

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

NOTICE OF PROPOSAL TO AMEND
RULE 1588, HORSE INELIGIBLE TO START IN A RACE
AND THE PROPOSED ADDITION OF
RULE 1842.1, ADDITIONAL REPORTING FOR INTRA-ARTICULAR TREATMENTS

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

PROPOSED REGULATORY ACTION

The Board proposes to amend Rule 1588, Horse Ineligible to Start in a Race, and to add Rule 1842.1, Additional Reporting for Intra-Articular Treatments. The proposed amendment to Rule 1588 will add subsection 1588(m). The new subsection 1588(m) provides that a horse that has received an intra-articular injection (joint injection) within the previous five days (120 hours) prior to the scheduled post-time for the race in which it is entered shall be ineligible to start in such race. The proposed addition of Rule 1842.1 will require veterinarians administering medication or treatment into an articular structure of a horse located within the inclosure to provide an intra-articular treatment record to the trainer, who shall maintain such records of the treatment for a minimum of one year. The trainer shall make such records available to the examining veterinarian for the purpose of assisting with pre-race veterinary examinations or other examinations as required by the Board. The record of the inter-articular treatment shall be recorded on the form CHRB-24A, Intra-Articular Treatment Record (New 05/18), which is incorporated by reference in Rule 1842.1, and shall state the name of the horse treated, the date and time of the treatment, the intra-articular structures treated, the medication administered, dose, and the reason for the treatment.

PUBLIC HEARING

The Board will hold a public hearing starting at **9:30 a.m., Thursday, September 27, 2018**, or as soon thereafter as business before the Board will permit, at the **Los Alamitos Race Course, 4961 Katella Avenue, Los Alamitos, California**. At the hearing, any person may present statements or arguments orally or in writing relevant to 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 24, 2018**. 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
California Horse Racing Board
1010 Hurley Way, Suite 300
Sacramento, CA 95825
Telephone: (916) 263-6026
Fax: (916) 263-6022
E-mail: haroldc@chrh.ca.gov

AUTHORITY AND REFERENCE

Rule 1588:

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

Rule 1842.1:

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

INFORMATIVE DIGEST / POLICY STATEMENT OVERVIEW

Business and Professions Code section 19440 provides 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 19562 states the Board may prescribe rules, regulations and conditions under which all horse races with wagering on their results shall be conducted in California. Business and Professions Code section 19580 provides that the Board shall adopt regulations to establish policies, guidelines, and penalties relating to equine medication in order to preserve and enhance the integrity of horse racing in the state.

In the fall of 2012, the New York Task Force on Racehorse Health and Safety (Task Force) made a number of recommendations based on its investigation of breakdowns that occurred at the Aqueduct 2011-2012 Fall-Winter race meeting at Aqueduct Race Course in New York. In addition to investigating the rash of breakdowns, the Task Force was charged with advising on policies relating to necropsies, track conditions, and pre-race examination of horses, as well as practices relating to veterinary procedures and equine drug use. The Task Force's recommendations included enhanced restrictions on the use of intra-articular corticosteroids, which are anti-inflammatory drugs administered by entering a joint. Specifically, the recommendations included trainer reporting requirements for intra-articular treatments, as well as a prohibition on racing after an intra-articular corticosteroid injection. Also, in 2012, the Racing, Medication and Testing Consortium (RMTC) issued its own set of corticosteroid thresholds. The RMTC is an industry organization that works to develop and promote uniform rules and testing standards at the national level. It coordinates research and educational programs that seek to ensure the integrity of racing and the health and welfare of racehorses and participants, and to protect the interests of the racing public. In 2012, the Board adopted the RMTC standards by amending Rule 1844, Authorized Medication, to provide for levels of corticosteroids that may be present in official test samples. While the corticosteroid thresholds contained in the amendment to Rule 1844 effectively stopped corticosteroids from being used within days of a race, the rule did not provide a "stand-down" time as recommended by New

York's Task Force. Rule 1844 treated corticosteroid injections no differently than other authorized medications, which can be administered until 48 of post-time pursuant to Rule 1843.5, Medication, Drugs and Other Substances Permitted After Entry in a Race. To address the issue, the proposed amendment to Rule 1588 adds a new subsection 1588(m). The new subparagraph provides that a horse that has received an intra-articular injection within the previous five days (120 hours) prior to the scheduled post-time for the race in which it is entered, is ineligible to start in such race. The proposed addition of subsection 1588(m) leaves Rule 1844's allowable levels of corticosteroids in place while providing a "stand-down" time as recommended by New York's Task Force.

The proposed addition of Rule 1842.1 would require all Board licensed veterinarians who administer a medication or treatment into an articular structure of a horse to provide the horse's trainer with a written record of the treatment. The procedure shall be recorded on the form CHRB-24A, Intra-Articular Treatment Record (New 05/18) (CHRB-24A), which is incorporated by reference in Rule 1842.1. The trainer shall maintain all intra-articular treatment records of horses under his or her care for a minimum of one year from the date of the treatments. The records of intra-articular treatments shall be made available to examining veterinarian for the purpose of pre-race, or other examinations as required pursuant to the Board's rules and regulations. The CHRB-24A requires the veterinarian who administers the intra-articular treatment to record the date and time of treatment, the intra-articular structures treated, the medication administered, the dose and the reason for the treatment.

POLICY STATEMENT OVERVIEW OF ANTICIPATED BENEFITS OF PROPOSAL

The proposed amendment to Rule 1588 adds a new subsection 1588(m), which provides that a horse that has received an intra-articular injection within the previous five days (120 hours) prior to the scheduled post-time for the race in which it is entered, is ineligible to start in the race. An intra-articular injection is a procedure used in the treatment of inflammatory joint conditions; however, the procedure may not necessarily heal the problem that is causing inflammation. In addition, inflammation is part of the healing process, so there is a relationship between the proposed timeframe of five days and allowing healing. The addition of subsection 1588(m) will promote the health and safety of race horses. The health and safety of jockeys will also be advanced, as a reduction in equine injuries and sudden deaths may also mean lower jockey injury rates. Administering the procedure not later than five days prior to the scheduled post-time provides an opportunity for the medication to have an effect. In addition, the intra-articular injections are not administered within 48 hours of post-time, and this gives the examining veterinarian an opportunity to evaluate the horse without the injection being administered so close to the prerace examination (Rule 1846, Racing Soundness Examination, provides that the horse shall be subject to a veterinary examination for racing soundness on race day not later than two hours prior to official post-time for the race in which the horse is entered.) Ensuring the health of race horses protects the financial interests of racing associations, horse owners, trainers and jockeys. Racing associations depend on an inventory of sound horses to fill races and generate handle; owners and trainers suffer financial losses when horses are unable to compete for a purse; and injured jockeys lose income when they are unable to ride.

The proposed addition of Rule 1842.1 would require all Board licensed veterinarians who administer a medication or treatment into an articular structure of a horse to provide the horse's trainer with a written record of the treatment. The procedure shall be recorded on the form CHRB-24A, which is incorporated by reference in Rule 1842.1. The trainer shall maintain all

intra-articular treatment records of horses under his or her care for a minimum of one year from the date of the treatments. The records of intra-articular treatments shall be made available to examining veterinarian for the purpose of pre-race, or other examinations as required pursuant to the Board's rules and regulations. The proposed addition of Rule 1842.1 will work in conjunction with the amended Rule 1588 to protect the health and safety of horse and rider. The recording of intra-articular procedures on the form CHRB-24A will make race-day examinations more meaningful, as the trainer can provide a record of such procedures for the examining veterinarian. In turn, the examining veterinarian can make a more complete assessment of the horse. Thorough pre-race examinations ensure the soundness of horses entered to race. Sound racehorses help protect the health and safety of jockeys, as well as the financial interests of racing associations, owners and trainers. The form CHRB-24A, is incorporated by reference in Rule 1842.1, as it would be cumbersome, unduly expensive or otherwise impractical to publish the document in the California Code of Regulations.

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.

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 1588 and the addition of Rule 1842.1 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: New York Task Force on Racehorse Health and Safety Official Report. Investigation of Equine Fatalities at Aqueduct 2011-2012 Fall/Winter Meet.

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.

RESULTS OF THE ECONOMIC IMPACT ASSESSMENT

The adoption of the proposed amendment to Rule 1588 and the addition of Rule 1842.1 will not (1) impact the creation of, or eliminate jobs within the State of California; (2) impact the creation of 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 1588 and the addition of Rule 1842.1 is a benefit to the health and welfare of California residents who hold occupational licenses as jockey, apprentice jockeys or other licensees that require close proximity to race horses, because the proposed regulations safeguard the health and safety of the California's racing equines. Sound racehorses help prevent accidents and injuries to horse and rider.

Effect on small businesses: none. The proposal to amend Rule 1588 and the addition of Rule 1842.1 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 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 provisions 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:

Harold Coburn
Regulation Analyst
California Horse Racing Board
1010 Hurley Way, Suite 300
Sacramento, CA 95825
Telephone: (916) 263-6026
Fax: (916) 263-6022
E-mail: haroldc@chrb.ca.gov

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

Andrea Ogden, Manager
Policy, Regulations and Legislation
Telephone: (916) 263-6033

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 texts of the regulations, 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 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 texts, the modified texts, 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 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 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 regulations and the initial statement of reasons. The Board's web site address is: www.chrb.ca.gov.