

CALIFORNIA HORSE RACING BOARD
TITLE 4, DIVISION 4, CALIFORNIA CODE OF REGULATIONS
NOTICE OF PROPOSAL TO AMEND
RULE 1501, WORKER'S COMPENSATION INSURANCE REQUIRED AND
RULE 1502, PROGRAM TRAINING PROHIBITED

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

PROPOSED REGULATORY ACTION

The Board proposes to amend Board Rule 1501, Worker's Compensation Insurance Required, to require that no licensee, for the purpose of avoiding the requirements for workmen's compensation insurance, shall place any horse in the care of or attendance of any other person. This subsection was originally found in Board Rule 1502 but is being moved for clarity purposes as it relates to worker compensation insurance requirements. The proposed amendment to Board Rule 1502, Program Training Prohibited, will clarify that program training is prohibited, and any licensee who engages in program training may be suspended or fined.

PUBLIC HEARING

The Board will hold a public hearing starting at **9:30 a.m., Thursday, October 22, 2020**, or as soon after that as business before the Board will permit, **via teleconference**. In accordance with the guidance from Executive Order N-29-20, a physical location will not be provided. Members of the public are strongly encouraged to participate using the teleconference phone number provided below so as to minimize the spread of COVID-19 and reduce the risk of infection during this current state of emergency. 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.

To participate in the teleconference, dial 888-392-4564 and enter 6896291# when prompted.

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 **on September 28, 2020**. The Board must receive all comments at that time. However, written comments may still be submitted at the public hearing. Submit comments to:

Zachary Voss, Regulation Analyst
California Horse Racing Board
1010 Hurley Way, Suite 300

Sacramento, CA 95825
(916) 263-6036
Fax: (916) 263-6022
zavoss@chrb.ca.gov

AUTHORITY AND REFERENCE

Authority cited: Sections 19420, 19440, 19460, and 19464, Business and Professions Code (BPC). Reference: Sections 19420, 19440, 19460, and 19464, BPC.

BPC section 19440 authorizes the Board to adopt the proposed regulation, which would implement, interpret, or make specific sections 19420, 19440, 19460, and 19464, BPC.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

BPC 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 Board. BPC 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 are not limited to, adopting rules and regulations for the protection of the public and the control of horse racing and pari-mutuel wagering. BPC section 19460 states all licenses granted under this chapter are subject to all rules, regulations, and conditions prescribed by the Board. BPC section 19464 provides that no application for a horse owner's license or for a license to conduct a race meeting shall be granted unless the applicant's liability for workers' compensation is secured in accordance with Division 4 (commencing with Section 3700) of the Labor Code.

The proposed amendment to Board Rule 1501, Worker's Compensation Insurance Required, will add a subsection (b) to require that no licensee, for the purpose of avoiding the requirements for workmen's compensation insurance, shall place any horse in the care of or attendance of any other person. This subsection was originally found in Rule 1502 but is being moved for clarity, as it relates to worker compensation insurance requirements.

The proposed amendment to Board Rule 1502, Program Training Prohibited, will clarify that program training is prohibited, and any licensee who engages in program training may be suspended or fined. This is necessary to clarify that any licensee who engages in program training will be held liable for their actions. Subsection (b) provides that program training occurs when a licensed trainer is identified as the trainer of record in the official program but has not engaged in the actual training of the horse either personally or through the assistant trainer. Subsection (c) provides that actual training, as it is used in this regulation, shall mean any responsibility required of a licensed trainer under this division or any act traditionally performed by a licensed trainer including, but not limited to: (1) determining when a horse will walk, gallop, or workout; (2) determining the feed or

supplements given to the horse; (3) consulting with a licensed veterinarian when needed. This subsection is necessary to clarify what actions constitute training.

POLICY STATEMENT OVERVIEW OF ANTICIPATED BENEFITS OF PROPOSAL

The trainer plays a vital role in the conditioning and training of a horse prior to a race. The decisions the trainer makes about training, workouts, and rest can affect the performance of the horse. The trainer is also ultimately responsible for the condition of the horse prior to entry to race and for ensuring the horse is free of medications and illicit substances, healthy to run, and fit to compete.

Given the great responsibility placed on a trainer, there exists a risk to the industry and the wagering public through “program” or “paper” trainers. A program trainer is generally a licensed trainer who is listed on the official race program as the trainer of record for the entered horse. In reality this is in name only, as the actual training and conditioning of the horse has been completed by someone other than the listed trainer, and sometimes by an individual whose license has been suspended or revoked. The Board has faced issues in the past where a horse owner will use a program trainer until their horse comes up with a positive drug test and the trainer is suspended. The owner will then find someone else who either has or can get a trainer’s license and is willing to have their name put on the program for a stipend – until one of the horses they saddle gets a positive test, resulting in frequent turnover of program trainers. Program training is unfair to both the wagering public and other licensees because the person responsible for the training of the horse is unknown and puts the horse and rider at risk. Although instances of program training are pursued against licensees who engage in such behavior, the proposed amendments to Board Rules 1501 and 1502 seek to clarify and expressly prohibit this activity.

The proposed amendments to Board Rules 1501 and Rule 1502 will promote fairness and help to protect the health and safety of horse and rider by holding any licensee that engages in program training accountable for the condition of the horse entered in a race. This will increase the public’s confidence in California horse racing, which may result in increased wagering. An increase in wagering will have a positive economic impact on the industry by increasing handle, which in turn may increase purses and commissions.

CONSISTENCY EVALUATION

During the process of developing the regulation, the Board has conducted a search of any similar regulations on this topic and has concluded that the regulation is neither inconsistent nor incompatible with existing state regulations.

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 (GC) sections 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 to Board Rules 1501 and Rule 1502 will not have a significant statewide adverse economic impact directly affecting businesses 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: none.

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.

RESULT OF ECONOMIC IMPACT ANALYSIS

The adoption of the proposed amendments to Board Rules 1501 and 1502 will not (1) create or eliminate jobs within California; (2) create new businesses or eliminate existing businesses within California; (3) affect the expansion of businesses currently doing business within California; or (4) benefit the state's environment. The proposed amendments to Board Rules 1501 and Rule 1502 benefit the health and welfare of California residents by promoting fairness and helping to protect the health and safety of horse and rider by holding the trainer accountable for the condition of a horse entered in a race.

Effect on small businesses: none. The proposal to amend Board Rules 1501 and Rule 1502 does not have an effect on small businesses because horse racing is not a small business under GC section 11342.610.

CONSIDERATION OF ALTERNATIVES

In accordance with GC 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, 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 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:

Zachary Voss
California Horse Racing Board
1010 Hurley Way, Suite 300
Sacramento, CA 95825
(916) 263-6036
zavoss@chr.ca.gov

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

Amanda Drummond, Manager
Policy and Regulations
(916) 263-6033
amdummond@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 Zachary Voss, 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 regulation should be sent to the attention of Zachary Voss 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 made available after the Board has adopted the proposed regulation in its current or modified form, should be sent to the attention of Zachary Voss 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.