

## CALIFORNIA HORSE RACING BOARD

### 15-DAY NOTICE OF THE ADDITION OF DOCUMENTS TO THE RULEMAKING FILE OF THE PROPOSED ADDITION OF RULE 1866.2, SHOCKWAVE THERAPY RESTRICTED

Pursuant to the requirements of Government Code (GC) section 11346.8(d), 11346.9(a)(1), and 11347.1 the Californian Horse Racing Board (Board) is providing notice that documents and other information which the agency has relied upon in adopting the proposed regulations have been added to the rulemaking file and are available for public inspection and comment.

#### DOCUMENTS ADDED TO THE RULEMAKING FILE

Pursuant to the requirements of GC sections 11346.8(d), 11346.9(a)(1), and 11347.1, the Board is providing notice that documents and other information which the Board has relied upon in adopting the proposed regulations have been added to the rulemaking file and are available for public inspection and comment.

The documents and information added to the rulemaking file are as follows:

- Addendum to the Initial Statement of Reasons
- Association of Racing Commissioners International Model Rules of Racing, Version 9.12
- Board Memorandum, Dated May 4, 2012
- Comment from the American Association of Equine Practitioners
- Shock Wave Therapy for Lameness: DVM360 Magazine 5/01/05

#### WRITTEN COMMENT PERIOD

Any interested person may submit a written statement relating to the documents added to the rulemaking file during the public comment period from **August 11, 2020** to **August 26, 2020**. All written comments must be submitted to the Board no later than **August 26, 2020**. The Board will only consider comments received at the Board's office by that time. Submit written comments to:

Zachary Voss, Policy and Regulations Analyst  
California Horse Racing Board  
1010 Hurley Way, Suite 300  
Sacramento, CA 95825  
Email: [zavoss@chrb.ca.gov](mailto:zavoss@chrb.ca.gov)

All written comments received by August 26, 2020, which pertain to the above documents will be reviewed and responded to in the Final Statement of Reasons by the Board's staff

as part of the completion of the rulemaking file. Please limit your comments to the documents listed above.

Questions concerning the proposed amendments may be addressed to Zachary Voss at (916) 263-6036, emailed to [zavoss@chr.ca.gov](mailto:zavoss@chr.ca.gov), or mailed to the address above. If Zachary Voss is not available, questions concerning the proposed amendment may be directed to Amanda Drummond, Policy and Regulations Manager, at (916) 263-6033 or [amdrummond@chr.ca.gov](mailto:amdrummond@chr.ca.gov).

#### AVAILABILITY OF RULEMAKING DOCUMENTS ON THE INTERNET

Copies of this notice, the original Notice of Proposed Rulemaking, the Initial Statement of Reasons, the original proposed text of the regulation, additional documents and information to the record, and the revisions to the proposed text of the regulations can be accessed via the Board website at: [http://www.chrb.ca.gov/rules\\_law.asp](http://www.chrb.ca.gov/rules_law.asp).

CALIFORNIA HORSE RACING BOARD

August 11, 2020

## ADDENDUM TO THE INITIAL STATEMENT OF REASONS

### California Horse Racing Board (Board) Rule 1866.2. Shock Wave Therapy Restricted

#### UPDATE TO NECESSITY.

Subsection 1866.2(a) of the proposed regulation requires that, prior to being brought into any Board racing or training inclosure, all Extracorporeal Shock Wave Therapy (ESWT) machines shall be registered by the official veterinarian who shall keep a listing of all ESWT machines registered. It is necessary for the Board to maintain a record of ESWT machines brought into a Board-licensed inclosure to assist in accurate recordkeeping and to help safeguard against abuse. To ensure that ESWT treatment administration can be monitored and recorded, the Board must know how many machines are in use at any inclosure. Maintaining a record of how many machines are in use and who is using them aids in veterinary record keeping because the Board can more easily monitor treatments being administered when it knows how many machines are in the inclosure and identify which individuals are utilizing ESWT treatment, or abusing the treatment. Enforcement of Board rules regarding ESWT treatment administration is also more effective when the Board has an accurate record of how many machines are in use at any inclosure.

Subsection (a)(1) provides that the listing shall be available for inspection by the official veterinarian, stewards, or Board investigators, and that the listing shall include the manufacturer, model, serial number, and the name of the Board-licensed veterinarian responsible for the ESWT machine. It is necessary to ensure that Board veterinary and enforcement staff have access to the listing of registered ESWT machines to assist in investigations and medical evaluations. In an investigation of misuse of ESWT machines, it is necessary for Board enforcement staff to have a method of tracking which machine belongs to which veterinarian. Likewise, in order to ensure accurate recordkeeping regarding horses' treatment records, it is necessary for the official veterinarian to be able to link ESWT treatments recorded in the veterinary record with specific machines belonging to particular veterinarians.

It is also necessary that the regulation provides a list of the required information for registering an ESWT machine. The manufacturer, model, serial number, and name of the Board-licensed veterinarian responsible for the ESWT machine are necessary information because this information allows for the clear identification of a unique machine, and provides a method of linking that machine to the veterinarian responsible for it.

Subsection 1866.2(c) provides that ESWT machines are not allowed in the stable area and shall be used in a designated area chosen by the official veterinarian. Providing a designated area for ESWT is necessary to allow the official veterinarian to monitor the practice and ensure that only Board licensed veterinarians are administering the therapy.

Subsection 1866.2(c)(1) identifies the process by which the official veterinarian will designate the official ESWT treatment area within an inclosure. The ESWT approved area will be secure, safe for the horse receiving treatment, and accessible for monitoring either by security personnel or by security cameras. It is necessary for the Board to ensure that the safety of the horse being treated is maintained. Therefore, the official veterinarian is tasked with ensuring that the location chosen for ESWT treatment is physically and medically safe for the horse to be in and safe for this particular type of treatment administration. Additionally, it is essential that an accurate treatment record is maintained so that future examining veterinarians can fully evaluate a horse in light of its prior treatments. In order to ensure that use of the ESWT machine is not abused or underreported, security measures are necessary.

Subsection 1866.2(d) requires the treating veterinarian to keep a log of all ESWT treatments. The log shall be available for inspection by the official veterinarian, the stewards or Board investigators. The log shall include the date that treatment was received, as well as identifying information for the horse treated and information regarding the area treated and number of pulses administered. The inclusion of the horse's tattoo and microchip number in the log are necessary because those are the primary means of accurately identifying a horse. The tattoo and microchip number are unique to each racehorse and the Board keeps records of each horse's identification. The log must also include the anatomical area treated and the number of pulses administered. This information is necessary to have an accurate medical record of the horse's treatment in the event that a medical issue arises. The anatomical area treated tells the veterinarian reviewing the horse's medical record which areas were exposed to ESWT in the past and could help shed light on causation of future medical issues. The number of pulses administered being recorded in the log provides the reviewing veterinarian with a measure of the duration and strength of the ESWT treatment that was administered. This also aids in determining any relation or causation in future medical issues. Requiring the treatment date is also necessary so the Board can more accurately determine if a horse has received multiple ESWT treatments, the time between treatments, and when a horse is eligible to resume workouts or racing, after approval by the official veterinarian (as identified in subsection (f)).

Subsection 1866.2(e) requires that all ESWT treatments be reported using a separate form Veterinarian Report Confidential CHRB-24 (Rev. 01/18). This provision requires that every treatment, whether for separate horses, or for the same horse on the same or different days, be recorded on its own separate form CHRB-24. This provision is consistent with Board Rule 1842, Veterinarian Report, which requires that every veterinarian who treats a horse within the inclosure shall in writing report the treatment to the official veterinarian. It is necessary for thorough recordkeeping that every individual treatment be reported and logged so that when a reviewing veterinarian is conducting an evaluation of the veterinary record, each treatment is clearly delineated and recorded for legibility and clarity.

Subsection 1866.2(e) also requires that such a report shall be submitted by 10:00AM the day following treatment. The reporting time of 10am the day following treatment is the standard reporting requirement Official Veterinarians use when collecting reports for current Board Rule 1842, Veterinarian Report. The reporting requirement is consistent with this current practice.

Subsection 1866.2(f) provides that a horse treated with ESWT shall be placed on the Veterinarian's List for 30 days. The day after treatment is the first day on the list, and the horse will be removed from the Veterinarian's List following the 30th day provided that the horse satisfies the requirements of Board Rule 1866, Veterinarian's List, subsection (d). This is necessary to reflect the requirement in Board Rule 1866, Veterinarian's List, that a horse placed on the Veterinarian's List shall be removed from the list only after having established or demonstrated to the satisfaction of the official veterinarian or the racing veterinarian that the horse is sound and in fit physical condition to exert its best effort in a race. By requiring a horse to pass a physical examination approved by the official veterinarian prior to removal from the Veterinarian's List after receiving ESWT treatment, horses and their riders will be better protected by ensuring only those who are sound and in fit physical condition are eligible to workout or run in a race.

Additionally, the 30-day placement on the Veterinarian's List after ESWT treatment is necessary to ensure that a horse receiving treatment has ample time to heal from the injury for which it is receiving treatment. Prior Board practice was to place a horse on the Veterinarian's List for 10 days following treatment to allow for the analgesic effect of the treatment to wear off. This effect can block pain, leading to horses not demonstrating signs of injury or unsoundness that they otherwise would have without the treatment. This effect lasts for at least 72 hours. However, the Board has determined that it is necessary not just to give time for the effect to wear off, but to also give ample time for the treated injury to heal and for the horse to rest.

Subsection 1866.2(g) provides that horses treated with ESWT may not participate in a workout for 30 days after treatment. The term "workout" provides consistency with existing Board Rule 1866, wherein a workout is defined as "an exercise session near full speed, or close to full speed". Additionally, new subsection (g)(1) provides that for the purpose of this regulation a "workout" means an exercise session near full speed, or close to full speed to further clarify the definition of the term being used. Also, under subsection 1866(f), the horse will be required to pass a soundness examination prior to the official veterinarian removing the horse from the Veterinarian's List and being eligible to workout or run in a race.

Subsection 1866.2(h) provides that no owner, trainer or licensee shall bring on to a Board inclosure a horse known to have received ESWT treatment within the last 30 days without prior approval of the official veterinarian. The subsection is necessary to prevent an owner, trainer or licensee who unknowingly brings a horse that has received ESWT treatment onto a Board inclosure from being penalized. There are instances when a horse is purchased and the prior owner does not disclose to the purchaser that ESWT

treatment was administered in the last 30 days. The Board does not wish to penalize the purchaser of the horse in such a situation.

Subsection 1866.2(i) provides that any person using or possessing an ESWT machine in violation of the rule shall be considered to have violated Rule 1867, Prohibited Veterinary Practices, and is subject to a Class "A" penalty. The Board has determined that a class "A" penalty is necessary to reflect the severity of such a violation. If any person knowingly violates this rule, that is a flagrant disregard for the Board's authority and the safety measures implemented to keep horses and riders safe. This type of violation calls for a stiff punishment to discourage further disregard for Board safety rules, so the class "A" penalty, the most severe class of penalty, is warranted and necessary to protect the wellbeing of horses and riders.

UPDATE TO TECHNICAL, THORETICAL, AND/OR EMPIRICAL STUDY, REPORTS OR DOCUMENTS.

The Association of Racing Commissioners International's Model Rules of Racing, Version 9.12.

Board Memorandum, Dated May 4, 2012.

Comment from the American Association of Equine Practitioners.

Shock Wave Therapy for Lameness: DVM360 Magazine 5/01/05.