

## FINAL STATEMENT OF REASONS

### UPDATED INFORMATIVE DIGEST

There have been no changes in applicable laws or to the effect of the proposed regulation from the laws and effects described in the Notice of Proposed Action.

The California Horse Racing Board (Board) initially adopted language for Board Rule 1503, Qualifications for License as Trainer or Assistant Trainer, at the March 26, 2020, regular Board meeting. The rulemaking file was finalized and submitted to the Office of Administrative Law (OAL) on April 6, 2020. Changes to the rulemaking file were recommended by OAL and the Board issued the 15-day notice of proposed action and addendum to the initial statement of reasons to address OAL's recommendations on May 19, 2020 with an attendant public comment period that was open from May 19, 2020 through June 3, 2020. The Board adopted Board Rule 1503 at the June 11, 2020 regular Board meeting.

The proposed amendment to Board Rule 1503, outlined in the 15-day notice, includes modifications for consistency and clarity. The proposed amendment to Board Rule 1503 provides that applicants for license as assistant trainer must take the trainer examination and pass with a minimum score of 80 percent. The proposed amendment sets limits on how soon an applicant who has failed the trainer examination can retake the examination, and also provides that applicants for re-examination must re-take the trainer examination in its entirety, and not just the failed portion.

The proposed amendment also provides that applicants for an original license as trainer shall hold a Board assistant trainer license in good standing for a minimum of one year, have worked in the state as a licensed assistant trainer in the employment of a Board-licensed trainer for at least one year, and submit a Board Trainer Recommendation Card, Form CHRB-59C (Rev 05/20)(CHRB-59C). The Form CHRB-59C is incorporated by reference and is available at all Board inclosures, Board headquarters, and on the Board's website.

New subsection 1503(a)(3) states "An applicant who fails the trainer examination three times in a calendar year may not apply for reexamination for at least one year from the date of the third failed examination". The Board determined to use the calendar year as the applicable time period within which an applicant is allowed three failed attempts for two reasons: first, the calendar year is a simple, clear, and commonly understood time period. The calendar year timeframe is therefore necessary to provide simplicity and clarity. The second reason is that the Board has determined that if an applicant is sufficiently prepared for the trainer examination, then it should not take the applicant more than a year of repeated attempts to successfully pass. If the applicant has applied for examination prematurely and needs more than a year to pass the exam, then the applicant should take a more significant break from repeated testing to focus on training and learning the necessary skills to confidently be able to retake the test in another year.

Additionally, the new subsection provides that the applicant can only fail the trainer examination three times in a calendar year. It is necessary to put some limit on the number of examination attempts to discourage flippant applications for examination by applicants who are ill prepared. The trainer examination is administered by a Board steward, and scheduling, staffing and administering the examination takes stewards and other Board staff away from their other responsibilities. The Board has determined to ensure that stewards' time is put to responsible and efficient use, so to discourage overeager but ill prepared applicants from taking the examination before they are adequately prepared because there is no limit on the number of times that they can fail in a year, the Board has implemented a limit on the number of allowable failures to pass the examination in a calendar year.

The proposed amendment also provides requirements for qualification for a first-time trainer license, and for a license holder in a different racing jurisdiction who wishes to obtain a trainer license or assistant trainer license in California. Lastly, the proposed amendment provides requirements for qualification for a trainer license or assistant trainer license for individuals wishing to change their license from harness racing to other types of flat racing, or from other types of flat racing to harness racing.

The Initial Statement of Reasons for the proposed amendment to Board Rule 1503, originally published in the California Notice Registered and noticed to the public on January 31, 2020, and the Notification of Change of Date and Location of Regulatory Hearing, both list the date of publication in the California Notice Register and notice to the public for Board Rule 1503 as January 24, 2020. The correct date is January 31, 2020, but the Board still accepted comments from before the start of the public comment period commencing on January 31, 2020.

#### FORMS INCORPORATED BY REFERENCE

- 1) Form CHRB-59C, California Horse Racing Board Trainer Recommendation Card (Rev. 05/20)

The proposed amendment of Board Rule 1503 incorporates by reference Form CHRB-59C, California Horse Racing Board Trainer Recommendation Card (Rev. 05/20) (59C), as it would be cumbersome, unduly expensive or otherwise impractical to publish the documents in the California Code of Regulations (CCR).

The 59C will be used to demonstrate that an applicant for license as a trainer has held a Board assistant trainer license in good standing for a minimum of one year prior to applying for license as a trainer, and the applicant has worked in this state as an assistant trainer under the supervision of a Board-licensed trainer for at least one year. The 59C will be signed by a Board-licensed trainer to certify that the applicant worked for him or her as an assistant trainer and satisfactorily performed the duties of an assistant trainer while under his or her supervision. The 59C will also be signed by a Board steward to certify that the applicant has passed the written, practical and oral

portions of the trainer examination and has maintained an assistant trainer license for a minimum of one year in good standing.

Copies of the documents incorporated by reference were made available on the Board's website and by direct request from the Board.

#### UPDATE TO THE RESULTS OF ECONOMIC IMPACT ASSESSMENT

The Board has made the determination that the proposed amendment to Board Rule 1503 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 proposed regulation will provide that applicants for an original license as an assistant trainer must pass a written, oral and practical trainer examination prescribed by the Board and administered by its agents. Upon passing the trainer examination with a score of 80 percent or higher on all three portions, the applicant for an original license as a trainer must hold a Board assistant trainer license in good standing for a minimum of one year and have worked as an assistant trainer under the supervision of a Board-licensed trainer for at least one year.

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. The examination for licensure of trainers and assistant trainers is of no cost to applicants, and so no costs would be incurred by mandating additional examination requirements for applicants. The material tested for on the exam is not changing as a result of the proposed action, and so no additional burden for preparation is being placed on the applicant. Preparation for the trainer examination is traditionally gained through hands on experience on the job, so preparation for the examination does not interfere with applicants' ability to work. Additionally, the amendment to Board Rule 1503 enshrines typical industry practice in regulation because it is common for assistant trainers to work under the tutelage of a Board-licensed trainer before applying to become a trainer themselves. Therefore, the Board codifying this industry practice in regulation does not represent a significant change to the industry and is therefore not disruptive to current business practices.

#### LOCAL MANDATE DETERMINATION

The adoption of Board Rule 1503 does not impose any mandate on local agencies or school districts.

#### SUMMARY AND RESPONSE TO COMMENTS RECEIVED DURING THE 45-DAY NOTICE PERIOD OF JANUARY 31, 2020 THROUGH March 16, 2020.

No comments were received during the original notice period of January 31, 2020 through March 16, 2020.

## SUMMARY AND RESPONSE TO COMMENTS RECEIVED AT THE MARCH 26, 2020 REGULAR BOARD MEETING.

Comment: The commenter voiced concern that certain Board-licensed trainers and owners had hearings scheduled regarding a potential breach or violation of the Board's rules. The commenter further stated that the potential violations were evidence that licensees, including Board-licensed trainers, were not being overseen or regulated.

Response: The amendment to Board Rule 1503 specifically regards qualifications for license as assistant trainer and trainer, not the adjudication of a potential violation of Board rules more generally. Therefore, the comment was not relevant to the proposed amendment to Board Rule 1503.

## SUMMARY AND RESPONSE TO COMMENTS RECEIVED DURING THE 15-DAY NOTICE PERIOD OF MAY 19, 2020 THROUGH JUNE 3, 2020.

No comments were received during the notice period of May 19, 2020 through June 3, 2020.

## ALTERNATIVE DETERMINATION

The Board has determined that no alternative would be more effective in carrying out the purpose for which the regulation is proposed or would be as effective and less burdensome to affected private persons than the proposed regulation or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provisions of law. The proposed amendment to Board Rule 1503, Qualifications for License as Trainer or Assistant Trainer, provides updated requirements to obtain Board licensure as a Trainer or Assistant Trainer. Board Rule 1503 will provide guidelines and procedures for qualifying, applying for, and receiving a license as Trainer or Assistant Trainer.

The Board invited 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. No alternatives were proposed.

No alternatives that would lessen any adverse economic impact on small businesses were proposed.