

APPEARANCES

COMMITTEE MEMBERS

Madeline Auerbach, Vice Chair

Fred Mass, Commissioner

Alex Solis, Commissioner

Debra Reed, Commissioner

Dennis Alfieri, Commissioner

STAFF

Rick Baedeker, Executive Director

Jacqueline Wagner, Assistant Executive Director

John McDonough, Chief Counsel

Robert Brodnick, Staff Counsel

Mike Marten, Associate Analyst

Rick Arthur, Equine Medical Director

ALSO PRESENT

Frank DeMarco, Los Angeles Turf Club

Mary Forney, Thoroughbred Owners of California

Tom Varela, Monarch Content Management

George Haines, Southern California Off-Track Wagering

Matthew Broad, Broad on Gusman on behalf of Jockey's Guild

Aaron Gryder, Jockey

Cody Jensen, Jockey

APPEARANCES

ALSO PRESENT

Darrell Haire, Jockeys' Guild

Mindy Coleman, Jockeys' Guild

Michael Lyon, Post Time/Finish Line

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8. Discussion and action by the Board regarding the distribution of race day charity proceeds of the los Angeles Turf Club II, Incorporated dba as Santa Anita Park 2018 autumn race meeting, September 28, 2018 to November 4, 2018, in the amount of \$28,445 to ten beneficiaries. --
9. Discussion and action by the Board regarding the request for approval of the continuation of the 0.50% distribution to the Southern California Stabling and Vanning Fund from advance deposit wagering (ADW) hosted by thoroughbred racing associations and racing fairs conducting racing in the Central and Southern zone for the period commencing January 1, 2019 through December 31, 2019 as permitted under Business and Professions Code section 19604(f) (5) (E). 16
10. Discussion and action by the Board regarding the request from the Los Angeles Turf Club for 21

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- approval of a special mandatory payout of the Rainbow Pick 6 Wager on February 2, 2019, pursuant to Association of Racing Commissioners International (ARCI) Model Rule 004-105(G) (a).
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12. Discussion and action by the Board regarding the proposal to suspend the implementation of CHRB Rule 1554(a) (1), Duties of a Horse Identifier; Rule 1581.1(a) (4), Entries; Rule 1588(a) (12), Horse Ineligible to Start in a Race; and Rule 1597.5, Microchips Required for All Horses on Grounds, pursuant to CHRB Rule 1406, Suspension of Rule. 32
13. Discussion and action by the Board regarding the proposed amendment to CHRB Rules 1581.1, Entries and Rule, and Rule 1597.5, Microchips Required for All Horses on Grounds, to revise 36

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and clarify microchip requirements for California racehorses.

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| 14. | Discussion and action by the Board regarding the proposed amendments to CHRB Rule 1498, Application for License to Conduct a Horse Racing Meeting; and Rule 1498, Physical Examination, and the proposed addition to CHRB Rule 1498.1, Return to Ride Authorization Required, to incorporate the components of the Association of Racing Commissioners International (ARCI) model rule for concussion protocols into the CHRB's rules and regulations. | 41 |
| 15. | Discussion and action by the Board regarding the proposed amendment to CHRB Rule 1891.1, Penalty for Possession of Electrical Device, to require that a complaint against a license for violation of, or conspiring to violate, Rule 1890(c) shall be referred to the Stewards for hearing and adjudication. | -- |

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16. Public hearing and action by the Board regarding 97
the proposed amendment to CHRB Rule 1467,
Paymaster of Purses, to include trainer and jockey
purse deductions from any thoroughbred race
conducted at a thoroughbred or fair race meeting,
to be contributed to the California Retirement
Management Account (CARMA), a charitable trust
fund maintained by CARMA, a nonprofit organization.
(Note: This concludes the 45-day public comment
period. The Board may adopt the proposal as
presented.)
17. Public hearing and action by the Board regarding 94
the proposed addition of CHRB Rule 1842.1,
Additional Report for Intra-Articular Treatments,
to require veterinarians administering medication
or treatment into an articular structure of a
horse located within the inclosure to provide an
intra-articular treatment record to the trainer
who shall maintain the records for a period of
one year, and make the records available to the
examining veterinarian for the purpose of
assisting with pre-race veterinary examinations

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and other examinations as required by the Board.

(Note: This concludes the 15-day public comment period. The Board may adopt the proposal as presented.)

18. Closed Session: For the purpose of receiving advice from counsel, considering pending litigation, reaching decisions on administrative licensing and disciplinary hearings, and personnel matters, as authorized by section 11126 of the Government Code. 100
- A. The Board may convene a Closed Session to confer with and receive advice from its legal counsel regarding the pending litigation described in the attachment to this agenda captioned "Pending Litigation," and as authorized by Government Code section 11126(e).
 - B. The Board may convene a Closed Session to confer with and receive advice from its legal counsel regarding the pending administrative licensing or disciplinary matters described in the attachment to

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this agenda captioned "Pending Administrative Adjudications," as authorized by Government Code section 11126(e).

- C. The Board may convene a Closed Session for the purposes of considering personnel matters as authorized by Government Code section 11126(a).

1 rule for each speaker. The three-minute time limit will be
2 enforced during discussion of all matters as stated on the
3 agenda, as well as during the public comment period.

4 There is a public comment sign-in sheet for each
5 agenda matter on which the Board invites comments. Also,
6 there is a sign-in sheet for those wishing to speak during
7 the public comment period for matters not on the Board's
8 agenda if it concerns horse racing in California. Please
9 print your name legibly on the public comment sign-in sheet.

10 When a matter is open for public comment, your
11 name will be called. Please come to the podium and
12 introduce yourself by stating your name and organization
13 clearly. This is necessary for the court reporter to have a
14 clear record of all who speak. When your three minutes are
15 up the Chairman will ask you to return to your seat so
16 others can be heard.

17 When all the names have been called, the Chairman
18 will ask if there is anyone else who would like to speak on
19 the matter before the Board. Also, the Board may ask
20 questions of the individuals who speak. If a speaker
21 repeats herself or himself, the Chairman will ask if the
22 speaker has any new comments to make. If there are none,
23 the speaker will be asked to let others make comments to the
24 Board.

25 Okay, before we get started today, I am

1 thrilled, to say the least, that we welcome two new
2 Commissioners to the Board. I know the only thing that is
3 too bad is that Chairman Winner isn't here because he's
4 probably even happier than I am about these two new folks.
5 And I don't have a lot of information about them but I do
6 have a few things that I'd like to tell you about them.

7 Debra, Debbie, is -- Commissioner Reed-Klages, now
8 I'm screwing it up, is a retired Chairperson, President and
9 Chief Executive Officer of Sempra Energy, which you might
10 know is the largest natural gas utility in the country and
11 serves over 40 million people worldwide. And I only know
12 this because Mike Marten looked it up and told me.

13 And Dennis, Commissioner Alfieri, is the Managing
14 Member of Mission Real Estate Group, but you might know him
15 better as a founding partner in the Twin Palms Restaurant in
16 Pasadena that was so popular with racing fans and others.

17 I've learned, thanks to Mike's diligence in
18 looking this up for me, that they've both been lifelong
19 horse racing fans. Debra learned to read the Racing Form
20 while she was just a young girl, while Dennis grew up in
21 Arcadia. And I think his house was just above Santa Anita.

22 So in addition to everything else, they bring a strong
23 interest in horse racing, which is something that we need.

24 And I would like for us to take a moment for
25 Debbie to tell us a little bit about why she wants to be on

1 this Board, and then for Dennis to do the same thing.

2 So, Commissioner, if you would, please?

3 COMMISSIONER REED-KLAGES: Sure, I'd be happy to.

4 Well, it's so nice to meet many of you here today.

5 As Madeline indicated, that the first thing I learned to
6 read was a Racing Form. My dad was very much into horse
7 racing. I spent my younger years at Los Alamitos many
8 nights in the summertime watching the Quarter horse races,
9 and then taking the train down to Del Mar, and then coming
10 up to Santa Anita and Hollywood Park, when it existed. Went
11 to the Pomona Fair a lot. Wherever there was horse racing,
12 my family used to go.

13 And I've always had a passion for horses. I own
14 horses, not racehorses. I do hunter/jumper and trail
15 riding. And so I love horses. I love the sport.

16 And I have worked for 40 years at Sempra Energy
17 and wanted to do something to give back. And I thought,
18 since I had an affection for this business and the horses,
19 the jockeys, the facilities, and want to see this business
20 thrive, that this would be a really good position to
21 volunteer for.

22 So thank you.

23 VICE CHAIR AUERBACH: Thank you.

24 Dennis?

25 COMMISSIONER ALFIERI: And as Madeline said, thank

1 you, Madeline, I grew up here and went to Arcadia High
2 School. I've lived most of my adult life in Pasadena. I
3 have four children and live above the Rose Bowl over there
4 now.

5 But horse racing has been in our family and blood
6 forever. We've lived right near Wayne Lucas up here for
7 years and years. My parents were here 65 years in Arcadia.
8 I have horses now. I have a horse here at Santa Anita and I
9 have two in Kentucky that are racing, one racing tomorrow,
10 actually. And just very -- always interested in it.

11 A lot of great friends. I knew Cliff Goodrich
12 years ago, and Alan Balch and George and others that have
13 been around here. I feel like, you know, I came here with
14 my dad when I was -- and those were the days when you had to
15 wear a coat and tie up in the Turf Club. And we were very
16 close friends of the Strubs and Ray Rogers.

17 And so it's just, it's been part of our family and
18 legacy and I'm just so very interested in it. I told the
19 governor, we've just got to do a lot to make sure that we
20 protect the tradition of horse racing in California. And I
21 want to bring some new ideas and things and hopefully be
22 contributive to this Board, and so that's where we are.

23 VICE CHAIR AUERBACH: Dennis, your horse that's
24 running, is that tomorrow, here?

25 COMMISSIONER ALFIERI: No. No, in February.

1 VICE CHAIR AUERBACH: Isn't it? Oh, I thought you
2 said you were going to be --

3 COMMISSIONER ALFIERI: Our horse running tomorrow
4 is in Kentucky.

5 VICE CHAIR AUERBACH: Well, can we bet on it?

6 COMMISSIONER ALFIERI: Sure.

7 VICE CHAIR AUERBACH: Oh. I just thought I'd ask.

8 COMMISSIONER ALFIERI: Is that an advertisement
9 or --

10 VICE CHAIR AUERBACH: Just wanted to know.

11 I would encourage those of you in the community
12 who are involved, if you have not met the new Commissioners,
13 to please say hello and let them see who you are and help
14 them get acquainted with the community because we have a
15 wonderful community. And we're like any community, we fight
16 and we argue and we this and we that, but for the most part
17 we get things done and we have a lot of affection and
18 respect for each other.

19 Okay, let's move on.

20 (Colloquy Between Vice Chair Auerbach and Executive
21 Director Baedeker)

22 VICE CHAIR AUERBACH: Okay. The approval of the
23 minutes of both November 29th and December 13th, we're going
24 to put over to the next meeting because we have an issue of
25 being short the required number of Commissioners that were

1 actually here those dates, so we will move those approvals
2 over to the next meeting.

3 Next we'll have our Executive Director Report.

4 EXECUTIVE OFFICER BAEDEKER: Thank you, Madam
5 Chairman. I mentioned once before, and anybody that has
6 been there will, I'm sure, agree that the work that was done
7 to bring San Luis Rey Downs back into shape after the
8 catastrophic fires was really impressive, not only with the
9 facility work that was done but also within the timeframe
10 that it was accomplished. The Stronach Group, I think,
11 really should be commended.

12 I also want to note that at the time they
13 committed that they would be installing sprinklers in those
14 new barns. And Shawn Loehr, our Chief of Enforcement, was
15 there yesterday or the day before and reports that that work
16 is completed.

17 So kudos to the Stronach Group for doing that.
18 That was a big commitment and a big job. And if you haven't
19 seen it, I encourage you to stop by. It's impressive.

20 If Chairman Winner were here he would announce
21 some changes to the Committee structures, but he asked me to
22 do it on his behalf. So I will read the Committees and the
23 new participants.

24 For the Pari-Mutuel and Wagering Facility
25 Committee the Chair is Commissioner Alfieri, the member is

1 Commissioner Maas.

2 For the Legislative, Legal and Regulations the
3 Chair is Commissioner Maas and the member is Dennis Alfieri.

4 Medication, Safety and Welfare, no change there.
5 The Chair is Madeline Auerbach and the member is Alex Solis.

6 Jockey and Driver Welfare, the Chair is Alex
7 Solis, the member is Vice Chairman Auerbach.

8 The Stewards Committee, no change there either.
9 Chairman Winner is the Chair and Vice Chair Auerbach is the
10 member.

11 Racing, Breeding and Stabling Initiatives, the
12 Chair is Commissioner Reed and the member is Alex Solis.

13 Race Dates, the Chair is Chairman Winner and the
14 member is Commissioner Ruano.

15 Budget, Finance and Audit, the Chair is
16 Commissioner Ruano and the member is Commissioner Reed.

17 And the financials for the month, and I have some
18 year-end and also some end-of-meet reports to give you,
19 through -- for December, the meet itself, we had the same
20 number of race days during the day and we had one less night
21 of racing; however, the numbers were very strong.

22 For the daytime meets the business was up 16
23 percent. The nighttime meets, because of the ten percent
24 drop in the number of days, was down one percent.

25 Everything altogether, the numbers were solid, up 13.8

1 percent. Year to date, and keep in mind that these year-to-
2 date numbers compared to last year, this year did not
3 include the Breeders' Cup, and nonetheless, for the year the
4 daytime business was up 1.9 percent, nighttime business up
5 4.53 percent and, all in, the business in the state was up
6 2.14 percent. And it was the exact same number of race days
7 and nights versus last year.

8 Some individual end-of-meet reports. The fall
9 meet at Golden Gate, two fewer days this year. Nonetheless,
10 business total handle was up 14.5 percent and average daily
11 handle was up 22 percent at those meets. The big gains were
12 in ADW and out-of-state wagering on the Golden Gate signal.

13 The Del Mar Thoroughbred Club, if you look at the
14 meet compared to last year when they had the Breeders' Cup,
15 you know, it looks catastrophic, they were down 49 percent.

16 But if you look at apples to apples, compare the meet
17 without the Breeders' Cup last year versus the meet this
18 year, the total handle, because there were two additional
19 race days, was up 11.15 percent. The average daily handle
20 was down 2.7 percent. And I think that correlates to the
21 average starters per event. Last year was 8.5 and this year
22 was 7.7.

23 The Los Alamitos Quarter horse meet, the long meet
24 was up 10.6 percent in total handle. They had three more
25 days this year than last. The average daily handle was up

1 8.34 percent. Same thing for Los Alamitos. While they were
2 slightly up on track, they did better in the satellite
3 network, up four percent, significantly better in ADW, up
4 almost 15 percent, and in out-of-state wagering, up 14.3.

5 For the Los Angeles thoroughbred meet, that
6 concluded in December, hard to compare this one, as well,
7 because they had 11 days a year ago versus 8 days this year,
8 so the total handle was off 33 percent. The average daily
9 handle was off 8.14 percent.

10 Watch and Wager Harness, they have a fall meet
11 even though they run, practically speaking, they run from
12 the end of October through the end of April. Nonetheless,
13 they do have a fall meet and then they have the longer meet
14 that starts on December 26th. So the fall meet, kind of
15 difficult to compare. Last year there were 15 days in the
16 smaller meet. This year, only nine. Their average daily
17 handle was up 15.45 percent, so that's solid.

18 And a final note, first of all, you don't see
19 folks from Del Mar here today and that's because they're all
20 in Florida as CEO Joe Harper receives an Eclipse Award, so
21 congratulations to Joe. And also, we have one empty seat
22 over at this table that's usually full and that's Jeremy
23 Balan from the Blood Horse, who's also receiving an Eclipse
24 Award. So congratulations to both of them.

25 And that's my report, Madam Chairman.

1 VICE CHAIR AUERBACH: Thank you.

2 Does anybody have any questions to ask? Okay.

3 COMMISSIONER MAAS: Do we have any cards?

4 VICE CHAIR AUERBACH: No cards? Okay.

5 I want to take a moment now, before we continue
6 with the meeting, to note the passing of one of our good
7 friends, Bob Fletcher, who for more than ten years managed
8 the Winners Foundation until he was sidelined by a stroke.

9 Now as most of you know, the Winners Foundation is
10 an integral part of California horse racing. They provide
11 counseling and assistance to our backstretch workers and
12 others who suffer from substance abuse and other problems.
13 I don't know how many workers the Winners Foundation has
14 helped recover, how many the foundation has helped to return
15 to normal lives.

16 Any organization is only as good as its leaders
17 and Bob truly was a leader. He truly cared about the people
18 that he helped, in part, because he was a recovering
19 alcoholic himself, something he freely admitted.

20 And his passion spread to others. Under Bob's
21 leadership the Winners Foundation gained the trust of
22 backstretch workers, of jockeys, of trainers, and all the
23 others who benefitted from that service. As Gino Roncelli,
24 the President of Winners Foundation, once said, "You could
25 walk around the racetrack and point out this guy or that

1 guy, who was helped by Bob.”

2 Fortunately for all of us the Winners Foundation
3 is still helping others. We are grateful that Bob left the
4 organization in such good shape to continue its excellent
5 work.

6 Okay, number four, there are no public comment.
7 There are no cards. No one has anything to say.

8 So we will move on to item number five, discussion
9 and action by the Board regarding the distribution of race
10 day charity proceeds of the Del Mar Thoroughbred Club 2018
11 summer race meeting in the amount of \$106,015 to nine
12 beneficiaries.

13 Do I have to have a motion?

14 Do I hear a motion?

15 COMMISSIONER MAAS: I'll make a motion.

16 VICE CHAIR AUERBACH: Commissioner Maas makes a
17 motion.

18 COMMISSIONER SOLIS: Second.

19 VICE CHAIR AUERBACH: Commissioner Solis seconds.

20 All in favor?

21 Commissioner Alfieri?

22 COMMISSIONER ALFIERI: Aye.

23 VICE CHAIR AUERBACH: Commissioner Maas?

24 COMMISSIONER MAAS: Aye.

25 VICE CHAIR AUERBACH: The Chair votes aye.

1 COMMISSIONER SOLIS: Aye.

2 VICE CHAIR AUERBACH: Commissioner Reed?

3 COMMISSIONER REED-KLAGES: Aye.

4 VICE CHAIR AUERBACH: Motion passes.

5 Number six, discussion and action by the Board
6 regarding the distribution of race day charity proceeds of
7 the Del Mar Thoroughbred Club 2018 fall race meet in the
8 amount of \$17,143 to four beneficiaries.

9 Motion?

10 COMMISSIONER MAAS: Motion.

11 VICE CHAIR AUERBACH: Commissioner Maas moves.

12 COMMISSIONER SOLIS: Second.

13 VICE CHAIR AUERBACH: Commissioner Solis seconds.
14 Commissioner Alfieri?

15 COMMISSIONER ALFIERI: Aye.

16 VICE CHAIR AUERBACH: Commissioner Maas?

17 COMMISSIONER MAAS: Aye.

18 VICE CHAIR AUERBACH: The Chair votes aye.

19 Commissioner Solis?

20 COMMISSIONER SOLIS: Aye.

21 VICE CHAIR AUERBACH: Commissioner Reed?

22 COMMISSIONER REED-KLAGES: Aye.

23 VICE CHAIR AUERBACH: Motion passes.

24 Number seven, discussion and action by the Board
25 regarding distribution of race day charity proceeds of the

1 Los Angeles Turf Club, Incorporated dba as Santa Anita Park
2 2017 to 2018 winter/spring race meet, December 26th, 2017 to
3 June 24th, 2018 in the amount of \$153,227 [sic] to ten
4 beneficiaries.

5 Mr. DeMarco?

6 MR. DEMARCO: Good morning.

7 VICE CHAIR AUERBACH: Good morning. Can you step
8 a little closer to the microphone?

9 MR. DEMARCO: We're prepared to these make these
10 distributions right now, as soon as you approve them.

11 VICE CHAIR AUERBACH: Thank you. Anything else
12 you want to add?

13 MR. DEMARCO: No.

14 VICE CHAIR AUERBACH: Okay.

15 MR. DEMARCO: Well, I can add that I'm lucky I
16 could get up the stairs at my age.

17 VICE CHAIR AUERBACH: This is your venue.

18 MR. DEMARCO: That's true.

19 VICE CHAIR AUERBACH: You look great for your age.

20 MR. DEMARCO: Thank you.

21 VICE CHAIR AUERBACH: Anyone make the motion?

22 COMMISSIONER MAAS: I'll make the motion to
23 approve.

24 VICE CHAIR AUERBACH: Commissioner Maas.

25 COMMISSIONER ALFIERI: Second.

1 VICE CHAIR AUERBACH: Commissioner Alfieri
2 seconds.
3 Commissioner Alfieri --
4 COMMISSIONER ALFIERI: Aye.
5 VICE CHAIR AUERBACH: -- how do you vote?
6 COMMISSIONER ALFIERI: Aye.
7 VICE CHAIR AUERBACH: Commissioner Maas?
8 COMMISSIONER MAAS: Yes.
9 VICE CHAIR AUERBACH: The Chair votes yes.
10 Commissioner Solis?
11 COMMISSIONER SOLIS: Yes.
12 VICE CHAIR AUERBACH: Commissioner Reed?
13 COMMISSIONER REED-KLAGES: Yes.
14 VICE CHAIR AUERBACH: Motion passes. Don't move.
15 MR. DEMARCO: I won't.
16 VICE CHAIR AUERBACH: Okay. Number eight,
17 discussion and action by the Board regarding the
18 distribution of race day charity proceeds of the Los Angeles
19 Turf Club II, Incorporated dba Santa Anita Park 2018 autumn
20 race meet, September 28, 2018 to November 4, 2018 in the
21 amount of \$28,445 to ten beneficiaries.
22 Same comment?
23 MR. DEMARCO: Same comment.
24 VICE CHAIR AUERBACH: Alrighty.
25 COMMISSIONER REED-KLAGES: Move.

1 VICE CHAIR AUERBACH: Commissioner Reed moves.
2 COMMISSIONER SOLIS: Second.
3 VICE CHAIR AUERBACH: Commissioner Solis seconds.
4 COMMISSIONER ALFIERI: Yes.
5 COMMISSIONER MAAS: Yes.
6 VICE CHAIR AUERBACH: Commissioner Maas, yes.
7 Chair, yes.
8 Commissioner Solis?
9 COMMISSIONER SOLIS: Yes.
10 COMMISSIONER REED-KLAGES: Yes.
11 VICE CHAIR AUERBACH: Commissioner Reed? Motion
12 passes.
13 Thank you, Frank.
14 MR. DEMARCO: Thank you all.
15 VICE CHAIR AUERBACH: Thank you.
16 I know it seems kind of pedestrian to all of you
17 but I can't tell you what a relief it is to pass those
18 motions, how difficult it's been for us working on -- with a
19 short group, not being able to have enough folks to vote.
20 And I am once again, part of my joy in having our two new
21 Commissioners is not only for somebody to share the workload
22 but to move the workload forward.
23 So on behalf of all the charities who received
24 those funds, thank you very much.
25 Okay, item number nine, discussion and action by

1 the Board regarding the request for approval of the
2 continuation of the .50 distribution to the Southern
3 California Stabling and Vanning Fund from the advance
4 deposit wagering hosted by thoroughbred racing associations
5 and racing fairs conducting racing in the central and
6 southern zones for the period commencing January 1, 2019
7 through December 31, 2019 as permitted under Business and
8 Professions Code section 19604, et cetera, et cetera.

9 EXECUTIVE OFFICER BAEDEKER: Madam Chair, I
10 thought I'd just preface the discussion with an explanation
11 of this for the new Commissioners. This isn't the first
12 time that this has come before the Board.

13 And the simple explanation of what's before you is
14 when any wager is made in the state, including an ADW online
15 wager, the statutes call for a number of distributions from
16 the net proceeds from those wagers. So if, on average, say
17 20 percent is coming out of the wager, then there will be
18 distributions given to anything from, possibly, Backstretch
19 Health and Welfare, Jockey Retirement Fund, and so forth.

20 After all of those distributions are made, then
21 for an account wager the balance is called the market access
22 fee, which basically means for TVG or any other to come into
23 the market and take a wager from a patron down the street,
24 then they pay back to the industry that market access fee.
25 It's really the net revenue that comes back and is split

1 between purses and commissions for the racetrack. And as
2 you'll see here under your analysis, the law gives those
3 parties, the tracks and the horsemen getting the purses, the
4 ability to come before this Board and ask to use some of
5 those funds for a different purpose.

6 Mary, I can give it to you after that.

7 MS. FORNEY: Okay. Mary Forney on behalf of TOC.

8 This agreement is just pursuant to a four-party
9 term sheet that was signed in the end of 2016 for three
10 years, so it is ending at the end of 2019, and in which all
11 parties agreed to request this .5 percent for market access
12 fees to help fund the Stabling and Vanning Fund, which just
13 quickly, for your information, the Stabling and Vanning Fund
14 is projected to be, by the end of this year, the deficit at
15 about \$1 million but -- I'm sorry. It is at about \$1
16 million now. By the end of 2019, with this market access
17 fee and all of the other inputs, it's projected to be to the
18 good by \$3.7 million.

19 So any questions?

20 VICE CHAIR AUERBACH: How does it swing like that?

21 MS. FORNEY: Well, these funds have been used to
22 pay off the debt that was owed to the various facilities.
23 And those will all be paid off and so more of the
24 understands will be remaining in the Stabling and Vanning
25 Fund.

1 VICE CHAIR AUERBACH: Are we just saying it's an
2 accounting function that we're in the red today and we're
3 going to be in the black in 12 months?

4 MS. FORNEY: It's taken a lot of work to continue
5 to pay off, fund and pay off and cut expenses to get to
6 where we are today. We were -- let's see. Well, I'm not
7 going to go back into the accounting for all the years.

8 VICE CHAIR AUERBACH: Right. No, no, no, that
9 isn't -- I'm just trying to understand. It sounds like an
10 accounting function because I don't think in 12 months we're
11 going to make up that kind of difference. So I'm sure
12 it's --

13 EXECUTIVE OFFICER BAEDEKER: But you're really
14 eliminating debt service; right?

15 MS. FORNEY: You're eliminating the debt.

16 EXECUTIVE OFFICER BAEDEKER: So instead of paying
17 back all the tracks that have been putting money in over the
18 year, and purses --

19 MS. FORNEY: So those debts will not be owed --

20 EXECUTIVE OFFICER BAEDEKER: Right.

21 MS. FORNEY: -- at that point.

22 VICE CHAIR AUERBACH: Got it.

23 EXECUTIVE OFFICER BAEDEKER: So they've now been
24 completely paid back at some point soon?

25 MS. FORNEY: Correct.

1 EXECUTIVE OFFICER BAEDEKER: Right.

2 VICE CHAIR AUERBACH: All right.

3 MS. FORNEY: Yeah.

4 VICE CHAIR AUERBACH: Got it. It's an accounting
5 function. Okay.

6 Does anybody have any questions for Mary, anything
7 they'd like to know?

8 COMMISSIONER MAAS: And the minimum is still about
9 \$10 million a year, that it is, roughly speaking, for taking
10 that across the state?

11 MS. FORNEY: Yes, it is for --

12 COMMISSIONER MAAS: And that's been not just --
13 it's been fairly stable?

14 MS. FORNEY: It's projected, 2019, to be \$9.5
15 million.

16 COMMISSIONER MAAS: Okay. Thank you very much.

17 MS. FORNEY: Yeah.

18 VICE CHAIR AUERBACH: That's pretty close. Okay.
19 Thank you, Mary.

20 MS. FORNEY: Thank you.

21 VICE CHAIR AUERBACH: Do we need a motion here?
22 We need a motion. Yeah, we need a motion.

23 COMMISSIONER SOLIS: Move.

24 VICE CHAIR AUERBACH: Commissioner Solis moves.

25 COMMISSIONER MAAS: Second.

1 VICE CHAIR AUERBACH: Commissioner Maas seconds.
2 Commissioner Alfieri?
3 COMMISSIONER ALFIERI: Yes.
4 VICE CHAIR AUERBACH: Commissioner Maas?
5 COMMISSIONER MAAS: Yes.
6 VICE CHAIR AUERBACH: The Chair votes yes.
7 Commissioner Solis?
8 COMMISSIONER SOLIS: Yes.
9 VICE CHAIR AUERBACH: Commissioner Reed?
10 COMMISSIONER REED-KLAGES: Yes.
11 VICE CHAIR AUERBACH: Motion carries.
12 Okay, item number ten, discussion and action by
13 the Board regarding the request from the Los Angeles Turf
14 Club for approval of a special mandatory payout of the
15 Rainbow Pick 6 Wager on February the 2nd, 2019, pursuant to
16 Association of Racing Commissioners International, ARCI,
17 Model Rule 004-105.
18 MR. VARELA: Well, good morning.
19 VICE CHAIR AUERBACH: Good morning.
20 MR. VARELA: I'm Tom Varela, Monarch Content
21 Management, on behalf of Santa Anita. I can answer any
22 questions you may have regarding this request.
23 VICE CHAIR AUERBACH: Actually, if you --
24 MR. VARELA: I think it was laid out in the
25 letter --

1 VICE CHAIR AUERBACH: Yeah.

2 MR. VARELA: -- pretty well what -- all the
3 reasons.

4 VICE CHAIR AUERBACH: I just had a question. I
5 just have to see what it was. Too many pieces of paper.
6 Sorry, Tom.

7 MR. VARELA: Uh-huh.

8 VICE CHAIR AUERBACH: I looked at the -- I was
9 trying to figure out, you had like a date certain that you
10 wanted to do this. Yeah.

11 MR. VARELA: February 2nd. Yeah.

12 VICE CHAIR AUERBACH: You have February 2nd is --
13 that was -- no. The end of the date, the carryover is
14 greater than a million. You have to be over \$1 million in
15 the carryover by January 27th, right, according to this?

16 MR. VARELA: Yes, according to the law.

17 VICE CHAIR AUERBACH: And then I guess there's
18 not -- there is racing between January 27th and February
19 2nd, so there is the potential that it could get hit during
20 that time.

21 MR. VARELA: There is. There is. It would still
22 be offered if it was hit.

23 VICE CHAIR AUERBACH: It would still be offered?

24 MR. VARELA: Yes, the mandatory payout would still
25 be offered if it was advertised as a mandatory payout.

1 VICE CHAIR AUERBACH: So in other words, if
2 someone hit it between, you guys have an insurance policy
3 that would cover you for those dates? Because you do have
4 those potential dates and I was wondering how you had
5 decided to handle that?

6 MR. VARELA: Well, I think it would be whatever is
7 in the pool that day. I don't think they're saying that
8 they would guarantee \$1 million carryover.

9 VICE CHAIR AUERBACH: I just -- it wasn't clear to
10 me. And I wondered if you could enlighten me?

11 Do you guys understand what I'm concerned about --

12 EXECUTIVE OFFICER BAEDEKER: What's the magic
13 of --

14 VICE CHAIR AUERBACH: -- in terms of the betting?

15 EXECUTIVE OFFICER BAEDEKER: Wouldn't it be easier
16 just to eliminate January 27th? It's either on February
17 2nd, if it's over \$1 million, then --

18 VICE CHAIR AUERBACH: Yeah. Because you have the
19 potential here --

20 EXECUTIVE OFFICER BAEDEKER: Yeah.

21 VICE CHAIR AUERBACH: -- to be advertising this
22 wonderful thing and it could have been hit. And if you
23 restrict it to the money that's in there, it will be
24 nothing.

25 So I didn't understand the logic in doing it this

1 way. It seems to overcomplicate the issue.

2 MR. VARELA: Well --

3 VICE CHAIR AUERBACH: That's just my thought.

4 MR. VARELA: Well, as I said, there would still be
5 a mandatory payout on the day. It would be whatever's in
6 the pool on that day --

7 VICE CHAIR AUERBACH: Yeah. But if you're
8 advertising, oh, we have a multi-million-dollar mandatory
9 payout and it gets hit and you're paying out \$6.82 --

10 MR. VARELA: Yeah.

11 VICE CHAIR AUERBACH: -- it's going to create
12 quite a problem.

13 MR. VARELA: Yeah. This is similar -- at
14 Gulfstream Park a few years ago, this is -- you know, they
15 had a similar issue but they still mandatory paid out that
16 day --

17 VICE CHAIR AUERBACH: And how much was it,
18 compared to what they had --

19 MR. VARELA: I don't --

20 VICE CHAIR AUERBACH: -- said it was going to be?

21 MR. VARELA: -- I don't recall. I don't recall
22 what the number was.

23 VICE CHAIR AUERBACH: I mean, I understand it's
24 their meet and they can --

25 MR. VARELA: Um-hmm.

1 VICE CHAIR AUERBACH: -- do what they want, but I
2 just wonder why they do it in this fashion?

3 EXECUTIVE OFFICER BAEDEKER: It sounds to me like
4 this is a management plan that if, as a matter of fact, it
5 hasn't reached \$1 million by that previous Sunday, then they
6 wouldn't move forward with the distribution; right?

7 MR. VARELA: Yeah.

8 EXECUTIVE OFFICER BAEDEKER: So -- but from a
9 regulatory standpoint, I think that the request here is to
10 be able to distribute the pool on February 2nd.

11 MR. VARELA: Yes, that's correct.

12 EXECUTIVE OFFICER BAEDEKER: Is that accurate? Do
13 you think this a fair description of it, Rob? In other
14 words, there's no regulatory requirement for the January
15 27th date; right?

16 MR. BRODNIK: Yeah. Rob Brodnik. California
17 Horse Racing Board. That was my understanding. Typically,
18 this wager continues to roll over, if not hit. And speaking
19 to counsel for LATC, Mr. Sindler, their intent, at least
20 from what I understood, was just so that on February 2nd, if
21 it was over \$1 million, they would be able to pay it out
22 that day. So even if no one hit it, the Pick 6 on February
23 2nd, they would then go --

24 VICE CHAIR AUERBACH: No, I got that part.

25 MR. BRODNIK: Yeah.

1 VICE CHAIR AUERBACH: That part of it is clear --

2 MR. BRODNIK: Um-hmm.

3 VICE CHAIR AUERBACH: -- that they will distribute
4 the fund in full. What wasn't clear to me was the gap
5 between what happens if it gets hit? So even if it's tiny,
6 then they don't mind the -- all the advertising they put in
7 to try to get a big, you know, turnout and a big handle.

8 So if they're comfortable with it, I am too. I
9 just did not see the need to do it that way, but then I
10 don't run a racetrack, so --

11 COMMISSIONER SOLIS: What's the average amount,
12 like Gulfstream Park, what's the average amount bet on this
13 particular bet a day; do you have any idea?

14 MR. VARELA: The average pool --

15 COMMISSIONER SOLIS: Yes.

16 MR. VARELA: -- or on mandatory payouts, what
17 the --

18 COMMISSIONER SOLIS: The average pool.

19 MR. VARELA: Average pool? I think it varies. It
20 depends on what the carryover is.

21 COMMISSIONER SOLIS: Um-hmm.

22 MR. VARELA: I mean, I think the usually get a
23 couple hundred thousand if there's no --

24 COMMISSIONER SOLIS: A day?

25 MR. VARELA: -- you know, carryover, and then it

1 just builds --

2 COMMISSIONER SOLIS: Okay.

3 MR. VARELA: -- and it just builds accordingly.

4 EXECUTIVE OFFICER BAEDEKER: Where does it stand
5 right now, do you know?

6 MR. VARELA: For Gulfstream?

7 EXECUTIVE OFFICER BAEDEKER: No, for Santa Anita.

8 MR. VARELA: For Santa Anita?

9 EXECUTIVE OFFICER BAEDEKER: What's the carryover
10 amount today?

11 MR. VARELA: I believe it's around \$900,000.

12 VICE CHAIR AUERBACH: See.

13 EXECUTIVE OFFICER BAEDEKER: Okay.

14 VICE CHAIR AUERBACH: And it's -- yeah. No, I --
15 yeah. No, I know.

16 EXECUTIVE OFFICER BAEDEKER: Yeah.

17 VICE CHAIR AUERBACH: Okay. As long as every --
18 does anybody else have any other questions about this?

19 I wish you good luck.

20 So we need to -- someone needs to make a motion?

21 No?

22 COMMISSIONER SOLIS: I just want to comment.

23 VICE CHAIR AUERBACH: Come back Tom, please.

24 COMMISSIONER SOLIS: Because I've read the whole
25 thing and I do like the idea, you know, to bring something,

1 another exciting thing --

2 VICE CHAIR AUERBACH: Yeah. I do too.

3 COMMISSIONER SOLIS: -- for a great day. And
4 being up in the grandstand all day since your opening, I
5 just want to congratulate Santa Anita because they've been
6 doing a really good marketing plan. I see more people in
7 the grandstand and I just want to acknowledge that.

8 MR. VARELA: Thank you.

9 VICE CHAIR AUERBACH: So will you make a motion?

10 COMMISSIONER SOLIS: Yes.

11 VICE CHAIR AUERBACH: Thank you.

12 COMMISSIONER SOLIS: Yes, ma'am.

13 VICE CHAIR AUERBACH: I appreciate it.

14 Commissioner, will you --

15 COMMISSIONER REED-KLAGES: Yes.

16 VICE CHAIR AUERBACH: -- second the motion?

17 COMMISSIONER REED-KLAGES: Second.

18 VICE CHAIR AUERBACH: Commissioner Solis makes the
19 motion and Commissioner Reed seconds it.

20 Commissioner Alfieri?

21 COMMISSIONER ALFIERI: Yes.

22 VICE CHAIR AUERBACH: Commissioner Maas?

23 COMMISSIONER MAAS: Yes.

24 VICE CHAIR AUERBACH: The Chair votes yes.

25 Commissioner Solis?

1 COMMISSIONER SOLIS: Yes.

2 COMMISSIONER REED-KLAGES: Yes.

3 VICE CHAIR AUERBACH: Thank you.

4 Thank you, Tom.

5 Okay, item number 11, discussion and action by the
6 Board on the Renewal Application for License to Operate a
7 Minisatellite Wagering Facility from Ocean's Eleven Casino
8 in Oceanside, California for a period of up to five years.

9 MR. HAINES: Good morning.

10 VICE CHAIR AUERBACH: Good morning.

11 MR. HAINES: George Haines, Southern California
12 Off-Track Wagering. Mr. Collegian (phonetic) couldn't be
13 here today, so it's just me.

14 VICE CHAIR AUERBACH: Is he busy making money
15 there today? Is that why he can't be here?

16 MR. HAINES: I sure hope so.

17 VICE CHAIR AUERBACH: I do too.

18 Anybody have any questions for George? Anybody
19 like to make a motion to approve this?

20 COMMISSIONER MAAS: I just wanted to make sure
21 that the outstanding materials (indiscernible).

22 VICE CHAIR AUERBACH: You were on number 11?

23 COMMISSIONER MAAS: Right. Yeah. There were some
24 outstanding -- there were some outstanding issues.

25 EXECUTIVE OFFICER BAEDER: The wet signature, I

1 think, is the only thing --

2 VICE CHAIR AUERBACH: Yeah.

3 EXECUTIVE OFFICER BAEDEKER: -- that's on the
4 time --

5 COMMISSIONER MAAS: And some of the --

6 VICE CHAIR AUERBACH: Thank you for pointing that
7 out, Commissioner Maas.

8 MS. WAGNER: Jackie Wagner, CHRB Staff.

9 That's correct. The wet signature. It just means
10 we don't have the paper application. We've got a scanned
11 copy of the application.

12 VICE CHAIR AUERBACH: Okay.

13 MR. HAINES: Yeah. We haven't been asked in the
14 past to provide wet signatures. So we're putting it all
15 together right now and we'll submit those as soon as we get
16 them.

17 VICE CHAIR AUERBACH: Is that a new procedure,
18 Jackie?

19 MS. WAGNER: It's not a new procedure.

20 VICE CHAIR AUERBACH: No?

21 MR. HAINES: But we've never done it.

22 VICE CHAIR AUERBACH: Okay. But it's on its way
23 or it's covered?

24 MS. WAGNER: Yes. Yes.

25 VICE CHAIR AUERBACH: Okay.

1 MR. HAINES: Yes.

2 VICE CHAIR AUERBACH: Great. Thank you,
3 Commissioner Maas.

4 COMMISSIONER MAAS: Yeah. I think it was the
5 gaming license which expires next month. That was the one
6 issue that I just wanted to make sure --

7 VICE CHAIR AUERBACH: Yes. The gaming license
8 expires next month. What's the status of that?

9 MR. HAINES: I'm sure it's in process. And you
10 know, the Ocean's Eleven business has been there for a very
11 long time. So they're an ongoing business and I'm sure it
12 will be renewed. I have not heard any issues regarding that
13 license.

14 VICE CHAIR AUERBACH: Okay. Commissioner Maas, do
15 you want to do the motion with the --

16 COMMISSIONER MAAS: I'll make the motion with the
17 stipulation of wet signature.

18 VICE CHAIR AUERBACH: -- with a contingency?

19 COMMISSIONER MAAS: Yes. Yes. And taking into
20 account those two issues, the updating the gaming license,
21 as well as a wet signature.

22 MR. HAINES: Yes.

23 VICE CHAIR AUERBACH: Did everybody get that?

24 COMMISSIONER ALFIERI: I'll second the motion.

25 VICE CHAIR AUERBACH: Commissioner Maas moves.

1 COMMISSIONER MAAS: Yes.

2 VICE CHAIR AUERBACH: And Commissioner Alfieri
3 seconds the motion.

4 Commissioner Alfieri, how do you vote?

5 COMMISSIONER ALFIERI: Yes.

6 VICE CHAIR AUERBACH: Commissioner Maas?

7 COMMISSIONER MAAS: Yes.

8 VICE CHAIR AUERBACH: The Chair votes yes.

9 Commissioner Solis?

10 COMMISSIONER SOLIS: Yes.

11 COMMISSIONER REED-KLAGES: Yes.

12 VICE CHAIR AUERBACH: Commissioner Reed?

13 COMMISSIONER REED-KLAGES: Yes.

14 VICE CHAIR AUERBACH: Thank you, George.

15 MR. HAINES: Thank you.

16 VICE CHAIR AUERBACH: You're done.

17 Okay, boy, this is tough.

18 EXECUTIVE OFFICER BAEDEKER: It's going to slow
19 down a little bit.

20 VICE CHAIR AUERBACH: Oh, good. I was wondering,
21 what would I do with the rest of my day? Okay.

22 Item number 12, discussion and action by the Board
23 regarding the proposal to suspend the implementation of CHRB
24 Rule 1554(a)(1), Duties of Horse Identifier, Rule
25 1581.1(a)(4), Entries, Rule 1588(a)(12), Horse Ineligible to

1 Start a Race, and Rule 1597.5, Microchips Required for All
2 Horses on Grounds, pursuant to CHRB Rule 1406, Suspension of
3 Rule.

4 Rob?

5 MR. BRODNIK: Good morning, Vice Chairman, Members
6 of the Board. Robert Brodnik, California Horse Racing
7 Board.

8 Item number 12 on the agenda addresses a proposal
9 to suspend the implementation of certain portions of the
10 microchip regulation which was passed in order for allowing
11 Staff to address and correct certain issues in the language
12 contained in the rule as it currently is.

13 The proposal to suspend the implementation of
14 these rules was brought forward when Staff discovered that
15 certain tracks -- at certain tracks, there were still a
16 significant number of horses without microchips. And the
17 way that the language or the rule is currently written,
18 those horses would be unable to enter into a race which
19 occurs days before the actual starting of the race. If this
20 rule was not suspended, Staff was concerned that that would
21 reduce field sizes for certain tracks, including Los
22 Alamitos.

23 Rule 1406 allows the Board, for good cause, to
24 temporarily suspend any application of its rules upon any
25 condition it may impose. And the Board, in the next agenda

1 item, will consider amendments to the language. And what
2 we're proposing that, if interested, the Board could suspend
3 these sections of the microchip regulation until a time as
4 the amendments to those other rules could become effective.

5 EXECUTIVE OFFICER BAEDEKER: Commissioners, I
6 might elaborate on one point that Mr. Brodnik made, and that
7 is that when we hit the -- we're rapidly approaching the
8 deadline of December 26th. We found that we had 95 percent
9 of thoroughbreds covered throughout the state. We only had,
10 though, about 80 percent of Quarter horses covered. And we
11 faced a situation, an imminent situation, where the entry
12 box -- and again, as Mr. Brodnik pointed out, the rule,
13 rather than saying that a horse is ineligible to start, to
14 race, says that the horse is ineligible to be entered. And
15 so we realized that this was cumbersome. And the purpose,
16 of course, in all of this was never to compromise the entry
17 box.

18 And we faced a situation where, with nighttime
19 racing, there might be cancellations if 20 percent of the
20 horses couldn't enter. And so we contacted Chairman Winner
21 and we took him through this liability and he agreed that we
22 should bring the matter back to the Board.

23 In the course of doing that, we recognized certain
24 things that, quote unquote, seemed like a good idea at the
25 time. But now that we're into the implementation part of

1 this, the working part of this, we realize that some of the
2 things that were in the microchip rules that Staff presented
3 to the Board and the Board adopted either weren't necessary
4 or weren't sufficient, one of which is we only give the
5 stewards the ability to grant a waiver to a horse that's
6 coming for a stake's race, which is too limiting, in our
7 view.

8 A horse might be coming in for a horse race that's
9 technically not a stake's race and then going right back out
10 of the state. And so we feel like the stewards should have
11 the ability to grant a horse a waiver with the understanding
12 that that waiver can be granted once.

13 And again, the point is not -- we're not talking
14 about a medication here or something like that that's going
15 to affect the race itself. We're really just talking about
16 a broad program to have our horses microchipped.

17 So Rob will get into the changes that are proposed
18 in the next agenda item. But at this point, we believe it's
19 in the best interest of the sport to get it right. And so
20 we don't think that these changes will take as long as some
21 might going through the whole regulatory process. And when
22 they come back and if you adopt them, then we think we're
23 going to have a much better set of rules.

24 But in the meantime, let's just admit the fact
25 that we couldn't quite get the whole population chipped.

1 And as a matter of fact, in our opinion, some of the rules
2 were flawed.

3 VICE CHAIR AUERBACH: Well, I think it's
4 important, too, for us, for, especially, for our two new
5 Commissioners to understand that California was very
6 aggressive with microchipping, that we went into a pilot
7 program with the Jockey Club originally and we felt we could
8 get this accomplished in this timeframe. And as most of us
9 know, when we're working with government protocols and
10 procedures, sometimes it takes forever to get things done.
11 So I our haste to do it, perhaps we were a little aggressive
12 in how we handled it.

13 And so this is just our way of saying, okay, we
14 didn't do this correctly. Let's back up before we have a
15 problem and fix it. And I think that kind of explains where
16 we are.

17 We do have almost every horse microchipped. And
18 it's a wonderful thing and it's a great advance in horse
19 racing to make sure we're treating the right horses and
20 doing the right thing.

21 So, actually, I did get some language for item 12
22 from Staff. And can I make a motion? I guess I can; right?

23 EXECUTIVE OFFICER BAEDEKER: Yeah.

24 VICE CHAIR AUERBACH: And this would be what the
25 motion is, is I move to suspend the implementation of Rule

1 1544(a)(1), 1581.1(a)(4), 1588(a)(12), and 1597.5, pursuant
2 to the Board's authority under Rule 1406, until such time as
3 any amendments to those rules become effective.

4 Do I hear a second?

5 COMMISSIONER SOLIS: Second.

6 VICE CHAIR AUERBACH: Commissioner Solis.

7 Now does this negate us discussing these other
8 next two items or this is just for the one item?

9 MR. BRODNIK: No. This will not negate the
10 Board's --

11 VICE CHAIR AUERBACH: Okay.

12 MR. BRODNIK: -- authority to amend rules.

13 VICE CHAIR AUERBACH: Okay. All right. Any
14 questions?

15 COMMISSIONER REED-KLAGES: I just have one
16 question. It's my understanding that between the time that
17 they're entered and before they race that there's adequate
18 time for them to get the microchip in, so you would not have
19 a lot of scratches because they were not microchipped; is
20 that correct?

21 MR. BRODNIK: Yes, Commissioner, that's correct.
22 We, when this issue came to light, we sat down with,
23 particularly, Chief Steward McHargue and another steward and
24 discussed this issue. And what we learned is that often
25 times entries are taken on Tuesdays and, you know, when most

1 people aren't on the racetrack for a Saturday race. And so
2 between the time of Tuesday and Saturday, there's
3 significant time. And often times the horse identifiers
4 will be on the track on Thursday or Friday and there will be
5 enough time to get that done.

6 COMMISSIONER REED-KLAGES: Okay.

7 VICE CHAIR AUERBACH: Good point. Thank you.

8 Okay.

9 So we have the question. We have -- it's been
10 noticed.

11 Commissioner Alfieri?

12 COMMISSIONER ALFIERI: Yes.

13 VICE CHAIR AUERBACH: Commissioner Maas?

14 COMMISSIONER MAAS: Yes.

15 VICE CHAIR AUERBACH: Yes.

16 COMMISSIONER SOLIS: Yes.

17 COMMISSIONER REED-KLAGES: Yes.

18 VICE CHAIR AUERBACH: Thank you. Motion carries
19 as written.

20 Do you want this back? Okay.

21 Would you like to read 12 to us -- I mean 13?

22 That was 12.

23 MR. BRODNIK: Sure. Thank you. Robert Brodnik,
24 California Horse Racing Board.

25 Item number 13 is discussion and action by the

1 Board regarding the proposed amendments to CHRB Rules
2 1581.1, Entries, and Rule 1597.5, Microchips Required for
3 all Horses on Grounds, to revise and clarify the microchip
4 requirements for California racehorses.

5 Again, dovetailing with what we just discussed,
6 this is -- these are amendments that Staff has gone through
7 and discussed with other members, such as the stewards, to
8 try to find the areas that we felt the language was
9 deficient and to change them.

10 So the proposed amendment for 1581.1, which
11 address entries, strikes the language that prevents horses
12 from entering a race without a microchip. This was done
13 because there is already a provision in the rule that
14 precludes horses from racing without a microchip, so this
15 section, we felt, was redundant and obviously led to the
16 problems that we were just discussing.

17 And so for those reasons, we felt that just simply
18 striking that language would be the cleanest and easiest way
19 to address that problem.

20 The proposed amendments to 1597.5 will similarly
21 strike language that prevents a horse from entering a race
22 without a microchip. And again, this was done because we
23 believe that there is sufficient time between entry and race
24 for that procedure to occur.

25 And additionally, as the Executive Director

1 discussed, we also expanded in the language the authority of
2 the stewards to grant a waiver to include more races than
3 just stake races. In discussing it with Chief Steward
4 McHargue, what the stewards were seeing was that, as the
5 Executive Director mentioned, it's not always stake races
6 that individuals come to race in California for. And so
7 when they bring their horse in and they're turned away at
8 the entry box, that seems to frustrate the issue of getting
9 horses to California.

10 So this will allow the stewards to have that
11 authority to grant a waiver.

12 And then finally, in discussing just the procedure
13 itself and how microchipping is done and auditing that
14 program, we actually realized that, ideally, we need one
15 person to be the point person for the microchip procedure,
16 and that person is the horse identifier. And eventually, as
17 move towards allowing the tracks to conduct microchipping,
18 the horse identifier will be the main point of contact.

19 And so for those reason, we felt it was important
20 to identify that person in the rule. And so we've stricken
21 language where it included the horse identifier and the
22 steward or we've included the horse identifier where it did
23 not.

24 And so that's a broad overview of the rules but we
25 believe that that should sufficiently address the issue.

1 And I'm happy to answer any questions if you have one.

2 VICE CHAIR AUERBACH: Anybody have a question?

3 COMMISSIONER MAAS: I'll move.

4 VICE CHAIR AUERBACH: Commissioner Maas moves.

5 Commissioner Alfieri, do you second?

6 COMMISSIONER ALFIERI: Second.

7 VICE CHAIR AUERBACH: You want to vote please,

8 Commissioner Alfieri?

9 COMMISSIONER ALFIERI: Yes.

10 VICE CHAIR AUERBACH: Commissioner Maas?

11 COMMISSIONER MAAS: Yes.

12 VICE CHAIR AUERBACH: The Chair votes yes.

13 Commissioner Solis?

14 COMMISSIONER SOLIS: Yes.

15 VICE CHAIR AUERBACH: Commissioner Reed?

16 COMMISSIONER REED-KLAGES: Yes.

17 VICE CHAIR AUERBACH: The motion carries.

18 Okay, you want to go to 14? You're on a role.

19 EXECUTIVE OFFICER BAEDEKER: Yeah. I'll do this

20 one at the outset.

21 Discussion and action by the Board regarding the
22 proposed amendments to rule -- CHRB Rules 1433, Application
23 for License to Conduct a Horse Racing Meeting, and Rule
24 1498, Physical examination, and the proposed addition of
25 CHRB Rule 1498.1, Return to Ride Authorization Required, to

1 incorporate the components of the Association of Racing
2 Commissioners International model rule for concussion
3 protocols into the CHRB's rules and regulations.

4 We're going to be joined in a minute by
5 representatives from the Guild but I wanted to give the
6 Commissioners a little bit of background on this. And I
7 wanted to get it right, so I prepared some notes.

8 We've been working with the Jockeys' Guild and the
9 Workers Comp company towards implementation of a protocol
10 for not only jockeys but all riders. There have been
11 difficult questions to resolve, such as what type of fall
12 from a horse requires an examination? Should we treat being
13 unseated during the post parade or in the paddock the same
14 as coming off during a race? Should it be left to the
15 stewards to decide?

16 But the fact is that some incidents look serious
17 and end up harmless. Others look harmless but result in
18 serious head injuries because symptoms from concussions can
19 be latent.

20 The more we debated these and other questions the
21 clearer it became that we are not developing a team policy
22 or a league policy, but rather promulgating rules, and we
23 think this is a key point. The rules need to be simple,
24 clear and enforceable.

25 So we've come up with changes to our existing

1 rules and some new language, including for the annual
2 examination that's now required for jockeys and drivers,
3 that examination must include a baseline concussion
4 assessment such as the current state of the art, the SCAT 5
5 exam. While HIPPA laws prevent the Board from mandating
6 that the results of the exam be provided to the track
7 physician, the Guild has offered to encourage riders to
8 authorize that transfer.

9 The point there being that if the SCAT 5 baseline
10 examination has been completed and the track physician or
11 another physician has that baseline, when that physician
12 conducts an examination following a rider coming off, then
13 at that point the physician can make an accurate diagnosis
14 whether or not there is concussion or not. If there is not
15 baseline, it's very unlikely that the rider would be
16 authorized to return without probably going through
17 additional tests. So clearly it's, arguably, it's in the
18 best interest of the rider to authorize that that record be
19 given to another physician other than the one who performs
20 the physical exam, the annual physical exam.

21 We've also differentiated between a rider or
22 driver being unseated during a race versus other times. If
23 during a race, from the time the gate opens until the rider
24 dismounts voluntarily, the rider must be examined and return
25 to ride authorization signed by a physician, given to the

1 stewards. Riders coming off at other times -- and the base
2 presumption there is that during a race, whether the
3 racehorse is going 35 or 40 miles an hour and you come off,
4 you need to be examined. And Commissioner Solis will tell
5 you about his own experience in that regard and why it's so
6 dangerous if an examination and a competent examination is
7 not completed.

8 Riders coming off at other times, including during
9 morning workouts or in the stable area or in the paddock or
10 in the post parade, can be cleared by the responding medical
11 personnel. We've all seen very simple situations where a
12 horse comes up a little bit, the jock almost jumps off.
13 Everybody can tell that that probably was not serious.
14 Responding paramedics can, without filling out a form, can
15 authorize that rider to continue.

16 If they don't, well, let's say it's an accident in
17 the stable area in the morning when a lot of serious
18 accidents happen, the paramedics are summoned, if they don't
19 immediately say, you know, you're fine to get back up, then
20 that rider must have the form completed. So the rider must
21 go to a qualified physician and have the form completed.

22 We have purposely kept it simple. The stewards
23 need that piece of paper in their hand to allow the rider to
24 come back to ride.

25 We have gone full cycle. I see Michael Lyon here

1 from Workers Comp company. We've gone full cycle from
2 thinking that we needed to have a neurologist on staff or
3 requirement the rider to see a neurologist. But as a matter
4 of fact, we've learned that the State of California really
5 doesn't license a doctor as a neurologist. That's done by
6 different boards outside of the state. And we, as a state
7 regulatory body, felt that it was more appropriate for us to
8 require that the physician that signs that authorization be
9 licensed by the State of California.

10 However, we do want to hear what the protocol will
11 be, as provided by the racetrack. Now I referenced earlier
12 leagues, school districts and so forth, they can develop
13 policies and they're not regulatory bodies. They can be
14 broader than what we're presenting today. But the
15 racetracks can go further than what our rules might be. So
16 we're asking them, as part of what we propose to you today,
17 when they approach the Board for a license to conduct a race
18 meet that they explain all of the protocols that will be in
19 place for dealing with this issue, including the
20 qualifications of the physician that will be on site.

21 So that's my preamble.

22 So Bob -- Rob has the technical things that -- the
23 changes are really and the proposals are really fairly
24 straightforward.

25 MR. BRODNIK: Yes, that's correct. Thank you,

1 Director. Rob Brodrik, California Horse Racing Board.

2 Just to go through the proposals, as we discussed,
3 we are amending some rules and we are adding a new rule.
4 The proposed amendment of 1498, which is it requires all
5 jockeys, apprentice jockeys and drivers to have a yearly
6 physical, it will now also include a requirement that they
7 complete a baseline concussion assessment. And this was
8 done at the direction of the Guild, who's been involved in
9 this process, because these baseline concussion assessments
10 are an important tool in being able to evaluate whether or
11 not someone is suffering from a concussion.

12 We also included in that proposal to amend 1498 a
13 waiver that would allow the stewards in limited situations
14 to grant a waiver. The important thing to remember here is
15 what we're requiring is the baseline assessment. We
16 occasionally have jockeys that may fly in for a particular
17 race from out of country to just race one race. And my
18 understanding from speaking with the industry is that those
19 jockeys always have the traditional physical requirement,
20 such as the visual acuity examination that we require. But
21 not all other jurisdictions require baseline concussion
22 assessment.

23 So if that was the case, where a jockey was coming
24 in from out of the country for one single race, they could
25 apply to the stewards for a waiver of the baseline

1 concussion assessment and that could be granted in the
2 steward's discretion.

3 We also are excited to propose an addition of Rule
4 1498.1 which really sets forth the protocol that the rider
5 will have to complete if they become unseated within the
6 inclosure. And we define unseated as coming off of the
7 horse involuntarily.

8 Section (a) requires that all riders who become
9 unseated during the race need to have the Return to Ride
10 Authorization form completed by a physician and submitted to
11 the stewards prior to returning to ride. And in that form
12 that we've created we're requiring the physician to attest
13 to their training in the evaluation and management of
14 concussions and that they're acting within the scope of
15 their practice.

16 As the Director stated, we've done research and
17 looked into how physicians are licensed within the state of
18 California. I've also spoken with physicians. They're
19 licensed as physicians and then their specialties are
20 dictated by how they practice. They can become members of
21 other organizations voluntarily. But requiring them to
22 attest when they sign this that they have been trained in
23 this evaluation and management of concussions and that they
24 are acting in the scope of their practice, we think, adds
25 that insurance, that safeguard that these knowledgeable

1 physicians treating our jockeys and riders.

2 Subsection (b) of 19 -- excuse me, 1498.1 requires
3 that in all other instances where a rider becomes unseated
4 they, too, must complete the Return to Ride Authorization
5 form, unless they are cleared by the responding medical
6 personnel, which can be paramedics or otherwise authorized
7 personnel. And as the Director stated, the intent here
8 really is to offer an important distinction between falling
9 during a race and potentially stepping off a horse in the
10 backstretch which may not lead to a significant injury.

11 And with regard to the latter, the kind of
12 innocuous step off, we envision the responding medical
13 personnel as being able to triage these issues prior to
14 allowing the rider to return to ride. In the event that the
15 responding medical personnel does not authorize the rider to
16 return to ride, then they simply need to have the form
17 filled out by a physician attesting that they're able to
18 come back.

19 And then the other important amendment that we're
20 making is to 1933, which is the race meet applications for
21 fairs and racing associations, requiring that they take a
22 closer look at their internal return to ride protocol.

23 We've added a new subsection under the Emergency
24 Services section requiring associations to attach their
25 medical plan procedure related to the assessment and

1 treatment of concussions, including the return to ride
2 protocol, and any qualified physicians who will be able
3 to -- who will be available to assist with the completion of
4 our Return to Ride Authorization forms, as well as informing
5 the Board of who the authorized medical personnel
6 responsible will be for assisting in other -- all other
7 instances where the rider comes off the horse not during a
8 race.

9 We believe that these amendments will provide the
10 Board with the information necessary to ensure that the
11 racing associations and fairs are cognizant of the issues of
12 concussions and have the appropriate protocols and
13 procedures in place.

14 With that, I understand that the Jockeys' Guild is
15 present here today in support, but I'm happy to answer any
16 questions about the language.

17 VICE CHAIR AUERBACH: Before the Jockeys' Guild,
18 and I'm glad to see them all here, I am a little concerned
19 about the protocol for non-racing situations. I think
20 racing situations, it's fairly easy to define what the
21 protocol needs to be.

22 What I'm concerned about is the morning. What I'm
23 concerned about are non-racing days. What I'm concerned
24 about is when personnel isn't here to notice when a guy
25 falls off a horse. I mean, these things happen.

1 So I don't want us putting in regulations that if
2 say, I don't know, an exercise rider comes off a horse and
3 there's nobody around and, oh, by the way, somebody saw him
4 come off the horse and there's no medical people here, are
5 we putting in regulations that he is not competent or
6 confident enough to tell us he's okay and can get back on
7 another horse, that this guy or gal has to go a private
8 doctor to get an authorization form?

9 I don't want to get us so in the weeds that we
10 interrupt -- I want to protect the jockeys but I don't want
11 us to interrupt the flow of racing and training, and that's
12 what I'm concerned about.

13 EXECUTIVE OFFICER BAEDEKER: Well, I believe
14 whenever we have exercising going on at the racetrack, we
15 have paramedics present. But you raise a key point and --

16 VICE CHAIR AUERBACH: This to me is the difficulty
17 in this, in what we're doing. I don't want to do what we
18 did with the microchipping. We got really into it. We
19 dotted every I and crossed every T and, oh, by the way, we
20 didn't get the microchipping done, so we had to backtrack
21 and redo it.

22 I don't want to dot every I and cross every T and
23 make it difficult for the trainers and the jockeys and the
24 exercise riders to be able to perform their functions
25 because we've put in rules that are impractical in the

1 mornings and on the back side. Race days, there's plenty of
2 people around. Other days, there's not.

3 So go ahead. I'm sorry.

4 EXECUTIVE OFFICER BAEDEKER: But we do have
5 paramedics. And we do acknowledge what you're talking about
6 because we know that one of the most dangerous situations is
7 not actually during the morning workout but, actually, as
8 the horses are all gathering at the gap and there's lots of
9 traffic and horses respond and sometimes spook. We have --
10 and a rider can come off there without either an outrider
11 seeing it happen, without paramedics ever knowing about it,
12 no one calling for help.

13 And so we're actually trying to do what you just
14 said, we're trying to accept the fact that we can't go A to
15 Z on this rule, there's going to be gaps. Look at a horse
16 going back to the shed row and it might be a serious
17 situation where a rider comes off, and the last thing he or
18 she wants to do is lose their livelihood for the next couple
19 of weeks. And so we may never hear about that kind of an
20 accident.

21 VICE CHAIR AUERBACH: Well, that's unfortunate.
22 There's too many issues where we don't know what's going on.

23 So I just want to make sure that we're not
24 strangling ourselves with this. I know it's --

25 EXECUTIVE OFFICER BAEDEKER: Yeah. But it's --

1 VICE CHAIR AUERBACH: Yeah.

2 EXECUTIVE OFFICER BAEDEKER: -- to say, you know,
3 we want to give the extra care and attention to our riders
4 in the afternoon and on a race day, you know, a formal race
5 day, but not put in the same protections for other riders.
6 You know, the same thing was true with -- that's why we
7 added the language for drivers in the harness game, even
8 though -- well, when they do have an accident, it's a very
9 serious one.

10 So it's a tough question to answer, how far do you
11 go? We actually felt like this was probably a first step,
12 with the understanding that this uncharted territory will
13 become more familiar as we get into it. And we fully expect
14 that we'll be working with the Guild on this. And we may,
15 in fact, wouldn't be surprised if we have to come back to
16 this Board with either additional language or changing some
17 language.

18 And of course, we always have the ability, as we
19 did a while ago on the microchip issue, if there's an
20 impediment in here that was unintended or is unfair, we can
21 come back to the Board, given ten days' notice, and have you
22 consider suspending that portion, that particular wording in
23 the rule. I think we're protected.

24 VICE CHAIR AUERBACH: Okay. That's --

25 COMMISSIONER SOLIS: I know it's going to be

1 inconvenient for the exercise boys in the morning --

2 VICE CHAIR AUERBACH: Right.

3 COMMISSIONER SOLIS: -- but it's very important.
4 Sometimes they're working horses and --

5 VICE CHAIR AUERBACH: Stuff happens.

6 COMMISSIONER SOLIS: -- and stuff happens and it's
7 the same. And me, having experience of getting -- having
8 many concussions, not remembering what happened and walking
9 to the ambulance, and then I realize I'm at the hospital
10 and, hey, you remember, you were walking around? No. I
11 mean, just like what you're saying, every time an exercise
12 boy goes down, the paramedic check on them and then they
13 release them. So I think it's a great rule.

14 VICE CHAIR AUERBACH: Well, I think the only way
15 that this will really work is if the Guild can get their
16 membership to buy into that they are cognizant of this and
17 will, if they fall off, jump off, anything, if they will be
18 cooperative and say, hey, I feel great but I know I need to
19 check in.

20 That, to me, I think is -- this is where we need
21 the community to be part of it so that we don't try to shove
22 things down everybody's throat that they don't want to do.
23 We want them to be part of it and let's call them up and ask
24 them to please discuss it with us, if you would. Yeah, I'd
25 like -- it would be very nice to have all you that took from

1 your day to be here to please come up and talk to us.

2 MR. BROAD: Good morning, Madam Chair.

3 VICE CHAIR AUERBACH: Good morning.

4 MR. BROAD: Matt Broad here on behalf of the
5 Jockeys' Guild. We'd like to thank you for --

6 VICE CHAIR AUERBACH: Well, let's everybody
7 introduce themselves --

8 MR. BROAD: Okay. Sure.

9 VICE CHAIR AUERBACH: -- so we know who everybody
10 is please.

11 MR. BROAD: Yeah.

12 MR. GRYDER: Good morning. Thank you for having
13 me. My name is Aaron Gryder. I'm a current jockey her at
14 Santa Anita. I've been racing for 32 years.

15 MR. JENSEN: Cody Jensen, Quarter horse rider, Los
16 Alamitos.

17 MR. HAIRE: Darrell Haire, Manager with the
18 Jockeys' Guild.

19 MS. COLEMAN: Good morning. Mindy Coleman,
20 Inhouse Counsel for the Jockeys' Guild.

21 VICE CHAIR AUERBACH: Thank you, everybody.

22 MR. BROAD: Thank you. So once again, Matt Broad
23 here with the Jockeys' Guild.

24 We'd like to thank the Board for considering this
25 proposal. Obviously, did I lose -- can you hear me okay?

1 VICE CHAIR AUERBACH: Yes.

2 MR. BROAD: Obviously, this is, you know, a really
3 important measure to consider. Just by virtue of the nature
4 of the sport, jockeys are probably, you know, at a greater
5 risk of having a concussion, maybe multiple concussions in
6 their career. And with that in mind, you know, we want to
7 protect the longevity of their career and ensure their
8 health and safety.

9 We do have a couple sticking points that we, you
10 know, look forward to working collaboratively with the Board
11 on. We want to make sure that we sort of figure out who's
12 actually storing the baseline data going forward, whether,
13 whoever makes the initial assessment, the baseline and then
14 any following assessment, has the most up-to-date concussion
15 protocol available to them. And finally, that when this
16 does roll out, that it's done fairly to the jockey, and so
17 that they're not in a position to get back on a horse too
18 soon or, conversely, not soon enough.

19 So we thank you. We have a couple jockeys here
20 who are going to say a couple words in support of the
21 proposal.

22 MR. GRYDER: Thank you again for bringing this
23 issue up. I think it's very important, it is in many other
24 sports, but I think it's even more so important in horse
25 racing. If a football player gets a concussion and he goes

1 back out there, he's hurting himself. If a fighter does it
2 and he goes back out in the seventh round, he's hurting
3 himself.

4 But a young kid or even an older rider goes out
5 there, and again, Alex has said it, we've had concussions,
6 many of us many of them, when you go out there you think
7 you're fine. And if you haven't been checked out right and
8 somebody that really is -- understands the signs of if you
9 should be out there riding or not, we're endangering others.
10 And it's not about that one person again. Now it's him not
11 being clear minded.

12 Concussions, as I know and I'm sure Darrell
13 McHargue and Alex Solis, and you can say, as well, like it
14 affects your memory, it affects your time to make decisions.

15 This is a split-second decision game, it's now or never and
16 you take too long to make a move when you think the hole is
17 bigger than it might look. It affects you in different
18 ways.

19 So I think this is not going to be hard to sell to
20 a lot of the members of the Jockeys' Guild because this is
21 saving us. And there's going to be times where you're going
22 to get a rider saying, no, I'm fine, I'm fine. And just
23 because there's a spill doesn't mean the rider needs to be
24 taken off. But I do believe every time there's a head
25 injury, anytime you see that a rider did hit his head in any

1 way, it should be looked at a little bit closer. It's a
2 serious thing that affects many more than that one athlete.

3 MR. JENSEN: Yeah. Once again, I'd like to thank
4 you all for really actually taking this proposal very
5 seriously. It's something pretty dear to myself. I've
6 suffered nine documented concussions and who knows how many
7 that I got back up there when I shouldn't have gotten back
8 up there.

9 And like Aaron brought up, a lot of times in the
10 mornings, something like this could happen and you could
11 have a concussion and it's very important to be checked out,
12 but you're not affecting a lot of other people out there if
13 you -- even if you do get back on. It's not you're not
14 mixing it up on race day. You don't have nine, ten other
15 guys out there grinding it out within inches of you, and
16 that's where it really comes into play.

17 Also as riders, we don't always take the best care
18 of ourselves, we don't always make the best decisions, and
19 it's just a desire to get back out there and compete. And
20 sometimes I think something like this very important to
21 protect us from ourselves. When you've had a concussion or
22 a significant head injury, you're not exactly thinking
23 correctly. You may think you're fine. Then a week or two
24 later you realize, hey, I wasn't exactly where I should have
25 been. I shouldn't have been out there.

1 So I think something like this is very, very, very
2 important for the longevity of a rider. We have a lot of
3 attributes but our brain is our most important one. And I
4 know as a 25-year vet of this, I could have benefitted from
5 this greatly over the time that I've had. Plus, with just
6 the advancements in knowing what a brain injury can cause is
7 going to be very significant for the younger guys that are
8 coming up that have got 20 years plus in front of them. And
9 I think we can really take care of those guys and prolong
10 their careers with something like this implemented on top of
11 it.

12 VICE CHAIR AUERBACH: Cody, would you please, for
13 the recorder, give your name again, if you can remember?

14 (Laughter.)

15 MR. JENSEN: Cody Jensen. I ride Quarter horses
16 are Los Alamitos.

17 VICE CHAIR AUERBACH: Thank you. Thank you.

18 MS. COLEMAN: Madam Chairman, Board Members, Mindy
19 Coleman again from the Jockeys' Guild.

20 I just want to take this moment to actually thank
21 you for doing this step. I think that once you guys approve
22 these rules that we're putting in place that then will
23 require the racetracks to have protocols, I think this is a
24 major step forward. This is something that the Guild has
25 actually been working on for several years. This has been

1 before our members, our Board or Directors many times, so
2 this isn't something new that they are not aware of.

3 By doing this -- and I do want to recognize the
4 CHRB as being the first regulatory body to take this step
5 and actually making it a rule, so we do greatly appreciate
6 these efforts that have been done. We look forward to
7 working through -- as Rick indicated, there may be some
8 kinks that we have to work through. But I believe that this
9 is definitely the first step in the right direction and we
10 greatly appreciate all of you for taking for the time and
11 taking this initiative.

12 VICE CHAIR AUERBACH: Thank you.

13 EXECUTIVE OFFICER BAEDEKER: May I add one more
14 point?

15 VICE CHAIR AUERBACH: Sure.

16 EXECUTIVE OFFICER BAEDEKER: And I've said it on
17 the phone with these guys, and I'm happy that we're here,
18 too, because you guys have been working so hard on this.
19 And they brought it to RCI and it's going to move around to
20 different jurisdictions.

21 But there is going to be a day when a rider is
22 going to come off, and I always use the example of the third
23 race on a Breeders' Cup card, and he looks fine. It wasn't
24 a bad spill. And that rider has a race, a mount in a \$2
25 million race coming back, and you mean you're going to keep

1 me off that horse? Just give us the piece of paper.

2 But the problem I see is it's going to be the
3 Board's fault at that point when, as a matter of fact, you
4 know, to hear you guys talk about the importance of this for
5 yourselves if you have an injury or if you're riding with
6 somebody who might have an injury, we're really going to
7 have to rely on the riders and the Guild to remind everybody
8 why this is so important, not right now as it's being passed
9 but three years from now when it becomes -- you know, when
10 we're reading about it and the complaining and so forth,
11 which is natural. We get it but we have to stand above it.
12 I don't know about the --

13 VICE CHAIR AUERBACH: I think I understand what
14 you're saying but we're grownups here, and we are
15 Commissioners --

16 EXECUTIVE OFFICER BAEDEKER: Right.

17 VICE CHAIR AUERBACH: -- and this is our job. And
18 if we can't take a little flack, then we shouldn't be here.
19 So that doesn't concern me at all.

20 I'm more concerned about the human beings in front
21 of us, which is why I brought up the other stuff I brought
22 up. I want full buy-in and I'm glad to see it.

23 And, Darrell, we didn't hear from you.

24 I'm sorry, were you not done? I apologize.

25 MS. COLEMAN: May I respond to Mr. Baedeker?

1 With regards to that, that's one of the reasons we
2 want to ensure that we have proper protocols in place, that
3 there is quick response time at each racetrack to have
4 somebody who is properly trained in concussion assessment
5 and management to make that initial evaluation to see if
6 they are displaying any signs or symptoms of concussion, if
7 there's been an onset of a concussion. That way the
8 quicker -- because you can do the initial baseline and
9 the -- baseline, and then the reevaluation, within about
10 four to five minutes. You can see how quickly. So we
11 believe in the way that the protocols that we're reviewed
12 would give ample time, in the event that the rider is fit
13 and able to return to riding, to make it to their next race.

14 If all the protocols are in place and somebody --
15 I know, I'm assuming, that every one of us has seen a
16 sporting event where there's been a hit, there's been --
17 even in baseball, you see it with umpires, you see it with
18 baseball players, you see it with football players, that
19 they be able to be evaluated. And if they're fine and fit
20 to return, they are able to return within the next play.

21 So we believe that if we have these protocols in
22 place it won't -- we may have that one instance, but
23 especially, you know, when there is an understanding that
24 the rider is riding in the next race, that we have that
25 ability to evaluate them quickly.

1 VICE CHAIR AUERBACH: I agree. We have to err on
2 the side of caution.

3 MS. COLEMAN: Oh, absolutely. We --

4 VICE CHAIR AUERBACH: Because as Cody said, you're
5 not just affecting that one horse or that one rider, you're
6 affecting -- oops -- everybody.

7 Darrell?

8 MR. HAIRE: Well, I just appreciate the Board
9 addressing this, finally, and moving forward and working
10 together on this because this is such an important issue
11 that we're all aware of nowadays. And it's just working
12 out. Still, there are some things we have to work out so
13 we're on the same page with whether it's the paramedics or
14 doctors at the racetrack, who's ever going to be making the
15 call.

16 So just like the Commission, the Guild, there's
17 going to be riders and they're going to be mad at the Guild,
18 but this is the way it is. But we're ready because this the
19 right thing. And we appreciate you all.

20 MR. JENSEN: One other quick, I think, concern I
21 had about it, the gentleman from the CHRB brought up, about
22 riders coming in from out of country to ride. Not out -- we
23 need to get something for riders out of state. Not every
24 state has concussion protocol. You know, as a rider, you go
25 out of state, you carry your physical with you, but not

1 every state has a baseline. If you -- riders who come in
2 from out of state to ride, say Breeder's Cup or that, we
3 need to know what they need to do to be able to come in and
4 ride in California or if they can get a waiver on that, it's
5 not just out of country.

6 MR. BRODNIK: In case I maybe was -- Robert
7 Brodnik, California Horse Racing Board.

8 Just so I'm not misunderstood, it doesn't
9 distinguish between out of country or out of state. So if
10 you come from out of state, you can still apply for the
11 waiver. But I wanted to give --

12 EXECUTIVE OFFICER BAEDEKER: And also, I think,
13 Rob, you said that it's for a single race, but that's not
14 necessarily true. The stewards can grant a waiver for a
15 particular situation for riders coming in from out of state
16 or out of country. They've got to have the physical exam
17 card. But the differentiation is that SCAT 5. If they're
18 going to be here for a week, they can get that done. Like
19 Mindy said, it takes a few minutes for a doctor to
20 administer the baseline test.

21 MR. JENSEN: Well, hopefully one day we'll have
22 this to where we carry it around, just like our physical
23 card.

24 EXECUTIVE OFFICER BAEDEKER: Yeah.

25 VICE CHAIR AUERBACH: Can we -- Michael Lyon, are

1 you here?

2 MR. LYON: I am.

3 VICE CHAIR AUERBACH: Oh, good. Michael Lyon from
4 Finish Line.

5 MR. LYON: Good morning.

6 VICE CHAIR AUERBACH: Good morning.

7 MR. LYON: Michael Lyon from Post Time/Finish
8 Line. I'm the Program Administrator for the Workers
9 Compensation Program for the industry. We commend the Board
10 for taking this action and looking at the concussions. I do
11 have some comments and questions about some of the items.

12 Specifically, on 1498, the need for an annual
13 physical does not apply to exercise riders, and we would
14 like to see that extended to include exercise riders. One
15 of the reasons is, is that the exercise riders have the
16 highest frequency and the highest severity of industrial
17 accidents by far. So they need, I think, to be evaluated on
18 an annual basis, just like the jockeys.

19 VICE CHAIR AUERBACH: Is that your highest level
20 of Workers Comp issues and outstanding situations?

21 MR. LYON: Both the number of claims --

22 VICE CHAIR AUERBACH: Um-hmm. And the severity.

23 MR. LYON: -- and the dollars?

24 VICE CHAIR AUERBACH: Yeah.

25 MR. LYON: Yeah.

1 VICE CHAIR AUERBACH: Okay.

2 MR. LYON: Okay. And --

3 VICE CHAIR AUERBACH: Good point. Thank you.

4 MR. LYON: -- thinking back, also, the most severe
5 injuries have happened to exercise riders.

6 My prior life was in the medical field, and about
7 35 years. And I have concerns about the level of training
8 that these doctors that are going to release the rides back
9 to work have. It's not specified, it's not detailed, it
10 just says training and evaluation in the management of a
11 concussion.

12 I know doctors and, you know, does that mean an
13 internet course? Does that mean a weekend seminar? Does
14 that mean I read an article in a journal, medical journal? I
15 mean, that's self-credentialing, basically. And I
16 understand that the California Medical Board only license
17 physicians but there are boards throughout the state or the
18 country that certify people as meeting standards. And I
19 just think that that needs to be tightened up. I just have
20 concerns about the doctors that are signing these releases.

21 EXECUTIVE OFFICER BAEDEKER: Maybe I'll address
22 that one, Michael, so we don't forget it. There's a couple
23 of issues there.

24 One you talked about which is we were kind of
25 surprised to find out that the state of California doesn't

1 differentiate between an M.D. and an M.D. that's a
2 neurologist; right? That's a private board. And often
3 times, you know, memberships in those -- the doctors do
4 memberships in those organizations and you pay annual fees
5 and all that kind of thing, and that's one issue. And
6 we're, again, a regulatory body and we can rely on a fact
7 that a physician is licensed by the State of California. So
8 again, if were a high school or something we could say, no,
9 you've got to go see neurologist so and so before you can
10 come back and play. So we do make that differentiation.

11 The other point about the exercise riders, we were
12 going down that path knowing that, as a matter of fact,
13 that's where the worst accidents and the most accidents
14 happen. There are some issues there. Requiring the
15 exercise riders to pay for the physical, get it done, all of
16 them, there are many more exercise riders than there are
17 jockeys, we didn't want to encumber getting this off the
18 ground by tackling that at this time. But I think everybody
19 acknowledges, I know everybody at the table here does,
20 acknowledges that that's got to be addressed. So we're
21 aware of that.

22 MR. LYON: Appreciate that, Rick.

23 EXECUTIVE OFFICER BAEDEKER: Yeah.

24 MR. LYON: I just think it was an opportune time
25 to address it and --

1 EXECUTIVE OFFICER BAEDEKER: Right. It's simple
2 at this point --

3 MR. LYON: Right.

4 EXECUTIVE OFFICER BAEDEKER: -- to get it off the
5 ground.

6 MR. LYON: The annual physical, your detail, that
7 it has to have hearing, sight, and now concussion baseline,
8 I think that that also should be extended to a review of
9 their Work Comp injuries of the past, medical history.
10 Because we have exercise riders, jockeys who have been
11 determined to be 70 percent disabled by their treating
12 Workers Comp physician, but that's a different person who's
13 going to do the physical and that person may not be aware of
14 this disability. So I think that needs to be taken into
15 account.

16 EXECUTIVE OFFICER BAEDEKER: We looked at that,
17 too, and how do we -- you know, we actually looked at a
18 situation where a rider has an open, active Workers
19 Compensation case going on and we don't have any kind of
20 official notification that that case is closed, that that
21 rider has been signed off on by his Workers Comp physician.

22 And as you're aware, when we -- by the way, Rob,
23 correct me if my memory is wrong on any of this stuff, but
24 when we got into that kind of a situation, we slammed into
25 the HIPPA wall and the inability to transfer a lot of this

1 information, these medical records, particularly when it's
2 required by the regulator. Now that's not to say that it
3 can't be done. We've looked at DMV that has restrictions on
4 truck drivers, for instance, that, you know, are almost an
5 analogous situation. There is an exemption there in HIPPA,
6 so we might be able to achieve the same kind of exemption.

7 So we agree with you and we're looking at, you
8 know, phase one here. But the challenge is going to be
9 dealing with all of these things that will make it better
10 but really complicate it. It's really difficult.

11 And we've waited now, how long? We've had
12 conversations with you and the neurologist that does the
13 work for you. That's probably two years ago.

14 MR. LYON: Right.

15 EXECUTIVE OFFICER BAEDEKER: Right. And the Guild
16 really wanted to get something moving, so that's what we
17 have before everybody today. But we take your points. We
18 understand your points.

19 MR. LYON: Yeah. Well, that's a segue into my
20 next favorite topic, and that's the injured reserve list for
21 jockeys and exercise riders, but I'll save that for another
22 day. And Mindy and I have talked about that in the past, so
23 we've worked with the Guild and we look forward to working
24 with them on an ongoing basis on that.

25 I understand the need for the seven-day waiver but

1 I don't like it because if that jockey coming in from out of
2 state, out of country gets hurt here, he's now in my world
3 and I have to pay for his injury. I'd like to have a
4 baseline on everybody. I understand the need for the
5 exemption.

6 And finally, in 1498.1, I appreciate the fact that
7 the exercise riders are including in that return to work
8 requirement, so we appreciate the extension of that.

9 And then for the protocols, my concern is that
10 it's not going to be a standard protocol. It's going to be
11 a protocol that's going to vary from track to track. And I
12 don't know, you know, I just don't know if that becomes
13 unworldly and unmanageable.

14 EXECUTIVE OFFICER BAEDEKER: Well, we think we've,
15 you know, in going through this whole thing and trying to
16 deal with some of these, call it gray area issues, if you
17 will, we thought that that was a good way to handle it, have
18 the racetrack come before this Board, stipulate what they're
19 protocols are going to be. And that gives Michael Lyon the
20 opportunity to stand up before the Board and say it's not
21 sufficient, Board. You shouldn't approve their license
22 unless they do A, B or C. So we really thought that that --
23 and particularly things that we haven't anticipated at this
24 point. That gives us an opportunity, it gives the Board, to
25 address those at a future time.

1 MR. LYON: Okay.

2 VICE CHAIR AUERBACH: This is like baby steps, so
3 we want to get it started and find out what we don't know.

4 MR. LYON: I appreciate that, Madeline.

5 And finally, are these going to be subject to a
6 45-day comment period?

7 EXECUTIVE OFFICER BAEDEKER: Yeah.

8 MR. LYON: Okay. That's all I have. Thank you
9 very much.

10 VICE CHAIR AUERBACH: Thank you.

11 Anybody else have any questions for any of these
12 folks?

13 COMMISSIONER ALFIERI: It's really very good and
14 it's about time. I mean, it's -- I understand about, and
15 it's a good point, about the exercise riders. I think we at
16 least approve this to get moving, get going. We'll all --
17 it sounds like we're going to have to come back with a few
18 adjustments and include, but I'm all for it, so I think it's
19 terrific.

20 VICE CHAIR AUERBACH: Anyone else? Would you like
21 to make the motion?

22 COMMISSIONER REED-KLAGES: I just have a question.

23 VICE CHAIR AUERBACH: Oh, Debra, I'm sorry.

24 COMMISSIONER REED-KLAGES: I was wondering what
25 the assessment period is? Because I think what we're

1 hearing is this is a first step and there has to be some
2 assessment process to look at. So will we assess this six
3 months from now, a year from now, and then come back and
4 report to the Board on what's working, what's not working?

5 VICE CHAIR AUERBACH: I think rather than
6 establish an exact period, I think we'll take our lead from
7 the community, basically from the jockey community. They'll
8 be the first ones, if we are not doing correctly or not
9 doing it fairly or not doing it right, they will be telling
10 us that we're not getting it right and we will know to dive
11 into it. I don't want to say, well, let's come back in a
12 year because then it kind of -- everybody sits around and
13 waits for a date. I'd rather hear, after we've been doing
14 it for a couple months, well, we didn't consider this and
15 let's get it back on the agenda.

16 COMMISSIONER REED-KLAGES: I think that's fine. I
17 just want to be sure we get feedback.

18 VICE CHAIR AUERBACH: Oh, we will.

19 COMMISSIONER REED-KLAGES: Yeah.

20 VICE CHAIR AUERBACH: Yeah. I think we will.

21 COMMISSIONER MAAS: Madam Chair, may I suggest,
22 first of all, I don't think we have any greater
23 responsibility than to look after the welfare of our jockeys
24 and our exercise riders and our horses, so I'm completely in
25 favor of this. And I don't think hiccups along the way

1 should prevent us or preclude from doing anything, so I
2 wholeheartedly support this.

3 I was just thinking that perhaps we could send or
4 remand to the Jockey and Driver Welfare after we approve
5 this the responsibility to come back to us on the exercise
6 riders the protocols, some of the issues that the
7 Commissioner raised, and report back within the next, you
8 know, several months or year.

9 VICE CHAIR AUERBACH: Well, I think the Committee,
10 I think that's our Committee --

11 EXECUTIVE OFFICER BAEDEKER: Yeah, it is.

12 VICE CHAIR AUERBACH: -- yeah, will stay on top of
13 it. We'll go ahead and schedule a Committee meeting. Staff
14 should do that for Jockey Safety and Welfare and let's
15 schedule a meeting, so we'll be on top of all this and put
16 that number one on the agenda.

17 EXECUTIVE OFFICER BAEDEKER: Keep in mind --

18 VICE CHAIR AUERBACH: Thanks, Jackie.

19 EXECUTIVE OFFICER BAEDEKER: -- given the process,
20 we're looking at six months before this becomes a rule.
21 Then we'll need a period of time to actually start
22 developing the feedback.

23 VICE CHAIR AUERBACH: And see what we're doing
24 right and what we're doing wrong.

25 EXECUTIVE OFFICER BAEDEKER: It would be nice,

1 actually, if racetracks coming before the Board -- the
2 racetracks, as was done in Florida, the racetracks have the
3 ability through a house rule to do -- to implement their own
4 policy. There's no reason it can't start sooner than when
5 this hits the books.

6 VICE CHAIR AUERBACH: Which would mean, I would
7 think, that they probably do it at Gulfstream so they
8 probably will start it here, too, and take their version of
9 it.

10 Darrell?

11 MS. COLEMAN: On behalf of the Jockeys' Guild, if
12 I may, actually, we started a protocol -- or a test pilot in
13 Kentucky the last three years. It's been in the state of
14 Kentucky, although their commission or regulatory body has
15 not approved it. And then in Maryland, it's also been in
16 practice.

17 Through their physician, through MedStar, which is
18 the medical group that works with the Maryland Jockey Club
19 and is actually onsite for backside and jockeys, horsemen,
20 it covers everybody. Their physician is one of the
21 individuals that was involved in our initial draft of
22 protocols, along with the University of Kentucky and the New
23 York Institute of Technology. So these medical -- and she
24 was one that was instrumental in assisting us in getting the
25 individual from the Miami Dolphins, who is now working at

1 Gulfstream Park. I know that Timmy Ritvo and members of the
2 Stronach Group are actively supportive of us getting it
3 implemented at other racetracks and moving forward with
4 their tracks.

5 VICE CHAIR AUERBACH: Who pays for it?

6 MS. COLEMAN: So there's, with the -- MedStar is
7 actually paid by the new -- by the Maryland Jockey Club, as
8 well as the horsemen's organization. It's something that's
9 benefitting the entire community.

10 With regards to Gulfstream, that was the Stronach
11 Group.

12 And then the Kentucky pilot project was all of the
13 racetracks. And many industry participants put forth money,
14 including the jockeys, to test this pilot and see how we
15 could go about having the athletic trainers and what we
16 needed to do to move these baseline testing and then the
17 concussions protocols happen in place.

18 So as I said, you are the first regulatory body
19 that's actually --

20 VICE CHAIR AUERBACH: Making it part of --

21 MS. COLEMAN: -- attempting to make --

22 VICE CHAIR AUERBACH: -- requirements --

23 MS. COLEMAN: -- requirements --

24 VICE CHAIR AUERBACH: -- for licensing.

25 MS. COLEMAN: -- for license.

1 VICE CHAIR AUERBACH: Right.

2 MS. COLEMAN: But there are other racetracks that
3 have taken the initial.

4 And that's one thing I wanted to comment in
5 response to Mr. Lyon. We have the same concerns that they
6 did. However, after much discussion, we, with Rick, or Mr.
7 Baedeker, we realized that since we're going to have to --
8 each racetrack is providing their protocols, as well as
9 providing the number -- the names of the medical personnel
10 who will be on track, we would then be able to evaluate that
11 person and make sure that, you know, it's not some
12 dermatologist or pediatric doctor coming in to do these
13 evaluations, that is somebody who, by looking at their
14 background, we can see they have those -- that information
15 and that ability to do the concussion assessment and
16 management.

17 So we understand, and going back through this, why
18 the rule is as broad as it is, but with the understand that
19 the protocols will be coming before each of you to decide
20 and we can then voice our concerns on specific protocols if
21 they don't have a specific protocol in place or if they do
22 not have a medical personnel that is adequately trained on
23 staff.

24 VICE CHAIR AUERBACH: Well, we'll find out. We'll
25 learn by doing. Okay. Thank you very much.

1 Does anybody else have any -- no? No? Thank you
2 very much. And I would like a motion.

3 Alex? I think it would be very appropriate for
4 Commissioner Solis to make this motion, since he's walked
5 around walking into walls for a while.

6 (Laughter.)

7 COMMISSIONER SOLIS: I'll be the happiest person
8 when we get, you know, as soon as -- you know, like the
9 surfers where you go -- when you fall off your board it
10 shoots you up in the air, up in the surf. That would be
11 cool, right?

12 VICE CHAIR AUERBACH: Okay.

13 COMMISSIONER SOLIS: And then you get up in the
14 air and ride off.

15 VICE CHAIR AUERBACH: Yeah, when I went surfing.
16 Yeah, absolutely. Okay.

17 Commissioner Solis is going to sponsor the motion.
18 And do we have a second?

19 COMMISSIONER REED-KLAGES: Second.

20 VICE CHAIR AUERBACH: Commissioner Reed seconds.
21 Commissioner Alfieri?

22 COMMISSIONER ALFIERI: Yes.

23 VICE CHAIR AUERBACH: Commissioner Maas?

24 COMMISSIONER MAAS: Yes.

25 VICE CHAIR AUERBACH: The Chair votes yes.

1 Commissioner Solis?

2 COMMISSIONER SOLIS: Yes.

3 VICE CHAIR AUERBACH: Commissioner Reed?

4 COMMISSIONER REED-KLAGES: Yes.

5 VICE CHAIR AUERBACH: You have your approval.

6 Thank you, gentleman and lady.

7 MR. BROAD: Thank you.

8 MR. GRYDER: Thank you.

9 VICE CHAIR AUERBACH: Okay. Item number 15,
10 discussion and action by the Board regarding the proposed
11 amendment to CHRB Rule 1981.1, Penalty for Possession of
12 Electrical Device, to require that a complaint against a
13 licensee for violation of or conspiring to violate Rule
14 1890(c) referred to the stewards for hearing and
15 adjudication.

16 MR. BRODNIK: Thank you. Good morning. Rob
17 Brodnik, California Horse Racing Board.

18 So this agenda item proposes an amendment to the
19 penalty for an Electrical Device Rule 1891.1. This was
20 brought to our attention by the stewards. And the hope here
21 is that this amendment will allow the stewards the authority
22 to hear these cases and, by hearing them, provide a more
23 efficient, expeditious result to these types of cases.

24 And so that is the intent behind them and that's
25 why we're bringing them before you now.

1 EXECUTIVE OFFICER BAEDEKER: Here's the problem --

2 VICE CHAIR AUERBACH: Yeah. I'm going to say,
3 I've got the word why here.

4 EXECUTIVE OFFICER BAEDEKER: Yeah.

5 VICE CHAIR AUERBACH: What are we doing?

6 EXECUTIVE OFFICER BAEDEKER: The Board actually, I
7 think it was three years ago, said, listen, if a rider is
8 found to be in possession of a battery, an electrical
9 device, we want that rider's license revoked.

10 VICE CHAIR AUERBACH: Um-hmm.

11 EXECUTIVE OFFICER BAEDEKER: It was -- it went
12 through the whole gauntlet, was made into a rule, and then
13 we realized that, as a matter of fact, it was
14 counterproductive because you can describe the process but
15 it takes it out of the stewards hands. And when you're
16 talking about revoking a license in California, it goes to a
17 separate body through a separate administrative and
18 adjudication.

19 Where does it go, Rob?

20 MR. BRODNIK: Yeah.

21 EXECUTIVE OFFICER BAEDEKER: Just describe it.

22 COMMISSIONER REED-KLAGES: So the -- so by
23 requiring, yeah, by requiring revocation, which is what the
24 rule requires currently, whenever you revoke a license our
25 Business and Professions Code mandates that you go through

1 the formal hearing requirements through, basically, the
2 Office of Administrative Hearing. So the Office of
3 Administrative Hearing requires that we use administrative
4 law judges and we put on the hearing before them.

5 And so that process, which is the only process
6 that we can use for revocation of a license, is slow and
7 protracted and, in some cases, has taken over a year to end
8 in the result of a case. And so that leaves both the
9 licensee and the Board without finality.

10 And so prior to the rule the stewards could hear
11 the matter. You know, the stewards have the authority
12 because the stewards cannot revoke a license, they can only
13 suspend or fine, the stewards have the authority to suspend
14 a licensee through the term of their license. And by
15 changing this rule, we're hoping to allow the stewards the
16 authority to hear these cases again. And if they choose not
17 to hear these cases, which would be in their discretion,
18 there is a procedure with which they can still refer the
19 matter to the Board for revocation of a license. So in those
20 more egregious cases, you know, cases --

21 EXECUTIVE OFFICER BAEDEKER: Cases may be asked to
22 go through the Office of Administrative Hearing.

23 MR. BRODNIK: Office of Administrative Law,
24 correct.

25 EXECUTIVE OFFICER BAEDEKER: So we handcuffed the

1 stewards. We had a situation where -- we had a couple of
2 situations where contraband, the batteries, were found. The
3 stewards, by rule, had to punt and it had to go to the OAH
4 and so they couldn't take action to get that individual off
5 the grounds and suspended. And it's ironic and unfortunate
6 because it is --

7 VICE CHAIR AUERBACH: Are you telling me that,
8 with the rule we have now, if somebody gets caught with a
9 battery, we can't keep them off the grounds?

10 EXECUTIVE OFFICER BAEDEKER: Correct.

11 MR. BRODNIK: Correct.

12 VICE CHAIR AUERBACH: How did we do that?

13 EXECUTIVE OFFICER BAEDEKER: We didn't mean to.

14 VICE CHAIR AUERBACH: Wow.

15 EXECUTIVE OFFICER BAEDEKER: It was, you know, it
16 was a desire on the part of the Board to make a statement at
17 the time --

18 VICE CHAIR AUERBACH: Make it cut and dried.

19 EXECUTIVE OFFICER BAEDEKER: -- and to be able to
20 take its strongest action in a case like this. But
21 unwittingly, we shifted the responsibility of adjudication
22 from you all and the stewards to OAH. So we need to fix it.

23 Now, as Rob said, the stewards, in a situation
24 like this, would propose a ruling for the Board; correct,
25 Rob?

1 MR. BRODNIK: The stewards, if the matter was
2 heard, the stewards would have the authority to suspend.
3 And if that matter was ever appealed --

4 EXECUTIVE OFFICER BAEDEKER: That's right. Yeah.

5 MR. BRODNIK: -- then the appeal would come before
6 the Board. Right. So --

7 COMMISSIONER REED-KLAGES: So as Rob said, they
8 can suspend a license through its term. Now that can be
9 only a month; right? And so that would be the opposite of
10 what the Board desired. However, the licensee then has to
11 come back and reapply for licensing. That's not automatic.
12 And if a license is then denied, as it logically would be by
13 the investigators at that point, then the licensee can ask
14 for a hearing, a fitness hearing and then -- with us. And
15 that goes to a hearing officer and then it comes back to you
16 all to decide whether or not that rider should be
17 relicensed.

18 So you do have the ability to administer
19 justice --

20 VICE CHAIR AUERBACH: It just feels --

21 EXECUTIVE OFFICER BAEDEKER: -- as you see fit.

22 VICE CHAIR AUERBACH: -- it feels more cumbersome
23 doing it this way though. We passed that rule, that it was
24 cut and dried, that you get caught with a battery, you're
25 out of here, and that was really cut and dried. And now it

1 feels as if we're taking a step backward, that we have to go
2 through the stewards and go through that process.

3 If you -- if we told somebody, you're caught,
4 you're out of here, are you telling me that that person can
5 come back to the track and be licensed? I don't know why
6 this -- I mean, I don't care how long it takes that person
7 to go through legal processes to be told they're not allowed
8 to be here. That's not our concern. Our concern is to make
9 sure that somebody who gets caught with this is not here,
10 so --

11 EXECUTIVE OFFICER BAEDEKER: You can't suspend
12 them and then refer it for revocation. That's -- what is
13 that, double jeopardy or something?

14 MR. BRODNIK: So that becomes a due process
15 question; right?

16 So with the regard to the Office of Administrative
17 Hearing, if you find someone on the backstretch with a
18 buzzer and you can't -- and you send them for revocation
19 through the Office of Administrative Hearing, we can't take
20 an adverse action against their license until they've had
21 due process, until they've gone through hearing. And we --

22 VICE CHAIR AUERBACH: So technically, we can't
23 stop them from being -- their license is still valid? We
24 don't have the ability by law to just say you're not valid
25 anymore?

1 MR. BRODNIK: Correct. We will if we -- if you --

2 VICE CHAIR AUERBACH: How did we find this out?

3 MR. BRODNIK: Through litigation.

4 VICE CHAIR AUERBACH: Through screwing up?

5 EXECUTIVE OFFICER BAEDEKER: We have a rider that
6 currently is riding --

7 VICE CHAIR AUERBACH: That shouldn't be?

8 EXECUTIVE OFFICER BAEDEKER: -- that probably
9 wouldn't be, except for this revocation language. And so
10 the stewards, obviously, were handcuffed, were directed to
11 follow the law and refer it to the Office of Administrative
12 Hearings. And it's been over a year, I think, in one
13 particular case. And there were some other situations with
14 that particular incident that the stewards were, separate
15 from the buzzer, that the stewards were able to rule on and
16 the rider was suspended for a short period of time but is
17 now back riding.

18 So we have to give the stewards the ability to
19 take action immediately.

20 VICE CHAIR AUERBACH: Is there a way to give the
21 stewards the ability to take action and still make the rule
22 in violate that they are done?

23 MR. BRODNIK: So say that last part again.

24 VICE CHAIR AUERBACH: I mean, it's like precluding
25 the stewards from doing anything, other than getting rid of

1 these people. Is there a way to do it that way? Does
2 this -- I mean, I don't want to give the -- I don't want to
3 give anybody discretion with this. And to me, this feels
4 like we're backing off of a position that we took.

5 EXECUTIVE OFFICER BAEDEKER: Um-hmm. We are.

6 VICE CHAIR AUERBACH: And concerns me.

7 EXECUTIVE OFFICER BAEDEKER: Well, but --

8 VICE CHAIR AUERBACH: Is there a way around this?

9 COMMISSIONER REED-KLAGES: Can you ask the
10 stewards or direct the stewards to anyone that goes through
11 this process is suspended and that a new license will not be
12 granted --

13 VICE CHAIR AUERBACH: That's really what I'm
14 saying.

15 COMMISSIONER REED-KLAGES: -- and get --

16 EXECUTIVE OFFICER BAEDEKER: Well, we can't direct
17 the stewards, really, to do that because we're the
18 prosecutor and they're the judges. So, however, the
19 practice is that the stewards in the past have summarily
20 suspended a license in this situation because of the
21 imminent danger to the sport. And then they, correct me if
22 I'm wrong, but then they have followed up on a formal
23 hearing and then made a ruling on the penalty; right? We
24 want to go back to that process.

25 Rob, if you can explain the last paragraph in the

1 staff analysis that says, "Alternatively, if the stewards
2 believe the case was so egregious?"

3 MR. BRODNIK: Yeah. So 1529, which is another
4 rule already on the books, allows the stewards to refer
5 cases to the Board which are within their jurisdiction. So
6 if the stewards felt that there was a particular case that
7 they could not provide appropriate punishment for, they
8 could still refer the matter to the Board for revocation.
9 So that's what 1529 --

10 EXECUTIVE OFFICER BAEDEKER: But then does it go
11 to OAH?

12 MR. BRODNIK: It does.

13 EXECUTIVE OFFICER BAEDEKER: Okay.

14 MR. BRODNIK: Yeah.

15 EXECUTIVE OFFICER BAEDEKER: All right. So we're
16 still in the same limbo then; right?

17 VICE CHAIR AUERBACH: Um-hmm.

18 MR. BRODNIK: You're still -- if you want to
19 revoke a license, you have to go through the Office of
20 Administrative Hearing.

21 EXECUTIVE OFFICER BAEDEKER: And by the way, we
22 learned that in the state of California, if a license is
23 revoked the licensee, the former licensee, can still reapply
24 in a year.

25 MR. BRODNIK: Correct. So even if you revoke a

1 license the Business and Professions Code allows for that
2 person to come back and seek re-licensure after one year.

3 COMMISSIONER MAAS: But the difference, Rob, is in
4 this case what you're proposing is we could suspend the
5 license pending this future revocation, so they would not be
6 permitted to remain on the premises; is that correct?

7 MR. BRODNIK: What the rule is proposing is that
8 the stewards would now have the authority to hear the case.

9 COMMISSIONER MAAS: Right.

10 MR. BRODNIK: The stewards can hear cases on a
11 ten-day notice period. So within ten days of finding this
12 prohibited item --

13 COMMISSIONER MAAS: Right.

14 MR. BRODNIK: -- they could hear the matter. And
15 they have the jurisdiction to suspend that licensee --

16 COMMISSIONER MAAS: Right. Yeah.

17 MR. BRODNIK: -- through the term of their
18 license --

19 COMMISSIONER MAAS: Right.

20 MR. BRODNIK: -- which would prevent them from
21 being on any jurisdiction -- or, excuse me, within any
22 inclosure within the state of California.

23 COMMISSIONER MAAS: That's what I understood when
24 I read it.

25 MR. BRODNIK: Yeah.

1 COMMISSIONER MAAS: Okay. It's that power of
2 suspension.

3 EXECUTIVE OFFICER BAEDEKER: But it takes away the
4 revocation component.

5 COMMISSIONER MAAS: Correct.

6 EXECUTIVE OFFICER BAEDEKER: Yeah.

7 COMMISSIONER REED-KLAGES: But what happens when
8 they reapply? What's -- I don't know. I don't know what
9 the process is for when they reapply then. Who can stop
10 them from getting their license?

11 MR. BRODNIK: Right. So when an applicant
12 reapplies for licensure, they typically go to our licensing
13 unit. And investigator will look at any rulings that have
14 been issued by the stewards. So in situations such as this,
15 we've had cases where the stewards have suspended someone
16 through the term of their license. And when they've come
17 back after that term has ended and sought re-licensure,
18 we've then provided them a fitness hearing to show that they
19 are qualified for a license. And that's a hearing before a
20 hearing officer. And then that proposed decision of whether
21 they should get their license back is then sent to the Board
22 in closed session for decision.

23 COMMISSIONER REED-KLAGES: Okay.

24 EXECUTIVE OFFICER BAEDEKER: And, Rob, can't the
25 stewards, in a ruling if they say they suspend a license

1 through its terms, can't the stewards also make a
2 recommendation as to whether or not they should be
3 relicensed?

4 MR. BRODNIK: Yes. The stewards can make a
5 recommendation, so --

6 EXECUTIVE OFFICER BAEDEKER: So they can recommend
7 that the license not be renewed for a period of time, right,
8 a window --

9 MR. BRODNIK: Right.

10 EXECUTIVE OFFICER BAEDEKER: -- short of
11 revocation but they --

12 MR. BRODNIK: Correct.

13 EXECUTIVE OFFICER BAEDEKER: Yeah.

14 MR. BRODNIK: They could make a recommendation,
15 yes.

16 EXECUTIVE OFFICER BAEDEKER: Yeah. I seem to
17 recall something like up to three years or something like
18 that.

19 MR. BRODNIK: Yeah, generally. They --

20 EXECUTIVE OFFICER BAEDEKER: Generally, yeah.

21 MR. BRODNIK: I think the stewards can make a
22 recommendation based on their decision their holding in
23 their ruling. And then the Board would, obviously, see that
24 upon any fitness hearing. But it would be up to the Board
25 to decide whether to reissue a license.

1 COMMISSIONER ALFIERI: I'm assuming that the
2 application for a license asks them, have they ever had a
3 license revoked or is that --

4 MR. BRODNIK: Yes.

5 COMMISSIONER ALFIERI: -- correct? I'm just
6 assuming. I haven't seen it, so --

7 MR. BRODNIK: Yes.

8 COMMISSIONER ALFIERI: Okay.

9 VICE CHAIR AUERBACH: Well, I guess if Staff needs
10 it, I guess we have to, you know, give them the ability to
11 get these cases moved but I have to say, I'm not happy about
12 it. I'm not comfortable with it. I don't know.

13 EXECUTIVE OFFICER BAEDEKER: It's really out of
14 our control.

15 VICE CHAIR AUERBACH: No, I understand. It's
16 legalese.

17 EXECUTIVE OFFICER BAEDEKER: Well, you know, the
18 flip side of this is, you know, the counterpoint is the
19 State of California is very reluctant to take someone's
20 livelihood away from them and so they do keep boards, like
21 ours, in check. And you know, regardless, as I said before,
22 this is about the most egregious offense we have in the
23 sport, other than race fixing, I suppose. Regardless of
24 that, the State of California still gives deference to
25 people's livelihoods. So that would be the counterpart, I

1 think, if somebody was up from OAH sitting here.

2 We want to take the handcuffs off the stewards.

3 We have a problem right now. It's a real problem. We have

4 more than one situation that we're dealing with right now.

5 And because of this language, the stewards haven't been able

6 to act.

7 VICE CHAIR AUERBACH: So in other words, if we --

8 well, this has still got to go out for 45 days; right?

9 MR. BRODNIK: And just to be clear, we would not
10 be taking any retroactive action on those cases that are
11 currently pending.

12 EXECUTIVE OFFICER BAEDEKER: Right.

13 MR. BRODNIK: They're -- we're not addressing
14 those. Those are always going through.

15 VICE CHAIR AUERBACH: So going forward we're going
16 to make the process easier, is that what we're saying, or
17 more efficient --

18 MR. BRODNIK: More efficient.

19 VICE CHAIR AUERBACH: -- or more binding --

20 MR. BRODNIK: Well, we're --

21 VICE CHAIR AUERBACH: -- so we won't have
22 situations like we have going on now; is that what you're
23 saying?

24 MR. BRODNIK: Yes. What I'm saying --

25 VICE CHAIR AUERBACH: Okay.

1 MR. BRODNIK: -- is that if you amend this rule in
2 the way that it's proposed we believe that you will have
3 faster adjudications of these cases.

4 VICE CHAIR AUERBACH: And we can move these people
5 along in a more expeditious fashion?

6 MR. BRODNIK: Yes.

7 VICE CHAIR AUERBACH: Okay. Promise?

8 MR. BRODNIK: Yes.

9 VICE CHAIR AUERBACH: All right. Based on those
10 representations, I will make the motion to do this. Does
11 anybody want to second my --

12 COMMISSIONER REED-KLAGES: I'll second.

13 VICE CHAIR AUERBACH: -- capricious activity?
14 Okay. I'm sorry. It just feels so wrong, I can't help it.
15 It really is difficult for me.

16 COMMISSIONER MAAS: Maybe we need concussion
17 protocol here.

18 VICE CHAIR AUERBACH: Yeah, I think I know I do.
19 Commissioner Alfieri?

20 COMMISSIONER ALFIERI: Yes.

21 VICE CHAIR AUERBACH: Commissioner Maas?

22 COMMISSIONER MAAS: Yes.

23 VICE CHAIR AUERBACH: The Chair votes,
24 reluctantly, yes.

25 Commissioner Solis?

1 COMMISSIONER SOLIS: Yes.

2 VICE CHAIR AUERBACH: And Commissioner Reed?

3 COMMISSIONER REED-KLAGES: Yes.

4 VICE CHAIR AUERBACH: Thank you. Okay. Item
5 number -- motion carries.

6 (Colloquy Between Vice Chair Auerbach and Commissioner
7 Solis)

8 VICE CHAIR AUERBACH: Do we need a ten-minute
9 break? We're almost done.

10 EXECUTIVE OFFICER BAEDEKER: We're almost done.

11 VICE CHAIR AUERBACH: We're almost done. I'm not
12 going to take a break. We're going to power through. Okay.

13 Public hearing and action by the Board
14 regarding -- you could go. We'll let you.

15 EXECUTIVE OFFICER BAEDEKER: You're all right.

16 VICE CHAIR AUERBACH: You're all right, maybe.

17 Public hearing and action by the Board regarding
18 the proposed amendment to CHRB Rule 1467, to include trainer
19 and jockey purse deductions from any thoroughbred race
20 conducted at a thoroughbred or fair race meeting to be
21 contributed to the California Retirement Management, a
22 charitable trust fund maintained by CARMA, a nonprofit
23 organization. This concludes the 45-day public comment
24 period. The Board may adopt the proposal as presented.

25 And I have to recuse myself, so I will let

1 Commissioner Maas handle this.

2 EXECUTIVE OFFICER BAEDEKER: Well, hang on then.

3 VICE CHAIR AUERBACH: Oh.

4 EXECUTIVE OFFICER BAEDEKER: We need Alex.

5 VICE CHAIR AUERBACH: We have to wait to Alex to -

6 -

7 EXECUTIVE OFFICER BAEDEKER: Yeah, we need Alex.

8 VICE CHAIR AUERBACH: Hey, Alex.

9 EXECUTIVE OFFICER BAEDEKER: You want to move
10 forward and come back to it?

11 VICE CHAIR AUERBACH: There's nothing else --

12 COMMISSIONER MAAS: Is there any carrots?

13 VICE CHAIR AUERBACH: -- is there?

14 EXECUTIVE OFFICER BAEDEKER: Yeah, there's one
15 more.

16 COMMISSIONER MAAS: Can we take --

17 VICE CHAIR AUERBACH: Oh, there's one more?

18 COMMISSIONER MAAS: -- can we take testimony while
19 Alex is gone?

20 EXECUTIVE OFFICER BAEDEKER: No. He should -- he
21 needs to hear the --

22 VICE CHAIR AUERBACH: He needs --

23 EXECUTIVE OFFICER BAEDEKER: -- I presume he needs
24 to hear the testimony.

25 VICE CHAIR AUERBACH: If there's testimony, then

1 we need to hear it.

2 EXECUTIVE OFFICER BAEDEKER: Yeah.

3 VICE CHAIR AUERBACH: Okay. What's the next? Is
4 there one? I thought that was the last item. Sorry.

5 EXECUTIVE OFFICER BAEDEKER: No. We have 17.

6 VICE CHAIR AUERBACH: Oh.

7 EXECUTIVE OFFICER BAEDEKER: This is --

8 VICE CHAIR AUERBACH: Okay.

9 EXECUTIVE OFFICER BAEDEKER: -- another
10 technicality that we're bringing back to you.

11 VICE CHAIR AUERBACH: All right. Number 17,
12 public hearing and action by the Board regarding the
13 proposed addition of CHRB Rule 1842.1, Additional Report for
14 Intra-Articular Treatments, to require veterinarians
15 administering medication or treatments into an articular
16 structure of a horse located within the inclosure to provide
17 an intra-articular treatment record to the trainer who shall
18 maintain the records for a period of one year and make the
19 records available to the examining veterinarian for the
20 purpose of assisting with pre-race veterinary examinations
21 and other examinations as required by the Board. Note, this
22 concludes the 15-day public comment period. The Board may
23 adopt as presented.

24 MR. BRODNIK: Thank you, Vice Chairman. Rob
25 Brodnik, California Horse Racing Board.

1 This item was brought back to your attention. You
2 may recall in September at the September Board meeting this
3 item was adopted by the Board. Upon adoption, Staff
4 completed a rulemaking file and submitted it to the Office
5 of Administrative Law. The Office of Administrative Law
6 contacted us with a concern with what it felt was an issue
7 of clarity.

8 So Staff, in response, has amended the rule
9 slightly, just to include the new language, "located within
10 any CHRB inclosure." That new language was what was re-
11 noticed for the 15-day notice period. And that new language
12 is what is before the Board for adoption today, that
13 short -- just that language.

14 VICE CHAIR AUERBACH: As I recall, we had full
15 support on this issue initially --

16 EXECUTIVE OFFICER BAEDEKER: Yeah.

17 VICE CHAIR AUERBACH: -- and we just needed to
18 make this adjustment so the Office of Administrative Law was
19 comfortable with it; right?

20 MR. BRODNIK: Yes.

21 VICE CHAIR AUERBACH: Okay.

22 MR. BRODNIK: That's my understanding. And there
23 were no comments regarding that, just amended language.

24 VICE CHAIR AUERBACH: Okay. So I guess I have to
25 have a motion. No, this is on -- oh, this is on 17.

1 EXECUTIVE OFFICER BAEDEKER: Yeah.

2 VICE CHAIR AUERBACH: Darrell Haire wants to speak
3 on this.

4 MR. HAIRE: Darrell Haire, Manager with the
5 Jockeys' Guild.

6 I'd just like to say the Jockeys' Guild is in
7 support of this and we're glad this is happening where it
8 seems like there would be more transparency any time these
9 horses are injected. And you know, it's been a big concern,
10 whether it's Six Packs or whatever. And this will stop
11 these, you know, from this going on with trainers. This is
12 a good thing, so appreciate it.

13 VICE CHAIR AUERBACH: Do I hear a motion?

14 COMMISSIONER MAAS: I move.

15 VICE CHAIR AUERBACH: Commissioner Maas moves.

16 Commissioner Alfieri --

17 COMMISSIONER ALFIERI: I'll second.

18 VICE CHAIR AUERBACH: -- seconds.

19 Commissioner Alfieri?

20 COMMISSIONER ALFIERI: Yes.

21 VICE CHAIR AUERBACH: Commissioner Maas?

22 COMMISSIONER MAAS: Yes.

23 VICE CHAIR AUERBACH: The Chair votes yes.

24 Commissioner Solis?

25 COMMISSIONER SOLIS: Yes.

1 VICE CHAIR AUERBACH: Commissioner Reed?

2 COMMISSIONER REED-KLAGES: Yes.

3 VICE CHAIR AUERBACH: Okay. Motion carries.

4 Then we go back to 16 and I have recused myself.

5 And I ask Commissioner Maas to take over for me

6 please?

7 COMMISSIONER MAAS: Sure. And I believe we have

8 some cards also. Do you want to give me the card first?

9 VICE CHAIR AUERBACH: No, I don't have any cards.

10 COMMISSIONER MAAS: Oh.

11 VICE CHAIR AUERBACH: No. This was --

12 COMMISSIONER MAAS: Yeah.

13 VICE CHAIR AUERBACH: -- a 45-day public comment.

14 COMMISSIONER MAAS: Okay.

15 EXECUTIVE OFFICER BAEDEKER: Rob, can you give the

16 intro?

17 COMMISSIONER MAAS: Yeah.

18 MR. BRODNIK: Item number 17 is a proposed

19 amendment -- excuse me. Yes. Sorry.

20 Item number 16, which is an amendment to Rule

21 1467, Paymaster of Purses, this amendment was sent out for

22 45 days some time ago. We received no comments during the

23 45-day comment period. And so it's here for adoption by the

24 Board, if the Board chooses. I'm happy to answer any

25 questions about it or I could go through it more, if you'd

1 like, but --

2 EXECUTIVE OFFICER BAEDEKER: This is a program
3 that's already in place for owners.

4 MR. BRODNIK: Yeah. So basically, amendment to
5 1467 is going to require the paymaster to similarly deduct
6 from the purses of jockeys and trainers 0.3 percent to be
7 deposited into the Charitable Trust Fund maintained by
8 CARMA, which is a not-for-profit organization. Trainers and
9 jockeys, however, may elect to not have this 0.3 percent
10 deducted by filling out a Notification of Exclusion form,
11 which we've provided them.

12 And then this proposed amendment is also going to
13 require CARMA to file an audited financial statement to the
14 Board at the end of its fiscal year.

15 So currently, owners already allow 0.3 percent of
16 their purse monies to be deposited into CARMA. CARMA, as
17 you all may know, does a lot of wonderful things for the
18 industry and for our horses. And this, similarly, will
19 allow 0.3 percent to be deducted from trainers and jockeys
20 who also benefit from our equine athletes and will donate
21 that, also, to CARMA. So --

22 EXECUTIVE OFFICER BAEDEKER: Just to clarify this,
23 as always, math was never my strong suit, but this is three-
24 tenths of one percent?

25 MR. BRODNIK: Correct, 0.3, right.

1 EXECUTIVE OFFICER BAEDEKER: Yeah. Yeah.

2 VICE CHAIR AUERBACH: It's actually 0.03, but
3 that's okay.

4 MR. BRODNIK: Or 0.03, right.

5 VICE CHAIR AUERBACH: Okay.

6 COMMISSIONER MAAS: Any questions or comments from
7 the Board?

8 I just -- oh, I'm sorry, Alex. Were you going to
9 say something?

10 COMMISSIONER SOLIS: No. I mean, if I was riding,
11 I'd be giving half of my check -- half of my paycheck on --

12 VICE CHAIR AUERBACH: Well, we'll take it from
13 you.

14 COMMISSIONER MAAS: I just want to say for the
15 members of the public and also our new members of the Board
16 that there probably wouldn't be a CARMA without Vice
17 Chairman Auerbach. And while she has to recuse herself from
18 this, she has done an incredible job for an amazing
19 organization. And I think everybody that cares about the
20 industry is very grateful to you.

21 VICE CHAIR AUERBACH: Thank you.

22 COMMISSIONER MAAS: So thank you, Vice Chairman.

23 VICE CHAIR AUERBACH: Thank you very much.

24 COMMISSIONER MAAS: Is there a motion?

25 COMMISSIONER ALFIERI: I'll so move approval.

1 COMMISSIONER MAAS: Second by --

2 COMMISSIONER SOLIS: Second.

3 COMMISSIONER MAAS: -- seconded by Commissioner
4 Solis. All in favor?

5 COMMISSIONER ALFIERI: Aye. Yes.

6 COMMISSIONER MAAS: Aye.

7 COMMISSIONER SOLIS: Yes.

8 COMMISSIONER REED-KLAGES: Yes.

9 VICE CHAIR AUERBACH: On that pleasant note,
10 unless anybody has anything else, we're done; right?

11 EXECUTIVE OFFICER BAEDEKER: We're done.

12 VICE CHAIR AUERBACH: We're adjourned. Thank you,
13 everybody, for your attendance.

14 (The meeting of the California Horse Racing Board
15 adjourned at ??? a.m.)
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CERTIFICATE OF REPORTER

I do hereby certify that the testimony in the foregoing hearing was taken at the time and place therein stated; that the testimony of said witnesses were reported by me, a certified electronic court reporter and a disinterested person, and was under my supervision thereafter transcribed into typewriting.

And I further certify that I am not of counsel or attorney for either or any of the parties to said hearing nor in any way interested in the outcome of the cause named in said caption.

IN WITNESS WHEREOF, I have hereunto set my hand this 29th day of January, 2019.



MARTHA L. NELSON, CERT**367

CERTIFICATE OF TRANSCRIBER

I do hereby certify that the testimony in the foregoing hearing was taken at the time and place therein stated; that the testimony of said witnesses were transcribed by me, a certified transcriber and a disinterested person, and was under my supervision thereafter transcribed into typewriting.

And I further certify that I am not of counsel or attorney for either or any of the parties to said hearing nor in any way interested in the outcome of the cause named in said caption.

I certify that the foregoing is a correct transcript, to the best of my ability, from the electronic sound recording of the proceedings in the above-entitled matter.



MARTHA L. NELSON, CERT**367

January 29, 2019