

NOTE: Government Code section 11340.85 requires the Board to post all notices, initial statement of reasons and texts of rules noticed to the public until 15 days after the proposed regulations are filed with the Secretary of State by the Office of Administrative Law.

CALIFORNIA HORSE RACING BOARD
TITLE 4, DIVISION 4, CALIFORNIA CODE OF REGULATIONS
NOTICE OF PROPOSAL TO ADD
RULE 1660.1, CLAIMED HORSE HEALTH RECORD

The California Horse Racing Board (Board or CHRB) 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 Rule 1660.1, Claimed Horse Health Record, to establish procedures by which intra-articular injection information of a claimed horse will be transferred 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 of the horse's intra-articular injection history prior to treating the horse.

PUBLIC HEARING

The Board will hold a public hearing starting at **9:30 a.m., Thursday, November 21, 2019** 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 November 4, 2019**. 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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AUTHORITY AND REFERENCE

Authority cited: Sections 19420, 19440, 19562, 19580, 19581 and 19583, Business and Professions Code. Reference: Sections 4857, 19401, 19420, 19440, 19580, 19581 and 19583, Business and Professions Code.

Business and Professions Code sections 19420, 19440, 19562, 19580, 19581 and 19583 authorize the Board to adopt the proposed regulatory addition, which would implement, interpret or make specific sections 4857, 19401, 19420, 19440, 19580, 19581, and 19583, Business and Professions Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Business and Professions Code section 19401(a) provides that it is the intent of the Horse Racing Law to allow pari-mutuel wagering on horse races while assuring protection of the public. Business and Professions Code section 19420 states that the Board has 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. Business and Professions Code 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 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 requires the Board to adopt regulations to establish policies, guidelines, and penalties relating to equine medication to preserve and enhance the integrity of horse racing in California. Business and Professions Code section 19583 states that every veterinarian who treats a horse within the inclosure shall report the details of such treatment to the official veterinarian in writing.

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 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. Routinely, 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. The requirement that the CHRB Form 245 be provided within five 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.

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 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-lesional 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 the 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 or demonstrated to the satisfaction of the Official Veterinarian or Racing Veterinarian that the horse is raceably sound and in fit physical condition to exert its best effort in a race. This is necessary to ensure oversight before a horse returns to racing.

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.

Currently, upon purchase of a horse in a claiming race, the intra-articular treatment record of the horse are 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 may not be 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 intra-articular injections, any other intra-lesional musculoskeletal corticosteroid treatments, or extracorporeal shock wave therapy being performed. Accordingly, the CHRB seeks to enhance equine health and safety in California by ensuring these medical records are passed to the new CHRB licensed attending veterinarian.

FORMS INCORPORATED BY REFERENCE

- 1) Form CHRB-245, Claimed Horse Health Record, (New 08/19)

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. 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. This information will clarify which horse's intra-articular injection information needs to be disclosed as well as identify the new owner or trainer. The Official Veterinarian will also indicate whether the horse has been on the veterinarians list as unsound or bled in the last 12 months and whether the horse has a history of being on the veterinarian's list. 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 that the prior attending CHRB licensed veterinarian complete the bottom of Form CHRB-245. The prior attending veterinarian will indicate whether the horse has been provided an intra-articular joint injection within the last 60 days. 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. The form will provide

drop-down options of common responses for veterinarians to use if applicable. For example, in describing the location, the veterinarian can choose “Fetlock” which is a commonly injected joint. In the event the veterinarian does not see an option that correctly describes the treatment, he or she is free to fill in the information accurately.

POLICY STATEMENT OVERVIEW OF ANTICIPATED BENEFITS OF PROPOSAL

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 attending veterinarian. 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 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.

CONSISTENCY EVALUATION

During the process of developing the regulation and amendments, 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

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 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 addition of Rule 1660.1 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:

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

Cost impact on representative private persons or businesses: none.

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 proposed addition of Rule 1660.1 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 regulatory changes will 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 proposed regulatory change will not benefit worker safety of the state's environment.

Effect on small businesses: none. The proposed addition of Rule 1660.1 do 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 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:

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1010 Hurley Way, Suite 300
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E-mail: JMcDonough@chr.ca.gov

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

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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 Robert Brodник, 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 Robert Brodник 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 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 Robert Brodник 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.