

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

NOTICE OF PROPOSAL TO AMEND  
RULE 1844. AUTHORIZED MEDICATION  
AND  
RULE 1866.1. PRESENCE OF CLENBUTEROL IN QUARTER HORSES

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

PROPOSED REGULATORY ACTION

The Board proposes to amend Rule 1844, Authorized Medication, to revise subsection 1844(e) to remove clenbuterol, or its metabolites or analogs, as a drug substance that may be present in the official urine test sample for any horse competing in a race. Additionally, the Board proposes to amend Rule 1866.1, Presence of Clenbuterol in Quarter Horses. The proposed amendment of Rule 1866.1 will change the title of the regulation to "Presence of Clenbuterol in Horses," as the regulation will be modified to include all breeds of horses that participate in authorized race meetings in California. The proposed regulation will require that a horse that is prescribed or otherwise tests positive for clenbuterol in a blood, urine, or other official test sample be placed on the Veterinarian's List until clenbuterol is no longer detected in the horse's blood or urine by an official test sample. All other changes to Rule 1844 and Rule 1866.1 are for the purposes of clarity and consistency.

PUBLIC HEARING

The Board will hold a public hearing starting at **9:30 a.m., Thursday, May 23, 2019**, or as soon after that as business before the Board will permit, at the **Santa Anita Park Race Track, Baldwin Terrace Room, 285 West Huntington Drive, Arcadia, 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 at **5:00 p.m., on May 13, 2019**. 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, 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@chr.ca.gov

## AUTHORITY AND REFERENCE

Authority cited: Sections 19440, 19562, and 19580, Business and Professions Code. Reference: Sections 19440, 19562, 19580 and 19581, Business and Professions Code.

Business and Professions Code sections 19440, 19562, and 19580, authorize the Board to adopt the proposed regulations, which would implement, interpret or make specific sections 19440, 19562, 19580 and 19581, Business and Professions Code.

## INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

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 19581 provides that no substance of any kind shall be administered by any means to a horse after it has been entered to race, unless the Board has, by regulation, specifically authorized the use of the substance and the quantity and composition thereof. Board Rule 1844, Authorized Medication, names drug substances and medications authorized by the Board that may be administered to safeguard the health of the horse entered to race. The rule lists the medications that may be found in official test samples and the level at which such medications may occur. Board Rule 1866, Veterinarian's List, describes the requirements and procedures for placing a horse on the Veterinarian's List when it is determined that the horse is unfit to compete in a race due to veterinary treatment, physical distress, injury, lameness, unsoundness or infirmity.

The proposed amendment to Rule 1844(e)(6) will remove Clenbuterol, or its metabolites and analogs, as a drug substance that may be present in any detectable level in an official test sample. Clenbuterol is a beta-2 agonist used as a bronchodilator in horses that can also have an anabolic steroidal-type effect, enhancing the performance of the horse. Other side-effects associated with clenbuterol administration have been scientifically documented to include a repartitioning effect and major alterations in cardiac and skeletal muscle function, as well as effects on bone, immune, endocrine, and reproductive systems. Because of these performance enhancing effects, Clenbuterol has been abused in quarter horses in recent history. In 2015, to address the abuse of Clenbuterol in quarter horses, the Board amended Rule 1844, prohibiting the presence of Clenbuterol in quarter horse post-race test samples. The regulation was amended again in 2017 to provide that no Clenbuterol, or its metabolites or analogs, may be present in the official urine test sample for any horse competing in a quarter horse race. Recently, the CHRB has observed an increase in out-of-competition test samples of thoroughbreds that contain the presence of Clenbuterol. To protect all horses from the unregulated and potentially harmful administration of Clenbuterol, and to protect the wagering public from those who would seek unfair advantages gained

using clenbuterol, the Board has determined that it must deauthorize any detectable level of clenbuterol in an official urine test sample.

The proposed amendment of Rule 1866.1 will change the title and the text of the regulation to “Presence of Clenbuterol in Horses” for purposes of clarity, as any horse prescribed clenbuterol will be placed on the Veterinarian’s List, rather than just quarter horses. Any horse prescribed clenbuterol will be placed on the Veterinarian’s List until an official test sample shows that there is no clenbuterol in the blood or urine of the horse after a workout to demonstrate its physical fitness pursuant to Rule 1866. The rule describes reporting, timing, and labeling requirements for clenbuterol prescriptions—which includes compliance with Veterinary Medical Board prescription regulations—as well as trainer reporting requirements for clenbuterol administration. The rule requires that any horse that has clenbuterol detected in a blood, urine, or other official test sample shall be placed on the Veterinarian’s List until an investigation is conducted to determine the circumstances surrounding the detected clenbuterol, and a subsequent official test fails to detect clenbuterol in the horse after a workout pursuant to Rule 1866. This will assure that clenbuterol administration in horses is closely monitored and regulated by the CHRB to prevent misuse and abuse.

#### FORMS INCORPORATED BY REFERENCE

Rule 1866.1 incorporates by reference CHRB-24, Veterinarian Report (Revised 01/16), and CHRB-60, Trainer Medication Report (Revised 07/15), as it would be cumbersome, unduly expensive or otherwise impractical to publish the documents in the California Code of Regulations.

The CHRB-24, Veterinarian Report (Revised 01/16), is used to report details of clenbuterol prescriptions by CHRB licensed veterinarians to the Official Veterinarian. Specifically, the form is used by veterinarians throughout California racetracks to report all treatments occurring within the racing inclosure, as required by Rule 1842.

The CHRB-60, Trainer Medication Report (Revised 07/15), is used by licensed trainers to report each administration of clenbuterol given to a horse in their care to the Official Veterinarian. The form allows the Official Veterinarian to properly identify all horses within the inclosure that have been administered clenbuterol.

#### POLICY STATEMENT OVERVIEW OF ANTICIPATED BENEFITS OF PROPOSAL

The proposed amendment to Rule 1844 and Rule 1866.1 promotes the safety and welfare of all horses participating in recognized race meetings, as well as protects the wagering public. The amendments provide guidelines for treating horses with clenbuterol in a manner that will increase the safety and welfare of equine athletes. Clenbuterol, a beta-2 agonist used as a bronchodilator in horses, can also be used for its anabolic-type effects to enhance the performance of a race horse. Such a practice not only can lead to harmful side effects for horses, but also harm the wagering public by giving horses treated with clenbuterol an unfair advantage in races. When trainers and owners follow the proposed regulations, the public will have more confidence in California horse racing, which may result in increased wagering. An increase in wagering will have a positive economic impact on the industry by increasing handle, which in turn increases purses and commissions.

The proposed amendment to Rule 1844 and Rule 1866.1 will benefit California's race horses by protecting them from the unregulated and potentially harmful administration of clenbuterol. The proposed Regulations will also benefit the wagering public by assuring them that trainers and owners are not permitted to illegitimately enhance the performance of their horses using clenbuterol. Finally, these proposed amendments will benefit the horse racing industry by ensuring that horses receiving clenbuterol will not be permitted to race in California, protecting both the horse from potential injury and the public from negative perceptions of horse racing.

#### 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/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 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 amendment to Rule 1844, and Rule 1866.1, 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:

- Nolen-Walston et al., *Effect of long-term oral administration of a low dosage of clenbuterol on body fat percentage in working and nonworking adult horses*, 76 AJVR 460-466 (2015).
- Charles F. Kearns & Kenneth H. McKeever, *Clenbuterol and the horse revisited*, 182 THE VETERINARY JOURNAL 384-391 (2009).

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 adoption of the proposed amendment to Rule 1844 and Rule 1866.1 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 amendment to Rule 1844 and Rule 1866.1 promotes the health and welfare of equine athletes and the wagering public. The proposed amendment will deauthorize any detectable level of clenbuterol in an official urine test sample in any race horse. Clenbuterol is a beta-2 agonist used as a bronchodilator in horses that can also have an anabolic-type effect. Because of these anabolic effects, clenbuterol has been abused to enhance the horse's performance in races. Side-effects associated with clenbuterol administration have been scientifically documented to include a repartitioning effect and major alterations in cardiac and skeletal muscle function, as well as affects on bone, immune, endocrine, and reproductive systems. For these reasons, it has been determined that deauthorizing any detectable level of clenbuterol in official urine samples is necessary to protect race horses from the unregulated and potentially harmful administration of clenbuterol, as well as to protect the wagering public from unfair advantages gained by trainers and owners who illegitimately enhance the performance of their horses using clenbuterol. The proposed amendment to Rule 1844 and Rule 1866.1 will not benefit worker safety or California's environment.

Effect on small businesses: none. The proposal to amend Rule 1844 and Rule 1866.1 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 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 regulations, the initial statement of reasons, the modified text of the regulations, 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

E-mail: [hcoburn@chrb.ca.gov](mailto:hcoburn@chrb.ca.gov)

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

Andrea Ogden, Manager  
Policy and Regulations  
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 text of the regulation, and the initial statement of reasons. Copies 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 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 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 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 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 regulation and the initial statement of reasons. The Board's web site address is: [www.chrb.ca.gov](http://www.chrb.ca.gov).