

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

NOTICE OF PROPOSAL TO ADD  
RULE 1868. AUTHORIZED MEDICATION DURING WORKOUTS

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 1868, Authorized Medication During Workouts. The proposed regulation would place restrictions on the use of local anesthetics, narcotic analgesics, and non-steroidal anti-inflammatory drugs (NSAIDs) for horses completing timed workouts. The proposed regulation provides that no person shall administer a local anesthetic or narcotic analgesic to any horse within 24-hours of a timed workout, and that not more than one approved NSAID may be detected in an official test sample taken from a horse after it completes a timed workout. The regulation sets levels for NSAIDs in official test samples taken from horses after a timed workout and provides that if a test sample contains authorized NSAIDs more than 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."

PUBLIC HEARING

The Board will hold a public hearing starting at **9:30 a.m., Thursday, January 23, 2020**, or as soon after that as business before the Board will permit, at the **Santa Anita Park Race Track, 285 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 on **December 30, 2019**. The Board must receive all comments at that time; however, written comments may still be submitted at the public hearing. Submit comments to:

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California Horse Racing Board  
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## AUTHORITY AND REFERENCE

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

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

The CHRB currently conducts a post-race testing program intended to prevent and detect the unauthorized use of certain medications and drug substances during horse races. The purpose of the program is twofold: to guard the health and welfare of horse and rider, and to ensure the integrity of horse racing in this State to protect participating licensees and the wagering public. To date, however, the industry has gone without similar protections when horses complete timed workouts at licensed racing facilities<sup>1</sup>. The proposed addition of Rule 1868 is intended to address this issue by establishing restrictions on the use of local anesthetics, narcotic analgesics, and non-steroidal anti-inflammatory drug substances (NSAID) for horses engaging in timed workouts.

A primary purpose of the Board's drug testing program is to prevent horses from being administered medications and other substances that could increase the likelihood of them becoming injured during a race. These same risks exist, however, during timed workouts. In a timed workout, a horse will run at full speed or near full speed, meaning the same concerns about certain medications increasing the chance of injury during a race are equally applicable. One such medication is NSAIDs, which are typically used to treat musculoskeletal and inflammatory processes in horses but can also mask a horse's pain when used in excess. Such use potentially allows horses to train and race while injured and before they are fully

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<sup>1</sup> The exception is that a horse required to complete a timed workout for removal from the Veterinarian's List is subject to the same medication restrictions as a horse participating in a race, pursuant to CHRB Rule 1866(e).

healed. Masking a horse's condition with medications has the potential to obscure lameness and cause additional injuries to occur. Using pain-masking medications before a horse is fully healed can place a horse at a higher risk for breakdown, which can cause injury to horse and rider. Local anesthetics and narcotic analgesics can have similar masking-effects by deadening or reducing pain from an injury. The ability to detect signs of inflammation and/or lameness is critical for trainers, jockeys and other licensees to detect injuries, and prevent injured horses from training.

Another purpose of the CHRB's post-race testing program is to ensure that the horse's performance is not enhanced, hindered, or altered using unauthorized medications and other substances. Such efforts can give horses an unfair advantage or disadvantage in a race, which not only may impact the jockeys riding in the race, but other trainers and owners with competing horses. The use of unauthorized medications and other substances also defrauds the wagering public. Similar fraud can also result when the timed workout performance of a horse is enhanced, hindered, or altered. Many handicappers rely on the past performance of horses to determine what they predict the order of finish will be in a race. Past performances often include the results of timed workouts, which means when these workouts are altered by the overuse of pain-masking medications the wagering public is deceived regarding the true condition of the horse and its natural skill and ability over time.

Subsection 1868(a) provides that no person shall administer a local anesthetic or narcotic analgesic to any horse within 24 hours of a timed workout, nor shall any horse participating in a timed workout carry in its body any local anesthetic or narcotic analgesic. Local anesthetics are substances that induce insensitivity to pain; narcotic analgesics are drugs used to treat pain. It is necessary to prohibit the use of such substances in horses participating in timed workouts to prevent injury in horses with pre-existing conditions that may be running before they are fully healed, to protect the health of horse and rider, and to ensure the results of the timed workout is not altered. The 24-hour period is consistent with the provisions of Board Rule 1844, Authorized Medication, which provides that no drug substance, other than an authorized bleeder medication, shall be administered to a horse within 24 hours of the race in which it is entered. After 24 hours of administration, the local anesthetic or narcotic analgesic should no longer be active.

Subsection 1868(b) provides that not more than one approved NSAID may be detected in an official test sample taken from a horse after it completes a timed workout. This provision is consistent with Board Rule 1844, Authorized Medication, which provides that not more than one approved NSAID may be administered to a horse that is entered to race. Subsection 1868(b) is necessary to prevent concurrent and excessive administrations of NSAIDs. While NSAIDs can improve healing and recovery from injury, they can also inhibit the effects of the natural healing process, including swelling and associated pain that would prevent a horse from sustaining further injury. Using more than one NSAID, or "stacking" NSAIDs, can pose a threat to equine health and welfare. Using two or more NSAIDs at a time can put the horse at increased risk of complications, including colic, protein loss, diarrhea, gastric ulcers, colitis and kidney damage. Some complications, such as gastric ulcerations are performance limiting, while others can be life-threatening. Regular administration of NSAIDs to horses in active

training can mask the signs of musculoskeletal injury, making it difficult for trainers to accurately assess the soundness of a horse during and following exercise.

Subsections 1868(b)(1) through (b)(3) provide a listing of approved NSAIDs, and the levels of the substances that may be present in an official test sample taken from a horse after it completes a timed workout. The approved NSAIDs, phenylbutazone, flunixin and ketoprofen are consistent with the NSAIDs allowed under Board Rule 1844. The levels that may be present in an official test sample, however, differ from those in Rule 1844, which allow for a 24-hour administration. Rule 1868 provides for allowed levels of NSAIDs consistent with a 48-hour administration. The allowed levels under Rule 1868 are in line with protocols instituted in 2019 by The Stronach Group (TSG) at Golden Gate Fields and Santa Anita Park Race Track. The TSG conditions are the result of an agreement between TSG and the Thoroughbred Owners of California, which is intended to monitor the horse population and enhance racing safety. Under the TSG protocols, all horses that perform a workout are subject to TSG administered post-work blood testing. The 48-hour administration is also consistent with the Association of Racing Commissioners International (ARCI) Model Rules of Racing.

Subsection 1868(b)(4) states metabolites or analogues of approved NSAIDs may be present in test samples collected after a timed workout. This provision is consistent with Rule 1844(c)(4), which provides that metabolites or analogues of approved NSAIDs may be present in an official post-race test sample. A metabolite results when a drug is metabolized by the body into a modified form and continues to produce effects on the body. Usually these effects are like those of the parent drug but weaker. An analog is a compound having a structure like that of another compound but differing from it in respect to a certain component.

Subsection 1868(c) provides that if a blood test sample collected from a horse after it completes a timed workout contains an authorized NSAID in excess of the limit for that drug under Rule 1868, the official veterinarian shall work with the veterinarian who administered or prescribed the NSAID to establish a dosage amount or time of administration that will comply with the limits under the rule. The intent of Rule 1868 is primarily to ensure that California's race horses train and work without excess levels of medication in their systems. Current testing of horses performing timed workouts has demonstrated that most horsemen and private veterinarians comply with the Board's medication regulations. Subsection 1868(c) provides an opportunity for the official veterinarian to work with horsemen and private veterinarians to correct NSAID overages. If, however, the official veterinarian determines no dosage amount or change in time of administration will result in a test sample level within the limits of Rule 1868, withdrawal of authorization for use of any one NSAID may occur.

Subsection 1868(d) provides that if a blood and/or urine 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. The CHRB currently provides a post-race testing program intended to prevent and detect the unauthorized use of certain medications and drug substances during horse races. The program is intended to guard the health and welfare of horse and rider, to ensure the integrity of horse racing in this State, and to protect participating licensees and the wagering public. The industry, however, has gone without similar protections when horses complete timed workouts at licensed racing facilities. Subsection 1868(d) will address the

issue by allowing the Board to apply the penalty provisions of Article 15. The subsection is consistent with Rule 1866, which applies the provisions of Article 15 to horses performing workouts to be removed from the Veterinarian's List.

Subsection 1868(e) provides a definition of "timed workout" for purposes of clarity.

## POLICY STATEMENT OVERVIEW OF ANTICIPATED BENEFITS OF PROPOSAL

The proposed addition of Rule 1868 promotes the safety and welfare of all horses participating in timed workouts, as well as CHRB licensees who ride horse performing such workouts. The proposed amendment will also protect the wagering public. The regulation provides that local anesthetics or narcotic analgesics shall not be administered to any horse within 24 hours of a timed workout, and that not more than one approved NSAID may be detected in an official test sample taken from a horse after it completes a timed workout. The proposed addition of Rule 1868 will establish restrictions on the use of local anesthetics, narcotic analgesics, and NSAID for horses engaging in timed workouts. The proposed regulation will act to prevent horses from being administered medications and other substances that could increase the likelihood of them becoming injured during timed workouts. In a timed workout, a horse will run at or near full speed, meaning the same concerns about certain medications increasing the chance of injury to horse and rider during a race are equally applicable. When the timed workout performance of a horse is enhanced or hindered, the wagering public is defrauded. Many handicappers rely on the past performance of horses to determine what they predict the order of finish will be in a race. Past performances often include the results of timed workouts, which means when these workouts are altered by the overuse of pain-masking medications the wagering public is deceived regarding the true condition of the horse and its natural skill and ability. Rule 1868 will help to ensure that timed workouts accurately reflect the true condition and ability of the horse.

## CONSISTENCY EVALUATION

During the process of developing the proposed regulation, 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 addition of Rule 1868 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: none

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 regulation 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 addition of Rule 1868 promotes the health and welfare of equine athletes, the health and welfare of exercise riders and jockeys, and will protect the wagering public. The proposed regulation will act to prevent horses from being administered medications and other substances that could increase the likelihood of them becoming injured during timed workouts. When a horse works under the influence of medications that mask its condition, the likelihood of a breakdown and injury to horse and rider increases. Additionally, when the performance of a horse is enhanced, or hindered, the wagering public is defrauded. Many horse racing fans use the past performance of horses to determine what they predict the order of finish will be in a race. When timed workouts are altered by the use of pain-masking medications the wagering public is deceived regarding the true condition of the horse and its ability. Rule 1868 will help to ensure that timed workouts accurately reflect the true condition and ability of the horse. The proposed addition of Rule 1868 will not benefit California's environment.

Effect on small businesses: none. The proposal to add Rule 1868 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:

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California Horse Racing Board  
1010 Hurley Way, Suite 300  
Sacramento, CA 95825  
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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 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).