

INITIAL STATEMENT OF REASONS

RULE 1846.6. POSTMORTEM EXAMINATION REVIEW

SPECIFIC PURPOSE OF THE REGULATION

The proposed addition of Rule 1846.6, Postmortem Examination Review, will require that a postmortem examination review panel, consisting of a steward, a safety steward, and the Equine Medical Director or designated official veterinarian, be convened to determine the circumstances of each equine fatality occurring within a CHRB inclosure. The review will require the appearance before the panel of the trainer of the expired horse, as well as the production of the horse's training and medical records that cover a minimum of 60 days prior to its date of death. The rule will also require that the panel prepare and file a written report with the Executive Director and the owner or trainer of the expired horse.

PROBLEM

Presently, CHRB Rule 1846.5, Postmortem Examination, requires that every horse that dies within an area under the jurisdiction of the Board undergo a postmortem examination in a diagnostic laboratory to determine the injury or sickness that resulted in euthanasia or natural death. While such examinations are useful in determining the cause of death, they rarely provide any information about what triggered the cause of death. For instance, while a horse may suffer a fatal accident due to a broken leg, no further information is obtained to determine why the leg broke. A thorough review of a horse's recent training and medication history to determine causation is almost never conducted unless there are suspicious or illegal circumstances surrounding the horse's death. Consequently, there is little opportunity for the CHRB to identify trends and behaviors in training that could help prevent future injuries through education and regulation.

NECESSITY

The proposed addition of Rule 1846.6, Postmortem Examination Review, will require that a postmortem examination review panel be convened to determine the circumstances of each equine fatality occurring within a CHRB inclosure. The review will require the appearance of the trainer of the expired horse before the panel, as well as the production of the horse's training and medical records for the 60 days prior to its date of death. The rule will also require that the panel prepare and file a written report with the Executive Director as well as the owner or trainer of the expired horse. The rule is intended to be a mechanism for the continuing education of trainers and veterinarians and will also serve as an important research opportunity "to determine more fully the cause and prevention of horse racing accidents" as permitted by Business and Professions Code section 19444(c).

Specifically, the proposed addition of Rule 1846.6 will require in subsection (a) that the Board conduct a postmortem examination review to determine the circumstances behind all equine fatalities occurring within a CHRB inclosure. This creates a blanket requirement

that the Board will investigate the circumstances behind every equine death that occurs within a CHRB-licensed inclosure using the postmortem examination review process. Such consistent review will ensure that all equine fatalities occurring at a racetrack are thoroughly and equally investigated so that future accidents may be prevented. Furthermore, the requirement affords the trainers and veterinarians who cared for the deceased horse an opportunity to receive case-specific recommendations from panel members on how to better train and treat their horses in the future.

Subsection 1846.6 (b) requires that the postmortem examination review panel be conducted by a member of the board of stewards, a safety steward, and the Equine Medical Director or designated official veterinarian. Subsection 1846.6 (b) clearly defines the composition of the panel so that a complete and thorough review may be conducted for each fatality. Each of the designated panel members represents an area of expertise, including equine medicine and health, track safety, and horsemanship. By virtue of the positions they hold, the steward, safety steward, and Equine Medical Director all possess substantial knowledge of racehorse care that is essential to the analysis and educational aspects of the review.

Subsection 1846.6 (c) requires that the trainer, as well as any other licensee the panel deems necessary, appear at the postmortem examination review. This is necessary because it is the trainer who, under Rule 1887, Trainer or Owner to Insure Condition of Horse, insures the condition of the horse. The trainer is responsible for how the horse is trained, medicated, and cared for while racing in California. Accordingly, it is the trainer who will have the most knowledge of the horse if the panel has specific questions about its training and health. Depending on the nature of the fatality, other licensees—such as the horse’s veterinarian or jockey—may also need to appear to answer questions about the circumstances surrounding the horse’s death.

Subsection 1846.6 (d) requires that the trainer make available at the postmortem examination review the training records for the expired horse, which shall include exercise, medication, and shoeing histories for a minimum of 60 days prior to the date of death of the horse. This is necessary because in order for the review panel to fully assess all circumstances surrounding the horse’s death, the panel must be able to review details of the horse’s recent training regime, including medications it received and when and how it was shod.¹ A minimum 60-day overview provides the panel with two complete months of insight into the daily care of the horse, which the Board has determined is an adequate period to identify any unique or recurring events that may have led to the horse’s death. Because many trainers tend to oversee multiple horses, review of their actual records is the best way to ensure the most accurate and specific training histories are analyzed. By reviewing these records, the panel will have the opportunity to identify specific training sessions, medication administrations, and/or shoeing decisions that may have contributed to the horse’s fatality. Any one of these aspects of a horse’s care, if mistakenly

¹ Race horses require a wide range of shoes because of the different types of race surfaces and conditions in which they perform. The condition of the horse’s feet may also influence the type of shoe used. Bruising, abscesses and quarter cracks are some of the issues farriers and trainers may address with shoeing.

or negligently carried out, can substantially increase the chance that an accident will occur while the horse is racing. Training records may reveal that the horse was run too hard in the days leading up to its accident. Medication records may show that the horse accidentally received too much of a certain drug. Shoeing histories may reveal that the horse was shod to correct a misdiagnosed problem. Any of these issues will assist the panel in determining what led to the horse's death. Moreover, by looking at the training histories of deceased horses over time, the panel may be able to determine that there are specific training practices, medications, and shoeing choices that correlate with an increased risk of fatality. Identifying such practices will allow the CHRB to better regulate horse racing and will increase safety on the race track.

Subsections 1846.6 (e)(1) through (7) will require that all CHRB-licensed veterinarians attending a horse having died within a CHRB inclosure make available at the postmortem examination review a summary medical record covering a minimum of 60 days prior to the date of death of the horse, or longer if requested by the postmortem review panel. The summary record shall include history of the horse's medical status, data from physical examination, treatment plans, medications prescribed and dispensed, daily progress and disposition of the case, laboratory data, and diagnostic images. This information is necessary because a horse's veterinary medical condition, including physical examination findings, certain veterinary treatments and procedures, and medications and medication levels, have all been linked to racing injuries, both catastrophic and lesser injuries. Some veterinary treatments and medications may adversely affect a horse's health and increase its risk of accident or fatality. By reviewing the horse's complete medical history, the postmortem review panel will have the opportunity to identify specific veterinary treatments that may have contributed to the horse's fatality.

Subsection 1846.6 (f) provides that any copies of laboratory data or diagnostic images, pursuant to subsection (e)(6) and (7), respectively, are the property of the veterinary facility that originally ordered their preparation and require client authorization before the records may be released. This is in keeping with Business and Professions Code section 4857, which addresses the protection of the veterinarian/client/patient relationship. This also prevents the public dissemination of certain private information that is conveyed during the review. By restricting the panel from retaining the documents it inspects, the documents will not be subject to a Public Records Act request. This is important to trainers and veterinarians because the training and treatment regimens they use are often unique and contribute largely to their professional value in their occupations.

Subsection 1846.6 (g) requires that the postmortem examination review panel file a written report with the Executive Director and the owner and trainer of the expired horse. This is necessary because one of the major purposes of this regulation is to study and understand the cause of horse racing accidents so that they may be prevented in the future. By recording the determined cause of each horse fatality with the Executive Director, such reports can be reviewed in bulk to identify certain training and veterinary practices that correlate with an increased risk of fatality. Identifying such practices will allow the CHRB to better regulate horse racing and will increase safety on the race track. Furthermore, requiring the panel to provide copies of its report to the trainer and owner

of the horse completes the intended education element by informing the parties what the determined cause of death was. Such information will help trainers, veterinarians, and other involved licensees improve their own horsemanship.

BENEFITS ANTICIPATED FROM THE REGULATORY ACTION

The proposed addition of Rule 1846.6 promotes the safety and welfare of horses racing in California by facilitating in-depth research and review into the training and medical histories of expired horses. Presently, CHRB Rule 1846.5, Postmortem Examination, requires that every horse that dies within an area under the jurisdiction of the Board undergo a postmortem examination in a diagnostic laboratory to determine the injury or sickness that resulted in euthanasia or natural death. While such examinations are useful in determining the cause of death, they rarely provide any information about what triggered the fatality. For instance, while a horse may suffer a fatal accident due to a broken leg, no further information is obtained to determine why the leg broke. The purpose of the postmortem examination review is to investigate the circumstances surrounding an equine fatality to gain an understanding of all events that may have contributed to the incident. By exploring the training and medical histories of expired horses, the postmortem examination review panel will be obtaining new and unique information that can better assist the CHRB in identifying correlations between common training and medical practices and fatal accidents on and off the racetrack. This allows the Board to educate the industry regarding which specific practices carry such an increased risk of fatality. Such information will benefit trainers and veterinarians who will be able to adjust their practices to protect the health and welfare of horses in their care.

The proposed rule benefits trainers and veterinarians by creating an opportunity for their continued and personalized education. By exploring training and medical records with the deceased horse's trainer and veterinarian, the panel will be able to provide case-specific recommendations to prevent future injuries. This will improve the quality of training and veterinary services being provided by CHRB-licensed trainers and veterinarians and will ultimately increase the safety of the sport for both human and equine athletes.

Finally, the proposed rule will benefit the horseracing industry in general by improving public perception of the sport. Implementing an in-depth review process that considers the specific circumstances behind each horse fatality within the inclosure signals to the public that the CHRB takes animal welfare very seriously. Furthermore, by engaging trainers and veterinarians with case-specific reviews that aim to educate the parties involved, safety on and off of the racetrack is bound to improve, which will also heighten public perception by reducing those instances when the public is audience to a racing accident.

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 amendment of the 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 and welfare of horse and rider and will not benefit the State's environment.

The Board has made the initial determination that the proposed addition of Rule 1846.6 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 addition of Rule 1846.6 will facilitate a formal review process for every equine fatality that occurs within a CHRB inclosure and will require attendance by the deceased horse's trainer and any other requested licensee. The proposed addition of Rule 1846.6 is a benefit to the health and welfare of both human and equine athletes. The proposed addition will allow the CHRB to review and analyze training and veterinary records of deceased race horses so that it can better understand and prevent equine racing accidents and fatalities through education and regulation. Such efforts will increase safety in horse racing and decrease the rate of accidents occurring both on and off of the racetrack. The regulation will not impact businesses in any way, and only serves to identify specific training practices, medications, and shoeing choices that correlate with an increased risk of fatality. Identifying such practices will allow the CHRB to better regulate horse racing and will increase safety on the race track.

PURPOSE

The proposed addition of Rule 1846.6 will require that a postmortem examination review panel, consisting of a steward, a safety steward, and the Equine Medical Director or designated official veterinarian, be convened to determine the circumstances of each equine fatality occurring within a CHRB inclosure. The review will require the appearance of the trainer of the expired horse before the panel, as well as the production of the horse's training and medical records for the 60 days prior to its date of death. The rule will also require that the panel prepare and file a written report with the Executive Director and the owner or trainer of the expired horse. The postmortem examination review is intended for education and research purposes only.

THE CREATION OR ELIMINATION OF JOBS WITHIN THE STATE OF CALIFORNIA

The proposed addition of Rule 1846.6 will create an official review process for all equine fatalities occurring within a CHRB inclosure and will require certain licensees to attend

the review and produce relevant training and veterinary records for inspection. This regulation will affect only trainers, veterinarians, and other licensees connected to horses that expire within a CHRB inclosure. As such, this regulation has an effect on only horseracing and not any other type of California business. Therefore, CHRB has determined that this regulatory proposal will not have a significant impact on the creation or elimination of jobs in 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 1846.6 will create an official review process for all equine fatalities occurring within a CHRB inclosure and will require certain licensees to attend the review and produce relevant training and veterinary records for inspection. This regulation will affect only trainers, veterinarians, and other licensees connected to horses that expire within a CHRB inclosure. As such, this regulation has an effect on only horseracing and not any other type of California business. Therefore, CHRB has determined 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.

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

The proposed addition of Rule 1846.6 will create an official review process for all equine fatalities occurring within a CHRB inclosure and will require certain licensees to attend the review and produce relevant training and veterinary records for inspection. This regulation will affect only trainers, veterinarians, and other licensees connected to horses that expire within a CHRB inclosure. As such, this regulation has an effect on only horseracing and not any other type of California business. Therefore, CHRB has determined that the proposed regulatory action 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 addition of Rule 1846.6 is a benefit to the health and welfare of California residents because it facilitates in-depth research into the causes behind race horse fatalities. This will allow the CHRB to better understand and prevent equine racing accidents and fatalities through education and regulation. Such efforts will increase safety in horse racing and decrease the rate of accidents occurring both on and off of the racetrack. This will not only improve the health and welfare of equine athletes, but also the human athletes that ride the horses. Furthermore, an increase in safety and decrease in accidents will likely improve public perception of horse racing. 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 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 Rule 1846.6 was discussed at the May 27, 2015 Medication and Track Safety Committee Meeting; September 16, 2015 Regular Board Meeting; October 22, 2015 Regular Board Meeting; April 17, 2019 Medication, Safety and Welfare Committee; and April 18, 2019 Regular Board Meeting. No alternatives to the recommendation were proposed by the Board or by any other individual or entity at the meetings. 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
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