

CALIFORNIA HORSE RACING BOARD
TITLE 4, DIVISION 4, CALIFORNIA CODE OF REGULATIONS
NOTICE OF PROPOSAL TO ADD
RULE 1503.5, CONTINUING EDUCATION FOR TRAINERS
AND ASSISTANT TRAINERS

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

PROPOSED REGULATORY ACTION

The Board proposes to add Board Rule 1503.5, Continuing Education for Trainers and Assistant Trainers. The proposed regulation provides that commencing June 1, 2021, applicants for renewal of license as trainer or assistant trainer shall certify that during the previous 36-month period they completed a total of 12 hours of approved continuing education (ACE) coursework. Licensees are required to maintain records of completed course work for a period of four years from the date the courses were completed and shall provide such records to the Board upon request. The stewards shall waive the ACE requirements for applicants who are not domiciled in California, and who certify that they have had twelve or fewer starts in California, other than stakes races, during the previous 36-months. Waivers may also be granted for good cause provided the applicant completes the ACE requirements within 12 months of renewal of license. Unless a waiver is granted, failure to complete ACE coursework shall result in the applicant's inability to renew his or her license. The proposed regulation defines trainers' continuing education as instruction intended to foster competence and knowledge in horsemanship, and which specifically promotes compliance with California's horse racing law and regulations; equine health, safety and welfare in racing, and the promotion of human safety and welfare.

PUBLIC HEARING

The Board will hold a public hearing starting at **9:30 a.m., Thursday, July 16, 2020**, or as soon after that as business before the Board will permit, in the **Steeplechase Room at the Del Mar Hilton, 15575 Jimmy Durante Blvd., 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.

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 June 29, 2020**. The Board must receive all comments at that time; however, written comments may still be submitted at the public hearing. Submit comments to:

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Sacramento, CA 95825
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AUTHORITY AND REFERENCE

Authority cited: Sections 19420, 19440, 19460 and 19520, Business and Professions Code (BPC). Reference: Sections 19420 and 19440, BPC.

BPC sections 19420, 19440, 19460 and 19520 authorize the Board to adopt the proposed regulation, which would implement, interpret or make specific sections 19420 19440, BPC.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

BPC section 19420 provides that jurisdiction and supervision over meetings in California 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 not be 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 provides that all licenses granted under this chapter are subject to all rules, regulations, and conditions prescribed by the Board. BPC section 19520 provides that 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.

Trainers' and assistant trainers' professional duties involve considerable responsibility, complexity and variety. They decide the day-to-day preparations needed to train a horse to run in a race. They manage the care, feeding and grooming regimen of the horse, as well as the horse's exercise and rest. In addition, trainers in large part make decisions regarding the medications and physical therapy treatments their horses receive. Ideally, trainers and assistant trainers work to run stables that are efficient, cost effective and successful, and they hire and train employees in the best practices. All of this requires that trainers and assistant trainers must be informed about such issues as changing theories in training methods, discoveries regarding the physiological effects of exercise, or research regarding medications and its effects on the horses in their care. They must also be aware of issues involving stable management and their employees. The Board requires first time applicants for license as trainer or assistant trainer to pass written, oral and practical examinations prior to issuance of a license. However, to renew a license as trainer or assistant trainer, an applicant is only required to submit a completed application and pay the prescribed fee. The Board currently does not ask trainers or

assistant trainers who apply to renew a license to demonstrate that they have taken any actions to improve their level of horsemanship, or if they have kept abreast of equine medication, health and safety issues, or management and human resource topics. To ensure California's trainers and assistant trainers are familiar and current with issues affecting their profession, the Board proposes to add Board Rule 1503.5, Continuing Education for Trainers and Assistant Trainers.

Subsection 1503.5(a) provides that commencing June 1, 2021, an applicant for renewal of licenses as trainer or assistant trainer shall certify that during the preceding 36-month period, he or she has completed a total of 12 hours of Board approved ACE course work. The term of license for a trainer or assistant trainer is three years, which means that during the term of license, a licensee would have to complete no more than four hours of ACE course work per year to meet the educational requirements of the proposed regulation. The Board believes it is necessary to ensure that trainers and assistant trainers are informed regarding issues relevant to their profession, while not being burdened by unreasonable demands on their time. As many of the ACE courses will be available online and can be taken at the convenience of the student, a trainer should be able to fulfill the ACE requirement without otherwise impacting his or her training routine.

The date at which applicants for renewal of license as trainer or assistant trainer must begin providing evidence of ACE course work has been set at June 1, 2021. The Board has determined it is necessary to provide a reasonable amount of time between the anticipated effective date of the proposed regulation (mid 2020) and the date renewal of license as trainer or assistant trainer will require ACE course work.

The proposed addition of Board Rule 1503.5 requires applicants for renewal of license as trainer or assistant trainer to demonstrate completion of at least 12 hours of Board approved ACE course work during the previous 36 months. Subsection 1503.5(a)(1) provides that the applicant shall provide such certification by submitting a completed form CHRB-59a Certification of Approved Continuing Education (ACE) Coursework (New 01/20) (CHRB-59a). The form shall be submitted with the licensee's application for renewal of license. The CHRB-59a records how many hours of ACE coursework the applicant completed, as well as the period during which the coursework occurred. This information is necessary for the licensing technician to process the renewal of license; the applicant is affirming that he or she completed the required ACE course work within the timeframe provided under Board Rule 1503.5. In submitting the signed form, the applicant certifies under penalty of perjury that he or she has completed the hours of continuing education necessary for renewal of license, and that the coursework occurred during the previous 36 months. The penalty of perjury is consistent with other Board forms associated with application for license, which are also completed under penalty of perjury. The applicant is affirming that the information he or she provides is true and correct. The CHRB-59a does not require the applicant to list every ACE course taken, as the Board does not believe it is possible or necessary for its licensing technicians to verify each applicant's certification. If there are questions regarding an applicant's ACE coursework, the Board may audit the applicant's records. Subsection 1503.5(b) requires the licensee to maintain records of completed ACE coursework for a period of four years

from the date the course was completed. The four-year period is necessary to ensure the records are available for audit, if required, for at least one year beyond the renewal of license.

Subsection 1503.5(b) provides that the records of ACE coursework may be in a form provided by an ACE course or may be recorded on the form CHRB-242 Continuing Education Certificate of Attendance (New 01/20) (CHRB-242). The CHRB-242 is necessary, as not all ACE courses may provide evidence of completion. For example, courses may be online, such as the free online modules offered by The Jockey Club, or the University of California Davis education modules available on the CHRB website. If a certificate of completion is not issued, it will be the responsibility of the licensee to record his or her use of such online courses. As provided by subsections (b)(1) through (b)(3), any records of ACE coursework shall include at least the title of the course, meeting or conference, the date, location and provider of the ACE course, and the number of ACE hours earned. The recording of information regarding ACE course work is necessary if, for any reason, the Board wishes to conduct an audit. In submitting the signed form, the applicant certifies under penalty of perjury that he or she has completed an ACE course necessary for renewal of license. The penalty of perjury is consistent with other CHRB forms associated with application for license, which are also completed under penalty of perjury. The applicant is affirming that the information he or she provides is true and correct. Subsection 1503.5(b) states the CHRB-242 will be available at all Board offices and on the Board's website. The online and paper distribution of the form is necessary to ensure trainers and assistant trainers have easy access to the document.

Subsection 1503.5(c) states that unless a waiver is granted under subsection (e), failure to maintain or produce records of completed ACE coursework shall result in the applicant's inability to renew a license as trainer or assistant trainer. Applicants for renewal of license as trainer or assistant trainer are required to certify that they have completed 12 hours of ACE coursework by completing the form CHRB-59a. The CHRB-59a does not require the applicant to list each course; one merely certifies that one has completed twelve hours of ACE coursework. However, under subsection 1503.5(b), the Board may require the applicant to present a record of completion of ACE coursework. Applicants who certify they have completed the ACE course work, but who do not have complete records, may be referred to the stewards for a determination. The stewards, under Board Rule 1527, General Authority of Stewards, have general authority and supervision over all licensees and other persons attendant on horses.

Subsection 1503.5(d) provides that the stewards shall fine and/or suspend or revoke the license of any applicant for license as assistant trainer or trainer who has provided false certification of completed ACE coursework. Board Rule 1405, Punishment by the Board, states that a violation of any provision of Division 4, whether or not a penalty is fixed therein, is punishable by revocation or suspension of any license, or by fine, or by any combination of these penalties. Board Rule 1900, Grounds for Suspension or Revocation, states that any provision which is grounds for denial of license is grounds for suspension or revocation. Board Rule 1489, Grounds for Denial or Refusal of License, provides that the Board may refuse to issue a license or deny a license to any person

who has made any material misrepresentation or false statement in his or her application for license.

Subsection 1503.5(e) through (e)(1) provides a mechanism wherein the stewards shall waive the ACE requirements of any applicant for renewal of license who is not domiciled in California, and who has had twelve or fewer starts in races in California, other than stakes races¹, during the previous 36-month period. One reason to grant a waiver is to avoid duplication, as the applicant may be domiciled in a state that currently has trainer continuing education requirements, such as New York or Colorado. In addition, the Board does not wish to discourage trainers who may occasionally run horses in California. An applicant for renewal of license as trainer or assistant trainer, who runs horses no more than four times a year in California, may decide against returning. Stakes races are not included in the count. The Board has determined it is necessary to exclude stakes races to encourage out-of-state participation in California's highest quality races. Many of the top East Coast stables only participate in California to run in the Breeders Cup, and other major stakes races. If the applicant wishes to receive a waiver, subsection 1503.5(e)(1) states he or she must complete the form CHRB-59b, Request for Waiver of Approved Continuing Education (ACE) Requirements (New 01/20) (CHRB-59b). By Completing the CHRB-59b, the applicant names his or her city and state of residence and certifies that they have had fewer than twelve starts in California, other than stakes races, during the previous 36-month period. The applicant must also list all California starts, less stakes races, over the previous 36-months. After reviewing the form and talking to the applicant, the stewards shall approve request that meet the criteria of subsection 1503.5(e), and sign and date the form. If approved, the completed CHRB-59b would then be submitted to the Board's occupational licensing technician with the application for renewal.

Subsections (e)(2) through (e)(3) provide that the ACE requirements may be waived for good cause provided the ACE requirements are met within a timeframe not to exceed 12 months from the date of renewal of license. The Board has determined that there may be circumstances under which it is reasonable to allow a trainer or assistant trainer to renew a license despite not having completed the required ACE coursework. "Good cause" may include a change in the licensee's state of residence. An out-of-state trainer who holds a Board-issued license may move to California just prior to renewal of license, or for financial or medical reasons a trainer may not have participated in the industry for an extended period². If the stewards grant a waiver for good cause, the licensee must complete the ACE requirements within 12 months of the date of renewal of license. Subsections (e)(2) through (e)(3) are necessary to allow for flexibility in the renewal of trainer and assistant trainer licenses without relinquishing the requirement for completed ACE coursework. If the stewards grant a waiver for good cause, they shall provide the applicant with a signed recommendation card CHRB-59 (Rev. 12/15).

¹ Stakes races are horse races in which the purse offered is made up at least in part of money (such as entry fees) put up by the owners of the horses entered to race. Stakes races are where the top horses compete. They carry the most prestige and have the biggest purses.

² Rule 1509, Use of License Required, provides that to maintain the qualifications for any license, one must have been regularly engaged in the occupation for which the license was issued for no less than 21 working or racing days during the term of license. Under Rule 1486, Term of License, a trainer or assistant trainer license granted by the Board shall expire in its third year on the last day of the birth month of the licensee.

Subsection 1503.5(e)(4) provides that if a waiver is denied, the applicant will be ineligible for renewal of license until he or she has completed the ACE requirements. If a waiver is denied it is necessary to disallow renewal of license to ensure only qualified candidates hold a trainer or assistant trainer license. The purpose of the ACE requirements is to guarantee that California's trainers and assistant trainers demonstrate that they have taken actions to improve their level of horsemanship, and have kept abreast of equine medication, health and safety issues, and management and human resource topics.

Subsection 1503.5(f) provides that the Board shall approve ACE curriculum no later than November 1 of the year prior to the ACE curriculum being added to the list of Board approved ACE courses. The Equine Medical Director (EMD), in consultation with the California Thoroughbred Trainers (CTT), shall make a presentation of the proposed ACE curriculum to the Board. Advanced approval of the ACE curriculum is necessary to ensure an adequate number of courses will be available, and that the curriculum is relevant and will contribute to licensees' learning and development as trainers and assistant trainers. The CTT is the horsemen's organization representing California thoroughbred trainers. Its involvement with the presentation of ACE curriculum is necessary to ensure trainers' active support and participation in the concept of continuing education.

Subsections 1503.5(f)(1) through (f)(2) provides that subsequent to the yearly ACE curriculum presentation to the Board, the EMD may modify the course list to add or remove a course. A current list of Board approved ACE courses shall be available at all Board offices and on the Board's website. It is necessary to allow the EMD to modify the ACE course listing to provide new course materials as they become available, and to remove content that is discontinued. The Board maintains an office at each live race meeting. The proximity to trainers and assistant trainers at the racetrack, coupled with electronic access, will provide for wide distribution of the current listing of Board approved ACE courses. The maintenance of a current listing of ACE courses is necessary in order to inform trainers and assistant trainers of available educational opportunities. The listing will also serve to prevent licensees from attempting to take credit for courses or seminars that are not Board approved.

Subsection 1503.5(f)(2)(A) states the EMD shall assign the hours credited to an ACE course. In addition to the actual time necessary to complete the ACE course, the EMD shall consider the difficulty of the course and expected learning outcomes. The flexibility in assigning "hours" to an ACE course is necessary to encourage licensees to take courses that may be more difficult and/or beneficial. Two ACE courses may involve the same amount of time, but one may have a greater learning impact.

Subsection 1503(f)(3) states that if a licensee completes ACE coursework, and the course is subsequently removed from the listing of Board approved ACE courses, the completed coursework will still satisfy the requirements of the regulation. The provision is necessary to ensure that "delisting" of ACE courses is not retroactive, and licensees are not forced to take additional ACE courses after a completed course is removed from the Board's curriculum.

Subsection 1503(g) provides a definition of ACE coursework. The definition is necessary to provide a common understanding of the concept of trainer continuing education and the subject areas the Board believes will educate trainers and assistant trainers in best business practices and human resources, and will advance the health, safety and welfare of horse and rider.

POLICY STATEMENT OVERVIEW OF ANTICIPATED BENEFITS OF PROPOSAL

The proposed addition of Board Rule 1503.5 provides that commencing June 1, 2020, applicants for renewal of license as trainer or assistant trainer shall certify that during the previous 36-month period they have completed a total of 12 hours of approved continuing education (ACE) coursework. Licensees are required to maintain records of completed course work for a period of four years from the date the course was completed and shall provide such records to the Board upon request. The stewards may waive the ACE requirements for applicants who are not domiciled in California, and who have had twelve or fewer starts in California, other than stakes races, during the previous 36-months, or for good cause. The proposed regulation defines trainers' continuing education as instruction intended to foster competence and knowledge in horsemanship, and which specifically promotes compliance with California's horse racing law and regulations; equine health, safety and welfare in racing, and the promotion of human safety and welfare.

The proposed addition of Board Rule 1503.5 benefits California's horse racing industry, horsemen and the public by ensuring that trainers and assistant trainers engage in a program of continuing education. Trainers and assistant trainers who are aware of advances in training techniques and medication issues; changes in horse racing law and regulations; and issues related to the health, safety and welfare of backstretch personnel and jockeys, are assets who help maintain the integrity of California's horse racing industry. The proposed addition of Board Rule 1503.5 is consistent with current Board regulations in that the trainer is responsible for the condition of the horse entered to race. The proposed regulation will help to protect worker safety. The proposed regulation will not protect public health and safety, the environment, the prevention of discrimination, the promotion of fairness or social equity, or increase openness and transparency in government.

CONSISTENCY EVALUATION

During the process of developing the addition to Board Rule 1503.5, 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.

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 (GC) 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 addition of Board Rule 1503.5 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: none.

ECONOMIC IMPACT ASSESSMENT

The results of the Board's Economic Impact Assessment as required by GC section 11346.3(b) are as follows:

The adoption of the proposed addition of Board Rule 1503.5 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 addition of Board Rule 1503.5 will provide consistency and clarity with regards to the necessity for trainers and assistant trainers to engage in an ongoing program of continuing education. The proposed amendment will protect the interests of California horsemen and the public by ensuring trainers and assistant trainers are informed regarding advancements in horsemanship, equine medication and health and safety issues, and issues relating to the health, safety, and welfare of backstretch personnel and jockeys.

The proposed addition of Board Rule 1503.5 will impact trainers and assistant trainers who apply for renewal of license. However, the net economic effect of the proposed regulation will be negligible. The majority of continuing education courses will require little or no participation fees.

The proposed regulation will not impact the state's environment.

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.

Effect on small businesses: none. The proposal to add Board Rule 1503.5 does not affect 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 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.

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, Regulation Analyst
California Horse Racing Board
1010 Hurley way, Suite 300
Sacramento, CA 95825
Telephone: (916) 263-6036
Fax: (916) 263-6022
Email: zavoss@chr.ca.gov

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

Amanda Drummond, Manager
Policy and Regulations
Telephone (916) 263-6033
Email: 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 of these documents, or any of the information upon which the proposed rulemaking is based on, 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 regulation. Requests for copies of any modified regulations 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 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 this notice, the proposed text of the regulation, and the initial statement of reasons. The Board's website address is: www.chrb.ca.gov.