise rider/employee accidents or their severity. The proposed amendment to Rule 1536 will assist the Board in broadening its current database of on-track related accidents. The collected data allows for research into finding out how to mitigate injuries and identify risk factors. Data collection is important as it helps the industry to collect, study and record information, make decisions about industry issues as well as to pass information on to the industry for future use. Workers' compensation rates vary depending on recent claims history and changes in the frequency and cost of claims to the industry. Therefore, reducing the possibility of injury to riders and horses while training and during race meetings could assist with the workers' compensation rates. The regulation will benefit California by promoting the protection of worker, public and equine safety. Jockeys and horses are essential elements of the horseracing industry, and their health and safety is of the utmost importance. Although it is already rare for the public to be involved in a horseracing accident, a reduction in injury rates makes horseracing that much safer for horseracing customers.

CONSISTENCY EVALUATION

During the process of developing these regulations and amendments, the CHRB has conducted a search of any similar regulations on this topic and has concluded that these regulations are neither inconsistent nor incompatible with existing state regulations.

FORMS INCORPORATED BY REFERENCE

CHRB-201, Jockey/Driver Accident Report (Rev. 2/14)

CHRB-201A, Training Accident Report (New 2/14)

DISCLOSURE REGARDING THE PROPOSED ACTION/RESULTS OF THE ECONOMIC IMPACT ANALYSIS

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 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 1536 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.

The following studies/relevant data were relied upon in making the above determination: The Board relied on statements made by Brad McKenzie, representing Finish Line Self Insurance Group, during the April 10, 2013 Jockey and Driver Safety Committee Meeting.

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 addition of Rule 1536 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. The proposed amendment to Rule 1536 promotes the protection of worker, public, and equine safety.

Effect on small businesses: none. The proposal to amend Rule 1536 does not affect small businesses because horse racing associations in California are not classified as small businesses 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 by the Board, 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, or would be more cost-effective to affected

private persons and equally effective in implementing the statutory policy or other provision of law.

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:

Leeland Turner, Regulation Analyst
California Horse Racing Board
1010 Hurley Way, Suite 300
Sacramento, CA 95825
Telephone: (916) 263-6026
Fax: (916) 263-6042
E-mail: lturner@chrb.ca.gov

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

Harold Coburn, Manager
Policy and Regulations
Telephone: (916) 263-6397

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 of these documents, or any of the information upon which the proposed rulemaking is based on, may be obtained by contacting Leeland Turner, 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 regulations. Requests for copies of any modified regulations should be sent to the attention of Leeland Turner 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 modified form, should be sent to the attention of Leeland Turner 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 regulations and the initial statement of reasons. The Board's web site address is: www.chrb.ca.gov.

INITIAL STATEMENT OF REASONS

RULE 1536. STEWARDS' MINUTES.

SPECIFIC PURPOSE OF THE REGULATION

The proposed amendment to Rule 1536, Stewards' Minutes, will add the requirement that a completed form CHRB-201A, Training Accident Report (New 2/14) (CHRB-201A), be attached to the minutes for every on-track accident involving an exercise rider, or for harness racing, an employee riding in a jog cart or sulky not engaged in a race. The amendment also modifies form CHRB-201, Jockey/Driver Accident Report (Rev. 2/14) (CHRB-201).

PROBLEM

Through the use of the stewards' minutes and their attached reports, the California Horse Racing Board (Board or CHRB) collects data on accidents to determine the need to change policies for the improvement of the health and safety of racehorses, and the employees that work with them. Rule 1536 currently requires data collection on jockey and driver accidents; however, data collection on accidents involving exercise riders, or employees riding in a jog cart or sulky not engaged in a race, is not required. At the April 10, 2013 Jockey and Driver Safety Committee Meeting, Brad McKenzie, representing the Finish Line Self Insurance Group, stated his organization had collected data which showed that exercise riders were involved in 60 percent of on-track thoroughbred accidents, and 40 percent of the on-track accidents across all breeds. The Board decided non-race-related accidents should be treated in a similar fashion to race-related accidents. The Board determined that more data needed to be collected on non-race-related accidents to determine future preventive measures for both types of accidents.

NECESSITY

Business and Professions Code section 19481 states that in performing its duties the Board shall establish safety standards governing track facilities in order to improve the safety of horses, riders and workers at the racetrack. To establish these safety standards for the safety of exercise riders and employees riding in a jog cart or sulky not engaged in a race, the Board needs to

establish data collection comparable to what is collected on accidents involving jockeys or drivers during a race. The Board proposes to amend Rule 1536 by adding section 1536(c) which would require a stewards' report, comparable to the report required for jockey/driver accidents, for every accident involving an exercise rider or employee riding in a jog cart or sulky not engaged in a race. Horseracing/training accident data collection is necessary to determine preventive measures on the accidents involving horse and jockey/driver/employee. Harness racing does not have an equivalent position to exercise rider; the drivers, trainers, and grooms are all involved with standardbred horse training. To include harness training accidents, the Board proposes to add section 1536(c)(1) which defines an "employee" for the purposes of the regulation as a person engaged to drive a jog cart or sulky at a standardbred facility.

The accident report shall be made on form CHRB-201A, which is incorporated into the regulation by reference in the proposed amendment. Form CHRB-201A requires the name of the track; date and time of the incident; the name of the trainer and the exercise rider/employee; and the condition of the exercise rider/employee and the horse. In addition, a description of the actions of the horse and the accident is required. The stewards must provide the circumstances of the accident, and whether it occurred in the barn area or the track. Form CHRB-201A is necessary to identify to the user what information is required and provide consistency for data collection. Requiring the name, trainer, date, time, exercise rider/employee and condition of the exercise rider/employee is necessary so that each accident can be documented and tracked. The training accident data is collected so that it may be studied by the associations, the self-insurance contractor, and the California Thoroughbred Trainers to assist in the reduction of future accidents. Form CHRB-201A is incorporated by reference as it would be cumbersome, unduly expensive, or otherwise impractical to publish the document in the California Code of Regulations.

Form CHRB-201, referenced in subsection 1536(b), has been amended to collect the number of the race in which the accident occurred. This is necessary to identify what race the accident occurred in to help provide a complete record of the accident. A distribution list was also added to form CHRB-201 which provides a quick reference identifier for the user as to whom a copy of the completed document should be forwarded. The reference to the distribution list noted in the "Description of Accident" section of form CHRB-201 has been removed. This was necessary to eliminate confusion since a distribution list has been added to the bottom of the document. All other changes to form CHRB-201 are for purposes of clarity, grammar and consistency.

BENEFITS ANTICIPATED FROM THE REGULATORY ACTION

In 2004, Finish Line Self Insurance Group began providing workers' compensation insurance for the horsemen and trainers of the Pacific Coast Quarter Horse Association. In 2011, the California Thoroughbred Business League contracted Finish Line Self Insurance Group to provide workers' compensation for thoroughbred horsemen and trainers, effectively making Finish Line Self Insurance Group the main provider of workers compensation for the California horseracing industry. According to Finish Line Self Insurance Group, between 2008 and 2012 there were 252 injury claims made by exercise riders, costing the industry \$5.7 million. Unlike the accidents involving jockeys/drivers, little is statistically known about the causes of training accidents. Improvements have been made in jockey/driver safety partially due to the data collected, as currently required by Rule 1536. The proposed amendment to Rule 1536 will require the equivalent collection of data on training accidents and increase the chances that preventive measures can be taken to increase the health and safety for all jockeys/drivers/employees.

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

The Board relied on statements made during the April 10, 2013 Jockey and Driver Safety Committee Meeting; the April 11, 2013 Regular Board Meeting; the May 22, 2013 Medication and Track Safety Committee Meeting; and the July 19, 2013 Jockey and Driver Safety Committee Meeting.

ECONOMIC IMPACT ASSESSMENT/ANALYSIS.

Impact on Jobs/New Businesses: The Board has determined that this regulatory proposal will not have a significant impact on the creation of new jobs or businesses, the elimination of jobs or existing businesses, or the expansion of businesses in California. The proposed amendment to Rule 1536 will require data collection procedures that may lead to changes in policies or procedures for the prevention of on-track accidents; however, the amendment does not provide for any direct changes in preventative safety policies or procedures.

Benefits of Proposed Regulation: 40 to 60 percent of the workers' compensation claims in the horseracing industry are made by exercise riders. Other than the limited data collected by Finish Line Self Insurance Group there are no statistics on the accidents locations or summary of causes. Requiring that data be collected by the stewards for every on track training accident will help the Board to determine effectual changes in preventative policies and procedures, potentially saving the industry money spent on accident claims, while improving its overall health and safety.

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

The Board has determined that no reasonable alternative it considered or that has otherwise been identified and brought to its attention 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, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

REASONABLE ALTERNATIVES TO THE PROPOSED REGULATORY ACTION.

The proposed amendment to Rule 1536 was discussed at the July 19, 2013 Jockey and Driver Committee Meeting and the August 22, 2013 Regular Board Meeting. No alternatives to the recommendation were proposed by the Board or by any other individual or entity at either meeting. No subsequent alternative recommendations were made prior to the notice. The Board invites any interested party to submit comments which offer any alternative proposal.

California Horse Racing Board
April 18, 2014

CALIFORNIA HORSE RACING BOARD
TITLE 4. CALIFORNIA CODE OF REGULATIONS
ARTICLE 5. RACING OFFICIALS
RULE 1536. STEWARDS' MINUTES

(a) The stewards shall maintain minutes and records of all proceedings before the stewards that shall contain:

- (1) the record of votes,
- (2) a record of all actions taken, and
- (3) the penalties imposed along with the reasons for the actions.

A majority vote of the stewards shall govern and, in the event of a split vote, each steward shall file a separate report on the matter. The stewards shall submit their original minutes to the Executive Director weekly, and shall deliver a copy of their minutes to each member of the Board.

(b) A report of all on-track accidents involving jockeys or drivers on form Jockey/Driver Accident Report CHRB-201 (~~New 07/06~~ Rev. 2/14), which is hereby incorporated by reference, shall be attached to the stewards' minutes.

(c) A report of all on-track accidents involving exercise riders, or employees in a jog cart or sulky not engaged in a race, on form Training Accident Report CHRB-201A (New 2/14), which is hereby incorporated by reference, shall be attached to the stewards' minutes.

(1) For the purposes of this regulation "employee" means a person engaged to drive a jog cart or sulky at a standardbred facility.

Authority: Sections 19420, 19440 and 19481.3(e),
Business and Professions Code.

Reference: Sections 19432, 19440 and 19481.3(e),
Business and Professions Code.

JOCKEY/DRIVER ACCIDENT REPORT

Business and Professions Code Section 19481.3(e) provides that the stewards shall investigate and prepare a report regarding all on-track accidents involving jockeys that occur during the performance of their jockeys' duties. The investigation shall commence no later than the next live racing day and shall be completed expeditiously. Board Rule 1536, Stewards' Minutes, includes drivers in this requirement. **Upon completion of the report, it shall immediately be sent by facsimile or electronic mail to the Jockey's' Guild or California Harness Horsemen's Association (CHHA); the jockey/driver or his representative; the racing association; the horse owner; and the trainer of the horse the jockey/driver was riding/driving at the time of the accident.**

Name of jockey/driver & CHRB License No.: _____

Name of horse owner & CHRB License No.: _____

Name of trainer & CHRB License No.: _____

Name of horse & Tattoo No.: _____

Race No.: _____

Date/time/location of accident: _____

DESCRIPTION OF ACCIDENT

Include circumstances of accident, likely causes and the extent of injury to jockey/driver, if any. Complete one Jockey/Driver Accident Report for each jockey/driver involved in an accident. ~~In addition to the distribution described above,~~ a A copy of each report shall be attached to the stewards' minutes in accordance with Rule 1536, Stewards' Minutes.

Jockey/Driver condition: _____

Horse condition: _____

Prepared by:

Signature:

Date report completed:

Distribution

- Jockeys' Guild/ CHHA
- Jockey/Driver
- Racing Association
- Owner
- Trainer

Note: Attach original CHRB-201 form to stewards' minutes.

TRAINING ACCIDENT REPORT

The stewards shall investigate and prepare a report regarding all on-track accidents involving exercise riders, or employees in a jog cart or sulky not engaged in a race, that occur during the performance of their duties. The investigation shall commence no later than the next live racing day and shall be completed expeditiously. **Upon completion of the report, it shall immediately be sent by facsimile or electronic mail to the exercise rider/employee; the racing association; the horse owner; and the trainer responsible for the exercise rider/employee involved in the accident.**

Name of exercise rider/employee & CHRB License No.: _____

Name of horse owner & CHRB License No.: _____

Name of trainer & CHRB License No.: _____

Name of horse & Tattoo No.: _____

Date/time/location of accident: _____

DESCRIPTION OF ACCIDENT

Include circumstances of accident, likely causes and the extent of injury to exercise rider/employee, if any. Complete one Training Accident Report for each exercise rider/employee involved in an accident. A copy of each report shall be attached to the stewards' minutes in accordance with Rule 1536, Stewards' Minutes.

Exercise Rider condition: _____

Horse condition: _____

Prepared by: _____

Signature: _____

Date report completed: _____

<p><u>Distribution</u></p> <ul style="list-style-type: none"> • <u>Exercise Rider/Employee</u> • <u>Racing Association</u> • <u>Owner</u> • <u>Trainer</u> <p><u>Note: Attach original CHRB-201A form to stewards' minutes.</u></p>
