

## FINAL STATEMENT OF REASONS

### UPDATED INFORMATIVE DIGEST

There have been no changes in applicable laws or to the effect of the proposed regulation from the laws and effects described in the Notice of Proposed Action.

The Board adopted Rule 1868, Authorized Medication During Workouts, at the January 22, 2020, Regular Board Meeting.

### LOCAL MANDATE DETERMINATION

The adoption of Rule 1868 does not impose any mandate on local agencies or school districts.

### SUMMARY AND RESPONSE TO COMMENTS RECEIVED DURING THE 45-DAY NOTICE PERIOD OF NOVEMBER 15, 2019 THROUGH DECEMBER 30, 2019.

No comments were received during the original notice period of November 15, 2019 through December 30, 2019.

### SUMMARY AND RESPONSE TO COMMENTS RECEIVED AT THE JANUARY 22, 2020 REGULATORY HEARING.

Comment: (page 25 of hearing transcript) Chairman Ferraro stated he was concerned the regulation would allow a higher level of nonsteroidal anti-inflammatory drugs (NSAID) or other drugs in workouts than are allowed in races.

Response: There is currently no authorized level for NSAIDs or other drugs for horses participating in a race. A proposal to temporarily suspend race day medications for all horses participating in licensed horse race meetings for 12 months was adopted by the Board at its March 28, 2019 Regular Meeting (pursuant to Rule 1844.1, Suspension of authorized Medication). The temporary suspension of phenylbutazone, flunixin and ketoprofen is in effect until March 29, 2019. The Board has subsequently initiated an amendment to Rule 1844, Authorized Medication, that would make the temporary suspension of race day medication permanent.

Comment: (page 26 of hearing transcript) Chairman Ferraro stated his concern was that if the horse could not work without the medications, it could not run (in a race) without the medications, which is what it would have to do in the afternoon.

Response: The proposed regulation addresses horses completing a timed workout, which it defines as an exercise session in which a horse runs full speed or close to full speed for the purpose of having its performance officially timed and reported. A horse that participates in a timed workout in the morning will not compete in a race the same

afternoon. After a timed workout the horse will likely be given at least a couple of days rest before running in a race.

Comment: (page 26 of transcript) Chairman Ferraro stated there is an impact on the handicapper. If the horse is running at a certain level with medication, its performance in its workouts may be better than they would be on no medication, which meant its form is not reflective of the way it may run in the afternoon.

Response: The Board's Equine Medical director stated most trainers were running horses below a level of detection, or with no medication. The proposed regulation set certain levels; however, the Board did not expect licensees to try to reach the levels because they were not quantifiable. The proposed levels were too tight. The proposed regulation only addresses horses performing timed workouts, which means the horses would not be running in a race on the same day as the workout. After a timed workout the horse will likely be given at least a couple of days rest before running in a race.

Comment: (page 29-32 of transcript) Tweed Conrad spoke about her concerns regarding medication issues in general and particularly the use of bisphosphonates.

Response: The Board has promulgated a proposed rule addition: Rule 1867.1, Use of Bisphosphonates Prohibited, which will prohibit the use of bisphosphonates within the inclosure. In addition, the proposed addition of Rule 1866.2, Shockwave Therapy Restricted, will regulate the use of shockwave therapy within the inclosure.

## ALTERNATIVE DETERMINATION

The Board has determined that no alternative would be more effective in carrying out the purpose for which the regulation is proposed or would be as effective and less burdensome to affected private persons than the proposed regulation or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provisions of law. The proposed addition of Rule 1868, Authorized Medication During Training will place restrictions on the use of local anesthetics, narcotic analgesics, and NSAIDs for horses completing timed workouts by: 1) prohibiting the administration of a local anesthetic or narcotic analgesic to any horse within 24-hours of a timed workout; 2) allow not more than one approved NSAID in an official test sample taken from a horse after it completes a timed workout; 3) set levels for NSAIDs in official test samples taken from horses after a timed workout; 4) provide that if a test sample contains authorized NSAIDs over allowed levels, the Official Veterinarian shall work with the veterinarian who administered or prescribed the substance to establish a dosage amount or time of administration that will comply with the limits of Rule 1868. The proposed regulation provides that if a test sample is taken from a horse after a timed workout, the penalty provisions of Article 15 shall apply in the same manner as to a scheduled race. Rule 1868 provides a definition of "timed workout."

The Board invited 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. No alternatives were proposed.

No alternatives that would lessen any adverse economic impact on small businesses were proposed.