

TITLE 4. CALIFORNIA HORSE RACING BOARD
NOTICE OF PROPOSAL TO AMEND
RULE 2049, DESIGNATION AND APPROVAL OF HORSEMEN'S WELFARE FUND

The California Horse Racing Board (Board) proposes to amend the regulation described below after considering all comments, objections, or recommendations regarding the proposed action.

PROPOSED REGULATORY ACTION

The Board proposes to amend Rule 2049, Designation and Approval of Horsemen's Welfare Fund, of the California Code of Regulations, Title 4, Division 4. The proposed changes to Rule 2049 will increase the maximum allowable number of directors or trustees of the Horsemen's Welfare Fund from nine to eleven and increase the length of the term for a director or trustee from two years to three. The proposed changes will also eliminate the requirement that at least forty percent of the directors or trustees have no financial interest in horse racing as a licensed horse owner, trainer, or assistant trainer and not be current members of the horsemen's organization responsible for establishing the Horsemen's Welfare Fund.

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, Baldwin Terrace Room, 285 West 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 at the hearing.

WRITTEN COMMENT PERIOD

Any interested person, or their authorized representative, may submit written comments about the proposed regulatory action to the Board. The written comment period closes on **January 13, 2020**. All comments must be received by that time at the Board. However, written comments may still be submitted at the public hearing. Submit comments to:

Rick Pimentel, Associate Governmental Program Analyst
California Horse Racing Board
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Sacramento, CA 95825
(916) 274-6043
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AUTHORITY AND REFERENCE

Authority: Section 19440, Business and Professions Code.

Reference: Sections 19641 and 19641.2, Business and Professions Code.

Business and Professions Code section 19440 authorizes the Board to adopt the proposed regulatory amendment, which would implement, interpret, or make specific sections 19641 and 19641.2 of the Business and Professions Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Business and Professions Code section 19641 provides for the distribution of redistributable money resulting from specified horse racing meetings to a welfare fund established for the benefit of horsemen and horsewomen and backstretch personnel. Business and Professions Code section 19641.2 provides that the nonprofit foundation authorized to receive funds pursuant to section 19641 shall use those funds to administer a health and welfare trust fund.

Rule 2049, Designation and Approval of Horsemen's Welfare Fund, provides that the charitable corporation organized by the horsemen's organization shall have a minimum of five and maximum of nine directors who are subject to Board approval. The recognized charitable corporation of the horsemen's organization is the California Thoroughbred Horsemen's Foundation, Inc. (CTHF). Rule 2049 provides that directors of CTHF may also be directors of the horsemen's organization if at least forty percent of the directors have no financial interest in horse racing as a licensed horse owner, trainer, or assistant trainer and are not a current member of the horsemen's organization. CTHF has asked the Board to amend Rule 2049 to provide for additional directors, eliminate the requirement that a percentage of directors have no financial interest in horse racing as a Board licensee and not be a director of the horsemen's organization, and extend the term for a director from two years to three years.

The proposed amendment to Rule 2049 will allow CTHF to expand its board of directors. Currently, the maximum number of directors is nine. The proposed amendment will authorize the CTHF to have a minimum of five and a maximum of eleven directors. An expanded CTHF board of directors will provide it with the opportunity to appoint directors who would bring both financial means and a network of contacts to potentially assist the CTHF. Additional directors will also provide the opportunity for existing directors to educate and cultivate new directors without the need to replace the existing directors. This will allow for continuity in CTHF activities and decision-making.

The current CTHF board of directors is composed of nine persons. Rule 2049 requires that forty percent of the directors have no financial interest in horse racing as CHRB licensees and not be members of the horsemen's organization. The proposed amendment to Rule 2049 will eliminate this requirement but keep intact the requirement that at least one director have no financial interest in horse racing pursuant to Business

and Professions Code section 19641.2(c). This will allow CTHF to recruit the most qualified and knowledgeable individuals who have a strong interest in CTHF's activities.

All other changes to the text of Rule 2049 are for the purposes of clarity and consistency.

POLICY STATEMENT OVERVIEW OF ANTICIPATED BENEFITS OF PROPOSAL

The proposed amendment to subsection 2049(a) will increase the maximum allowable number of directors or trustees of the charitable corporation from nine to eleven. The recognized charitable corporation of the horsemen's organization is the California Thoroughbred Horsemen's Foundation, Inc. (CTHF), which is an operating foundation that does not exist by an endowment. Fund raising activities are an important part of CTHF's success. Allowing CTHF to expand its board of directors will provide it with the opportunity to appoint directors or trustees who would bring both financial means and a network of contacts to potentially assist CTHF. Additional directors will also provide the opportunity for existing directors to educate and cultivate new directors without the need to replace the existing directors. This will allow for continuity in CTHF activities and decision-making.

The proposed amendment to subsection 2049(a) will also increase the length of the term for a director or trustee of the charitable corporation from two years to three. The change from a two-year term for a director or trustee to a three-year term will provide greater stability, be less disruptive to the nomination process, and allow for a better determination of a director or trustee's merit.

Finally, the proposed amendment to subsection 2049(a) will eliminate the requirement that forty percent of the current directors or trustees of the charitable corporation have no financial interest in horse racing as licensees and not be members of the horsemen's organization that established the charitable corporation. This will allow CTHF to recruit qualified individuals who have a keen interest in CTHF'S activities and responsibilities. CTHF has found that the present rule is too restrictive, as such qualified individuals are already licensed owners, trainers, or assistant trainers or serve as directors for the horsemen's organizations.

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 2049 is the only regulation dealing with the establishment of a charitable corporation by a horsemen's organization to administer a welfare fund for the benefit the horsemen. Therefore, the proposed regulation is neither inconsistent nor incompatible with existing state regulations.

DISCLOSURES 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 cost 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 amendment to Rule 2049 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 impacts 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.

RESULTS OF ECONOMIC IMPACT ASSESSMENT

The adoption of the proposed amendment to Rule 2049 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; (4) protect worker safety; or (5) benefit the state's environment. The rule mandates the number of directors the charitable corporation may have, and mandates how many of those directors must not have a financial interest in horse racing as a licensed horse owner, trainer, or assistant trainer, and are not current members of the horsemen's organization.

Effect on small businesses: none. The proposal to amend Rule 2049 does not have an effect on 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, 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 as 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 PERSONS

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:

Rick Pimentel, Associate Governmental Program Analyst
California Horse Racing Board
Policy and Regulations Unit
1010 Hurley Way, Suite 300
Sacramento, CA 95825
(916) 274-6043
rpimentel@chrb.ca.gov

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

Amanda Drummond, Manager
Policy and Regulations
(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 office 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 may be obtained by contacting Rick Pimentel, or the alternate contact person, at the address, phone numbers, or e-mail addresses 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 that 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 Rick Pimentel 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 available after the Board has adopted the proposed regulation in its current or modified form, should be sent to the attention of Rick Pimentel 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 website. The rulemaking file consists of the notice, the proposed text of the regulation, and the initial statement of reasons. The Board's website address is www.chrb.ca.gov.