

INITIAL STATEMENT OF REASONS

RULE 1660.1, CLAIMED HORSE HEALTH RECORD.

SPECIFIC PURPOSE OF THE REGULATION

The Board proposes to add Rule 1660.1, Claimed Horse Health Record, to establish procedures by which medical information of a claimed horse will be transferred electronically to the new attending veterinarian upon purchase in a claiming race. Specifically, the proposed rule requires California Horse Racing Board (CHRB) licensed veterinarians to complete the required sections of the Claimed Horse Health Form CHRB-245 (New 08/19) and submit the form to the new CHRB licensed attending veterinarian within five days of the claim.

The purpose of this proposed regulation is to ensure important intra-articular injection treatment information is transferred to the new attending veterinarian so that the veterinarian will be better informed prior to treating the horse.

PROBLEM

Currently, upon purchase of a horse in a claiming race, the intra-articular treatment record of the horse is not routinely transferred to the new owner. In fact, it is common that no prior medical information of the horse is transferred from the prior owner to the new owner. As a result, the horse's pre-existing medical conditions and treatments are not known to the new owner. Consequently, a horse may be treated with an injection a week before it races, be claimed and transferred to a new owner, and the new attending veterinarian will have no way of knowing the horse's medical history, leaving open the possibility of the immediate injection of the same joint. Unnecessary intra-articular injections can adversely impact the health of the joint, potentially leading to premature failure of the joint. The proposed addition of CHRB Rule 1660.1, Claimed Horse Health Record, seeks to remedy this issue by requiring a health record listing intra-articular injection treatment information from a horse claimed in a claiming race to be transferred from the horse's former CHRB licensed attending veterinarian(s) to the horse's new CHRB licensed attending veterinarian(s) prior to any treatments being performed.

NECESSITY

The proposed addition of Rule 1660.1, Claimed Horse Health Record, will establish a procedure by which important intra-articular treatment information will be transferred with the horse when it is purchased in a claiming race.

Subsection (a) states that upon a horse being claimed in a claiming race, the Claimed Horse Health Record form CHRB-245 (New 08/19), shall be provided electronically by the Official Veterinarian or his or her designee, to the horse's previous CHRB licensed attending veterinarian. This section is necessary because it establishes a framework by which the previous attending CHRB licensed veterinarian will be notified of his obligation to complete the form. The Official Veterinarian is notified whenever a horse is claimed in a claiming race. As such, the Official Veterinarian is in the position to notify the previous attending veterinarian that the horse has been claimed, and they are required to complete CHRB Form 245.

Subsection (b) requires that the horse's previous CHRB licensed attending veterinarian shall complete all required sections of the Claimed Horse Health Record form CHRB-245 and submit the form to the horse's new CHRB licensed attending veterinarian as identified by the horse's owner or trainer within five days of the claim. This is necessary as the prior attending veterinarian(s) should have the greatest degree of familiarity and medical knowledge of the horse and is in the best possible position to fully and accurately pass along all relevant knowledge of medications, treatments and conditions the horse may have. The requirement that the CHRB Form-245 be provided within five (5) calendar days of the claim is necessary to allow sufficient time for the form to be completed by the previous CHRB licensed attending veterinarian and transmitted to the new CHRB licensed attending veterinarian. The requirement that the form then be submitted to the horse's new veterinarian is necessary because the horse's new veterinarian must be aware of the horse's recent intra-articular treatments to adequately and safely treat the horse as it continues to train and race under new ownership. By understanding the medications, dates of treatments and areas affected the new veterinarian can offer continuity of treatment and hopefully avoid the possibility of over-medication to those areas previously treated. Furthermore, the veterinarian must be identified by the horse's new owner or trainer because only the owner or their authorized agent (i.e. their trainer) can establish a vet-client-patient relationship with a veterinarian. The requirement that the form be submitted electronically is necessary for ease of accessibility among veterinarian professionals as well as transmission of the completed form in the fastest way possible.

Subsection (b)(1) states that intra-articular injections given to the horse by the previous CHRB-licensed attending veterinarian within sixty calendar days prior to the race in which the horse was claimed shall be reported on the Claimed Horse Health Record form (CHRB-245). This is necessary because an accurate intra-articular joint injection history will inform the new CHRB licensed attending veterinarian of areas that may need closer inspection or treatment. Requiring the last 60 calendar days of treatment to be recorded is necessary because any medical issues from a prior treatment are likely to arise within 60 days of treatment. Requiring the previous CHRB licensed attending veterinarian to provide intra-articular injection history enables the new CHRB licensed attending veterinarian to more accurately diagnosis and treat the horse.

Subsection (c) states that a CHRB licensed veterinarian attending a horse for the first time after it is claimed shall review the Claimed Horse Health Record CHRB-245 (New 08/19) prior to performing any intra-articular injections, any other intra-lesioned musculoskeletal corticosteroid treatments, or extracorporeal shock wave therapy to the horse. This provision is necessary because it will reduce the number of unnecessary joint treatments which if performed could be detrimental to the horse's health. Reviewing the injection history prior to performing a new joint treatment, the veterinarian will have a better understanding of the health of the horse and the best manner in which to effectively treat the horse.

Subsections (c)(1) provides that in case of a medical emergency or medical necessity, corticosteroid treatment may be initiated prior to review of the Claimed Horse Health Record after which the horse shall be placed on the Veterinarians List for a minimum of 14 days. The treating veterinarian is in the best position to determine the medical needs of the horse. Subsection (c)(1) allows for the veterinarian to treat the horse with a corticosteroid treatment if he or she feels that it is a medical emergency or medical necessity. In the event this occurs, the

horse is required to be placed on the veterinarians list for a minimum of 14 days. Placement on the veterinarian's list is necessary so the horse can be properly monitored before returning to racing. Pursuant to Board Rule 1866, Veterinarian's List, a horse on the veterinarian's list shall only be removed from the list after having established ordemonstrated to the satisfaction of the Official Veterinarian or Racing Veterinarian that the horse is raceably sound and in fit physical condition to the extent it can exert its best effort in a race. This is necessary to ensure a horse that has been "laid off" for whatever physical malady, has fully recovered, and is now physically sound and able to compete to the best of its ability.

Subsection (d) requires that the Claimed Horse Health Record form CHRB-245 (New 08/19) shall be confidential except as provided by any federal or state law or regulation. California Business and Professions Code section 4857(a)(4) mandates that veterinarian records of treatment not be disclosed unless required in compliance with a state regulation. The proposed regulation would create an exception to 4857(a)(4). Subsection (d) is necessary to ensure these veterinarian records maintain confidentiality once transferred to the new attending veterinarian.

Forms Incorporated by Reference:

The proposed addition of Rule 1660.1 will incorporate by reference CHRB-245, Claimed Horse Health Record (New 08/18), as it would be cumbersome, unduly expensive or otherwise impractical to publish this document in the California Code of Regulations.

Form CHRB-245, Claimed Horse Health Record (New 08/19), will be used by CHRB licensed veterinarians to report all intra-articular injections administered by that veterinarian in the last 60 days to the horse. While the form shall remain confidential, as mandated Business and Professions (BP) code section 4857, the sharing of this information between veterinarians is allowed under BP code 4857 (d). Under the proposed regulation, the Official Veterinarian will complete the top portion of the form identifying the horse's name, the claiming race date, the track and the new CHRB owner or trainer. Identifying the new trainer and owner allows for continuity in maintaining the history of the horse and should prevent any possibility of "gaps" in its documented ownership and treatment. This information will clarify which horse's intra-articular injection information needs to be disclosed as well as identify the new owner or trainer who should be contacted for purposes of identifying the horse's new attending veterinarian. The Official Veterinarian will also indicate whether the horse has been on the veterinarian's list as unsound or bled in the last 12 months and whether the horse has a history of being on the veterinarian's list. These are critical components in the new receiving veterinarian's understanding of the horse's condition and medical history. This information is necessary to ensure that the new attending veterinarian is on notice that the horse has had previous medical issues that affected the horse's ability to safely compete in races, indicating that a more enhanced examination of the horse may be warranted. The veterinarian's list is maintained by the Official Veterinarian at the track and horses are placed on the veterinarian's list for issues such as sickness, lameness, unsoundness or injury. The authority to place horses on the veterinarian's list is found in CHRB Rule 1866, Veterinarian's List.

The proposed addition of Rule 1660.1 provides the prior attending CHRB licensed veterinarian complete the bottom of Form CHRB-245. The prior attending veterinarian will indicate whether the horse has been given joint therapy and/or provided an intra-articular joint injection within the

last 60 days. The new veterinarian needs to know if joint therapy has been administered, as well as the date and nature of each intra-articular treatment given in the last 60 days, because treatments given beyond this time period are not likely to affect the new veterinarian's examinations and treatments. If an injection has occurred, the prior veterinarian will then indicate the date of the injection, the location, the structure/joint and the medication that was used. In so doing, the current treating veterinarian will have the most complete and up-to-date record of the horse's treatment history that will allow for the best continuity of care and hopefully avoid over-medication of the same area. To ensure the veracity and completeness of the form, the veterinarian filling out the form is required to set out his or her name at the bottom of the form and sign the document. This helps ensure that the initial veterinarian has thoughtfully and fully reviewed the horse's medical history and relevant data and that he or she is taking credit for the information provided by affixing his or her name to the form. This is also necessary so that CHRB staff can verify the previous attending veterinarian's identity if a horse's treatments become the subject of an investigation. The form is set up to be completed electronically, which is necessary for ease of accessibility among veterinarian professionals as well as transmission of the completed form in the fastest way possible.

BENEFITS ANTICIPATED FROM THE REGULATORY ACTION.

The proposed addition of Rule 1660.1 will substantially enhance the health and safety of horses participating in racing throughout the state. Currently, upon purchase of a horse in a claiming race, the intra-articular treatment record of the horse is not routinely transferred to the new owner. As a result, the horse's pre-existing medical conditions and treatments are not known to the new attending veterinarian. Consequently, a horse may be treated with an injection a week before it races, be claimed and transferred to a new owner, and the new attending veterinarian will have no way of knowing the horse's medical history, leaving open the possibility of the immediate injection of the same joint. Unnecessary intra-articular injections can adversely impact the health of the joint, potentially leading to premature failure of the joint. Accordingly, this proposed regulatory

change will allow important joint treatment information to travel with the horse, thereby benefiting the health and welfare of the horse.

The proposed changes will also benefit the horse racing industry by enhancing the sport's integrity and perception. By requiring a health record, listing intra-articular injection treatment information from a horse claimed in a claiming race, to be transferred from the horse's former CHRB licensed attending veterinarian(s) to the horse's new CHRB licensed attending veterinarian(s) prior to any intra-articular injections, any other intra-lesional musculoskeletal corticosteroid treatments, or extracorporeal shock wave therapy being performed, the new attending veterinarian will be able to more accurately and effectively diagnosis and treat the horse, which in turn will lead to fewer unnecessary injections of joints.

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

The Board did not rely on any technical, theoretical, and/or empirical study, reports or documents in proposing the addition of Rule 1660.1.

RESULTS OF ECONOMIC IMPACT ASSESSMENT

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

- The proposed regulation will not impact the creation or elimination of jobs within the State of California.
- The proposed regulation will not have an impact on the creation of new businesses or the elimination of existing businesses in the State of California.
- The proposed regulation will not have an impact on the expansion of existing businesses in the State of California.
- The proposed regulation will benefit California by promoting the safety and welfare of race horses and will not benefit the State's environment or worker safety.

The proposed Rule 1660.1 establishes procedures by which medical information of a claimed horse will be transferred electronically to the new attending veterinarian upon purchase in a claiming race. The Board has made the initial determination that the proposed addition of Rule 1660.1 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 regulation will not impact businesses in any way.

Purpose:

The general purpose of the proposed regulation is to substantially enhance the health and safety of horses participating in racing throughout the state by requiring intra-articular treatment information to be passed with the horse when it is purchased in a claiming race. Such measures will protect horses by ensuring the new attending veterinarian has accurate joint treatment history.

The Creation or Elimination of Jobs Within the State of California

The proposed addition of Rule 1660.1 will require intra-articular joint treatment information of a horse be transferred electronically to the new CHRB licensed attending veterinarian when the horse is claimed in a claiming race. This proposed regulatory change will enhance the health and safety of the horse by providing the new CHRB licensed attending veterinarian the relevant joint history of the horse prior to performing any further joint treatments. The completion of the required sections of the Claimed Horse Health Form CHRB-245 (New 08/19) and its electronic transmission should be completed with minimal effort and have no perceivable impact on existing veterinarian businesses. Therefore, the Board has determined that the proposed regulation will have no direct impact on the creation or elimination of jobs within the State of California.

The Creation of New Businesses or the Elimination of Existing Businesses Within the State of California

The proposed addition of Rule 1660.1 will require intra-articular joint treatment information of a horse be transferred electronically to the new CHRB licensed attending veterinarian when the horse is claimed in a claiming race. This proposed regulatory change will enhance the health and safety of the horse by providing the new CHRB licensed attending veterinarian the relevant joint history of the horse prior to performing any further joint treatments. Since the form can be completed with minimal effort and overall have a beneficial impact on the health and care of equine athletes, the Board has determined that the proposed regulation will have no direct impact on the creation of new businesses or the elimination of existing businesses within the State of California.

The Expansion of Businesses Currently Doing Business Within the State of California

The proposed addition of Rule 1660.1 will require intra-articular joint treatment information of a horse be transferred electronically to the new CHRB licensed attending veterinarian when the horse is claimed in a claiming race. This proposed regulatory change will enhance the health and safety of the horse by providing the new CHRB licensed attending veterinarian the relevant joint history of the horse prior to performing any further joint treatments. The completion of the required sections of the Claimed Horse Health Form CHRB-245 (New 08/19) and its electronic transmission should be completed with minimal effort and have no perceivable impact on existing veterinarian businesses. Therefore, the Board has determined that the proposed regulation will have no direct impact on the creation or elimination of jobs within the State of California. Therefore, the Board has determined that the proposed regulation will have no direct impact on the expansion of businesses currently doing business within the State of California.

Benefits of the Regulations to the Health and Welfare of California Residents, Worker Safety, and the State's Environment

The proposed addition of Rule 1660.1 will first and foremost benefit the health and welfare of the horse. By requiring intra-articular treatment information to be passed with the horse when it is purchased in a claiming race, the proposed regulation will ensure the new CHRB licensed attending veterinarian has accurate and relevant joint treatment history prior to performing any additional joint treatments. Such measures will protect horses by ensuring joints are not unnecessarily injected with medication.

The proposed changes will also benefit the wagering public by enhancing the sport's integrity and perception. By requiring intra-articular treatment information to be transferred with the horse when it is claimed, the new CHRB licensed attending veterinarian will be able to more accurately and effectively diagnosis and treat the horse, which in turn will lead to fewer unnecessary injections of joints. The introduction of Claimed Horse Health Form CHRB-245 (New 08/19) will have no benefit to worker safety nor impact the state's environment.

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 addition of Rules 1660.1 was discussed at the August 23, 2018 Regular Board Meeting. No alternatives to the recommendation were proposed by the Board or by any other individual or entity at the 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
September 20, 2019