

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

NOTICE OF PROPOSAL TO ADD  
RULE 1867.1. USE OF BISPHOSPHONATES PROHIBITED

The California Horse Racing Board (Board/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 1867.1, Use of Bisphosphonates Prohibited. The proposed regulation will prohibit the administration of bisphosphonates to any horse within a CHRB inclosure and prohibit any licensee from bringing into the inclosure a horse that has been administered a bisphosphonate within the previous six months. The proposed regulation will allow the administration of methylene diphosphonate in combination with radionuclide technetium 99m for nuclear imaging purposes.

PUBLIC HEARING

The Board will hold a public hearing starting at **9:30 a.m., Thursday, December 12, 2019**, or as soon after that as business before the Board will permit, at the **Los Alamitos Race Course, 4961 Katella Avenue, Cypress, 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 **December 2, 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@chrb.ca.gov](mailto:haroldc@chrb.ca.gov)

## AUTHORITY AND REFERENCE

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

Business and Professions Code sections 19440, 19562, 19580 and 19581 authorize the Board to adopt the proposed regulation, which would implement, interpret or make specific sections 19440, 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 provides that the Board may prescribe rules, regulations and conditions, consistent with the provisions of this chapter, under which all horse races with wagering on their results shall be conducted in this state. Business and Professions Code section 19580 provides that the Board shall adopt regulations to establish policies, guidelines, and penalties relating to equine medication to preserve and enhance the integrity of horse racing in the state. Business and Professions Code section 19581 states no substance of any kind shall be administered by any means to a horse after it has been entered to race in a horse race, unless the Board has, by regulation, specifically authorized the use of the substance and the quantity and composition thereof.

Bisphosphonates are a class of bone modifying drugs that have been used to treat specific bone disorders in people. In horses, bisphosphonates are used to treat similar problems, like navicular disease<sup>1</sup>. Bisphosphonates, however, inhibit the normal bone repair process so their use has been restricted to horses that are four years or older. In younger horses, bisphosphonate use could lead to disturbed growth and joint development as well as the accumulation of microdamage in the bone tissue. Since 2015 the British Horse Racing Authority has restricted the use of bisphosphonates in horses younger than three-and-a-half years old. The New York State Gaming commission has included bisphosphonates in its list of blood doping agents and has provided that the administration of bisphosphonates to a horse under four years of age is an unacceptable practice due to the high risk of serious injury or death from its effects on bone growth and strength. The proposed addition of Rule 1867.1 would prohibit the use of bisphosphonates in race horses within a CHRB inclosure and prohibit a horse that has been administered a bisphosphonate within the previous six months from being shipped onto a CHRB inclosure. The proposed regulation will allow the administration of methylene diphosphonate in combination with radionuclide technetium 99m for nuclear imaging purposes.

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<sup>1</sup> Navicular disease in the horse is a group of related conditions affecting the navicular bone and associated structures in the foot. It most commonly describes an inflammation or degeneration of the navicular bone and its surrounding tissues, usually on the front feet. It can lead to significant lameness.

## POLICY STATEMENT OVERVIEW OF ANTICIPATED BENEFITS OF PROPOSAL

Subsection 1867.1(a) provides that bisphosphonates may not be administered to any horse within a CHRB inclosure. The Board has specifically prohibited the use of bisphosphonates within the inclosure based on its concerns regarding the potential for use of the drug substances to harm the health and safety of horse and rider. In addition to bisphosphonates' effect on bone growth, the drug substances may mitigate pain. The potential for pain relief with the use of bisphosphonates on young horses could result in race horses with mild injuries continuing to train and race with the increased probability for mild injuries to become catastrophic.

Subsection 1867.1(b) provides that no licensee shall bring into a CHRB inclosure a horse that has been administered a bisphosphonate within the previous six months. This provision is necessary to protect the health and welfare of the horse and rider. Bisphosphonates are a class of bone-modifying drugs that have been used as a supplemental treatment for specific bone disorders in human medicine. The drugs work specifically at the cellular level and act to block a certain type of bone cell called an osteoclast<sup>2</sup>. Osteoclasts are important in the remodeling of bone because they act to clean up any diseased, weakened or damaged bone before any new bone can be laid down by the osteoblasts<sup>3</sup>. Bisphosphonates act on damaged bone by shutting down the osteoclast process. The body can lay down bone, just not in a "normal" way. Bisphosphonates inhibit part of the normal remodeling osteogenesis process. It is believed that bisphosphonate use in immature animals could lead to disturbed growth and joint development and the accumulation of microdamage in the bone tissues. Most horses start racing at two years of age and are not fully mature, so the use of bisphosphonates presents the potential for adverse effects in race horses that are still growing. In the extreme, accumulated microdamage could combine and promote bone fracture. Fracture healing may be delayed in horses that sustain a fracture. Disallowing the use of bisphosphonates within the inclosure will have the benefit of allowing any microdamage to heal naturally without the potential effect of the drug on joint development. The clinical duration of bisphosphonates to inhibit normal bone repair is unknown, especially in horses. It is estimated to be six to eight months; however, six months is the best-informed estimate of inhibition of bone repair. Preventing horses that have been treated with bisphosphonates within the previous six months from entering the inclosure will have the benefit of ensuring the animals are not put through the rigors of training and racing before they are fully healed. Additionally, there is evidence that bisphosphonates relieve pain. A horse that does not feel pain will run as if it would without its underlying problems, which may exacerbate any pre-existing conditions, and make the horse prone to further injury when worked to the same extent as a healthy horse. The veterinarian's ability to properly evaluate a horse on race day may also be compromised. The provisions of subsection 1867.1(b) will have the benefit of ensuring the potential pain-

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<sup>2</sup> Osteoclast: large cells that dissolve the bone. Osteoclasts come from the bone marrow and are related to white blood cells. They are formed from two or more cells that fuse together. Osteoclasts absorb bone tissue during growth and healing.

<sup>3</sup> Osteoblast: cells that form new bone.

relieving effects of bisphosphonates are not masking a horse's true condition. This will help reduce the possibility of further injury to the horse and rider.

Subsection 1867.1(c) allows for the administration of methylene diphosphonate when used in combination with radionuclide technetium 99m for nuclear imaging purposes. Methylene diphosphonate is a chemical compound (methylene bound to two phosphonate groups) used together with the radionuclide technetium 99 (Tc 99m) to locate areas of bone abnormalities. The substance is administered intravenously, and skeletal uptake occurs. The substance has a short half-life of approximately six hours and does not remain in the body long. Nuclear imaging produces images by detecting radiation from different parts of the body after a radioactive tracer material is administered. Subsection 1867.1(c) will allow the horse the benefit of a commonly used medical diagnostic procedure. The Board has determined it is necessary to allow the administration of methylene diphosphonate for the health and safety of the horse.

## CONSISTENCY EVALUATION

Evaluation of Consistency and Compatibility with Existing State Regulations: During the process of developing the proposed amendment, the Board has conducted an evaluation for any related regulations and has determined that Rule 1867.1 is the only regulation dealing with the use of bisphosphonates in race horses. Therefore, the proposed 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 of savings in federal funding to the State: none.

The Board has made an initial determination that the proposed addition of Rule 1867.1 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 following studies/relevant data were relied upon in making the above determination: none.

Cost impact on representative private persons or businesses: 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 results of the Board's Economic Impact Assessment as required by Government Code section 11346.3(b) are as follows: The adoption of the proposed addition of Rule 1867.1 will not (1) create or eliminate jobs within California; (2) create new businesses or eliminate existing businesses within California; (3) affect the expansion of businesses currently doing business within California; or (4) increase or decrease investment in California; (5) benefit the state's environment. The proposed addition of Rule 1867.1 impacts individuals who violate the Board's medication regulations. In making the determination that the proposed addition of Rule 1867.1 will not have an adverse economic impact, the Board looked at the number of licensed trainers who might be affected and compared it to the total number of persons who hold CHRB occupational licenses. The individuals impacted are licensed horse trainers. The CHRB has 18,874 licensees; of that number, 626 persons hold CHRB trainer licenses. Penalties for medication violations act as deterrents. This is demonstrated by the number of trainers who have had 1843 violations in fiscal 2018/2019. A total of 59 out of the 626 licensed trainers have received a fine for an 1843 violation<sup>4</sup>. The proposed addition of Rule 1867.1 promotes the health and safety of race horses, which is jeopardized if they workout or race when they are not sound do to the administration of unauthorized medications or drug substances. Keeping race horses healthy protects the economic interest of owners and ensures that there is adequate horse inventory. Ensuring that horses entered to race are sound also promotes jockey/driver safety. Accordingly, the proposed regulation benefits the health and welfare of California residents and improves worker safety. Sound, healthy horses result in a favorable public response to horse racing, which could result in an increase in wagering activity, and a positive economic impact for the industry.

Effect on small businesses: none. The proposal to add Rule 1867.1 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 as effective in implementing the statutory policy or other provision of law.

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<sup>4</sup> Rule 1843, Medication, Drugs and Other Substances, provides that no drug substance shall be administered to a horse which is entered to compete in a race to be run in this State except for approved and authorized drug substances as provided by these rules.

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:

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@chrb.ca.gov](mailto:haroldc@chrb.ca.gov)

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

Amanda Drummond, 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 of these documents, or any of the information upon which the proposed rulemaking is based on, may be obtained by contacting Harold Coburn, or the alternative contact persons 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 regulation. 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 FINAL 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).