

## INITIAL STATEMENT OF REASONS

### RULE 1843.3. PENALTIES FOR MEDICATION VIOLATIONS

#### SPECIFIC PURPOSE OF THE REGULATION

Board Rule 1843.3, Penalties for Medication Violations, sets forth various categories of penalties for licensed trainers and owners who commit medication violations. Board Rule 1843.3 also stipulates that a licensee found responsible for administration of a drug substance resulting in a positive test may be subject to the same penalties set forth for the licensed trainer. The proposed amendment to Board Rule 1843.3 will modify subsection (j) to include the administration of Extracorporeal Shock Wave Therapy (ESWT) as subject to the same penalties set forth for the licensed trainer. The proposed amendment will also specify that such penalties apply to the veterinarian.

#### PROBLEM

Presently, Board Rule 1843.3 establishes various categories of penalties for medication violations. While the penalties apply to veterinarians, in addition to licensed trainers and owners, the penalties lack clarity and specificity in regards to veterinarians. Additionally, the penalties do not include violations associated with ESWT. Therefore, there are no clear penalties specified for veterinarians who violate the established procedures for the use of ESWT.

#### NECESSITY

Pursuant to proposed Board Rule 1866.2, Shockwave Therapy Restricted, noticed by the Office of Administrative Law on January 3, 2020, a person found in violation of the procedures established for the use of ESWT are subject to a Category A penalty. The Category A penalties are set forth in Board Rule 1843.3. However, there is a lack of clarity as these penalties fail to specifically identify veterinarians and appear to apply only to licensed trainers and owners. The proposed amendment to Board Rule 1843.3 would modify subsection (j) to specify that the penalties apply to any veterinarian or other licensee who violates proposed rule 1866.2. This modification is necessary to provide consistency between the two rules and prevent the misinterpretation that the Category A penalties do not apply to veterinarians or other licensees who are not owners or trainers.

Additionally, Board Rule 1843.3 describes penalties for only medication violations. The proposed amendment to Board Rule 1843.3 would modify subsection (j) to include ESWT as subject to those same penalties. This modification is necessary to provide consistency between Board Rule 1843.3 and Board Rule 1866.2, as Board Rule 1866.2 subjects violations in the use of ESWT to the Category A penalties set forth in Board Rule 1843.3. The modification is also necessary to prevent the misinterpretation that the Category A penalties do not apply to violations in the use of ESWT.

## BENEFITS ANTICIPATED FROM THE REGULATORY ACTION

The proposed amendment of Board Rule 1843.3 will increase safety for horses and their riders. ESWT has analgesic properties. Therefore, horses administered ESWT are able to work out despite existing injuries. This increases the risk for further injury and breakdown, which subjects the rider to possible injuries or death from a fall. Therefore, it is imperative that the established procedures for the use of ESWT are followed. The proposed amendment of Board Rule 1843.3 helps to ensure adherence to these procedures by specifying the penalties for violations and clarifying that the Board-licensed veterinarian, who is the only person allowed to use the ESWT machine within a training or racing inclosure that is under the Board's purview, is subject to those penalties.

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

The Board did not rely upon any technical, theoretical, or empirical studies, reports, or documents in proposing the amendment of this regulation.

## 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 of horses and their riders and will not benefit the State's environment.

The Board has made an initial determination that the proposed regulatory action 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 amendment to Board Rule 1843.3 will include the administration of ESWT as subject to the same penalties set forth for the licensed trainer and specify that such penalties apply to the veterinarian. As such, the proposed amendment will affect only Board-licensed veterinarians who violate the established procedures for the use of ESWT. Therefore, the proposed regulatory action will have an effect on only horseracing and not any other type of California business.

## PURPOSE

Board Rule 1843.3 sets forth various categories of penalties for licensed trainers and owners who commit medication violations. Board Rule 1843.3 also stipulates that a

licensee found responsible for administration of a drug substance resulting in a positive test may be subject to the same penalties set forth for the licensed trainer. The proposed amendment to Board Rule 1843.3 will include the administration of ESWT as subject to the same penalties set forth for the licensed trainer. The proposed amendment will also specify that such penalties apply to the veterinarian.

#### CREATION OR ELIMINATION OF JOBS WITHIN THE STATE OF CALIFORNIA

The proposed amendment of Board Rule 1843.3 will specify penalties for veterinarians who violate the established procedures for the use of ESWT. As such, this regulation has an effect on only horseracing and not any other type of California business. Therefore, the Board has determined that this regulatory proposal will not have a significant impact on the creation or elimination of jobs within the State of California.

#### CREATION OF NEW BUSINESSES OR THE ELIMINATION OF EXISTING BUSINESSES WITHIN THE STATE OF CALIFORNIA

The proposed amendment of Board Rule 1843.3 will specify penalties for veterinarians who violate the established procedures for the use of ESWT. As such, this regulation has an effect on only horseracing and not any other type of California business. Therefore, the Board has determined that this regulatory proposal will not have an impact on the creation of new businesses or the elimination of existing businesses in the State of California.

#### EXPANSION OF BUSINESSES CURRENTLY DOING BUSINESS WITHIN THE STATE OF CALIFORNIA

The proposed amendment of Board Rule 1843.3 will specify penalties for veterinarians who violate the established procedures for the use of ESWT. As such, this regulation has an effect on only horseracing and not any other type of California business. Therefore, the Board has determined that this regulatory proposal is not relevant to the expansion of businesses currently doing business in 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 amendment of Board Rule 1843.3 will increase safety for horses and their riders. ESWT has analgesic properties. Therefore, horses administered ESWT are able to work out despite existing injuries. This increases the risk for further injury and breakdown, which subjects the rider to possible injuries or death from a fall. Therefore, it is imperative that the established procedures for the use of ESWT are followed. The proposed amendment of Board Rule 1843.3 helps to ensure adherence to these procedures by specifying the penalties for violations and clarifying that the Board-licensed veterinarian, who is the only person allowed to use the ESWT machine within a training or racing inclosure that is under the Board's purview, is subject to those penalties. By strengthening the integrity of veterinary practices, thereby reducing potential injuries to

horses, the proposed regulation will benefit the health and welfare of riders and improve worker safety. The regulation does not benefit 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, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective and equally effective in implementing the statutory policy or other provision of law.

#### REASONABLE ALTERNATIVES TO THE PROPOSED REGULATORY ACTION

The proposed amendment to Board Rule 1843.3 was discussed at the March 26, 2020 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 that offer any alternative proposal.

CALIFORNIA HORSE RACING BOARD  
August 28, 2020