

## FINAL STATEMENT OF REASONS

### UPDATED INFORMATIVE DIGEST

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

The California Horse Racing Board (Board) did not hold a public hearing for the amendment of Board Rule 1433, Application for License to Conduct a Horse Racing Meeting; Board Rule 1440, Approval of Concessionaires; Board Rule 1440.5, Licensing of Contractors and Sub-contractors; Board Rule 2057, Initial Application and Approval of a Simulcast Facility; Board Rule 2059, Initial Application and Approval of a Simulcast Organization; Board Rule 2066, Application for License to Operate a Minisatellite Wagering Facility; Board Rule 2071, License to Conduct Advance Deposit Wagering by a California Applicant; and Board Rule 2072, Approval to Conduct Advance Deposit Wagering by an Out-of-State Applicant, as the Board did not receive a written request for a public hearing from any interested person, or his or her authorized representative, at least 15 days prior to the close of the written comment period.

The Board made substantive changes to the originally proposed regulation and made the modified text available during the 15-day public comment period of August 22, 2024, through September 6, 2024. The discussion of these changes in the 15-day is incorporated by reference herein. The Board adopted the revised amendment to Board rules 1433, 1440, 1440.5, 2057, 2059, 2066, 2071, and 2072 at the August 15, 2024 Board meeting.

### LOCAL MANDATE DETERMINATION

The amendment of Board rules 1433, 1440, 1440.5, 2057, 2059, 2066, 2071, and 2072 does not impose any mandates on local agencies or school districts.

### MODIFICATIONS MADE TO REGULATORY TEXT FOR 15-DAY COMMENT PERIOD

Board Rule 1433 incorporates by reference the forms CHRB-17, Application for License to Conduct a Horse Racing Meeting, and CHRB-18, Application for License to Conduct a Horse Racing Meeting of a California Fair. The forms CHRB-17 and CHRB-18 were modified to revise the purse distribution information required, and to require purse account information, under the Purse Program section. These changes, which were discussed between the Board and horse racing industry stakeholders, will help the Board and its members, as well as industry applicants, better understand the purse program data and aid in their decision-making.

The proposed addition of subsection (d) to Board Rule 1440 was modified to remove the language allowing the Board to require the submission of a new application if it is deemed that a lapse in approval or change in information warrants a new application. This was necessary because the language was unclear and could have been interpreted as the Board exercising permission. Instead, language was added stipulating that the Board shall renew the approval unless the concessionaire provides changes to information

contained in its application that result in failure to meet the requirements therein. This was necessary, as it provided a clear standard by which the Board will renew an approval.

The proposed amendment to subsection (a) of Board Rule 2057 was modified to remove the language requiring a certified check in the amount of \$500 to accompany the Application for Authorization to Operate a Simulcast Wagering Facility, CHRB-25, which is incorporated by reference. This language was introduced with the intent to recover the administrative costs associated with the processing of the application, specifically mirroring the \$500 fee for the Application for License to Operate a Minisatellite Wagering Facility, CHRB-228, which is incorporated by reference in Board Rule 2066, Application for License to Operate a Minisatellite Wagering Facility. However, upon examination of the original rulemaking file whereby Board Rule 2066 was adopted, it was determined that the purpose of the \$500 fee was to act as a deterrent against the filing of frivolous applications, not to recover administrative costs. Therefore, none of the horse racing wagering entity applications in use by the Board require a filing fee to recover administrative costs. Thus, for consistency, the previously proposed \$500 filing fee in subsection (a) of Board Rule 2057 was removed. Furthermore, the Board has no record of a form CHRB-228 having ever been filed frivolously.

The originally proposed amendment to subsection (a)(11) of Board Rule 2057 added a comma immediately after “placement of data lines”. However, the comma was not underlined to indicate the change. Thus, the amendment to (a)(11) was modified to indicate the change with a double underline.

The proposed addition of subsection (f) to Board Rule 2057 was modified to remove the language providing that changes or amendments to information or operating procedures contained in an application will be permitted by order of the Board or Board approval of a written request. Instead, language was added to require submission of a written request for Board approval of any such changes or amendments and to stipulate that the Board shall approve the request unless the changes or amendments result in the application failing to meet the requirements of the section. This modification was necessary because the former language was unclear and could have been interpreted as the Board exercising permission. The new language provides a clear standard by which the Board shall approve the request.

The proposed addition of subsection (g) to Board Rule 2057 was modified to adjust the given dates by one year in order to provide the Board with sufficient time to plan and coordinate the reapplication process for existing simulcast wagering facilities.

#### SUMMARY AND RESPONSE TO COMMENTS RECEIVED DURING THE ORIGINAL NOTICE PERIOD OF JANUARY 19, 2024, THROUGH MARCH 4, 2024

No comments were received.

#### SUMMARY AND RESPONSE TO COMMENTS RECEIVED AT THE REGULATORY HEARING

No public hearing was held for the proposed regulatory action, as the Board did not receive a written request for a public hearing from any interested person, or his or her

authorized representative, at least 15 days prior to the close of the written comment period.

#### SUMMARY OF AND RESPONSE TO COMMENT RECEIVED AT BOARD MEETING ON AUGUST 15, 2024, PRIOR TO 15-DAY PUBLIC COMMENT PERIOD

Comment: Eric Sindler, on behalf of Santa Anita (Los Angeles Turf Club II), referring to the modified changes to the forms CHRB-17 and CHRB-18 that were presented at the August 15, 2024 Board meeting, stated that the amount in the purse account at the close of the last meet is a meaningless number because it changes daily.

Response: Executive Director Scott Chaney suggested changing the proposed language in question to ask for the amount in the purse account that was earmarked for purses. Mr. Sindler agreed, and the Board approved the change. The change was subsequently incorporated into the proposed revisions of the forms CHRB-17 and CHRB-18, which were included with the 15-day modified text that was made available for public comment.

#### SUMMARY AND RESPONSE TO COMMENTS RECEIVED DURING THE 15-DAY PUBLIC COMMENT PERIOD OF AUGUST 22, 2024, THROUGH SEPTEMBER 6, 2024

No comments were received.

The amendment of Board rules 1433, 1440, 1440.5, 2057, 2059, 2066, 2071, and 2072 has no significant, adverse economic impact on small business.

The amendment of Board rules 1433, 1440, 1440.5, 2057, 2059, 2066, 2071, and 2072 has no significant, adverse economic impact on business.

#### ALTERNATIVE DETERMINATION

The Board has determined that no reasonable alternative would be more effective in carrying out the purpose for which the regulation was proposed, would be as effective and less burdensome to affected private persons than the proposed regulation, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law. The amendment of Board rules 1433, 1440, 1440.5, 2057, 2059, 2066, 2071, and 2072 will clarify license terms and renewal processes, update and set timelines related to application processes, require the Board to act only on applications that have been deemed complete, ensure uniformity between license terms, and implement the revised versions of the applications. Meanwhile, the revised applications will incorporate existing regulatory requirements, include notices regarding license terms, make corrections related to requested supporting documentation, and revise the information required regarding purse distribution.

No public hearing was held for the proposed regulatory action, as the Board did not receive a written request for a public hearing from any interested person, or his or her authorized representative, at least 15 days prior to the close of the written comment period. The Board invited interested persons to present statements or arguments with respect to alternatives to the proposed regulations during the written comment period. No alternatives were proposed.

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

#### EXPLANATION OF DISCREPANCY BETWEEN RULE CITATION IN OCTOBER 19, 2023 BOARD MEETING TRANSCRIPT AND AMENDMENT TO BOARD RULE 2057

At the bottom of page 20 of the October 19, 2023 Board meeting transcript, Executive Director Chaney cites subsection (h) of Board Rule 2057 when referring to regulatory language to require associations licensed prior to January 1, 2024, to file a new application by January 1, 2025. However, said regulatory language appeared in the addition of subsection (g) to Board Rule 2057 in the text made available to the public during the 45-day comment period (it was subsequently revised for the 15-day comment period). The verbal reference to subsection (h) was inadvertent, as said regulatory language was briefly numbered as subsection (h) during the development process, prior to being presented to the Board. Board staff has verified that the regulatory text presented to the Board was the same as the regulatory text made available to the public during the 45-day comment period.

#### STATEMENT REGARDING DOCUMENTS INCORPORATED BY REFERENCE

The Board rules amended by this regulation incorporate by reference various applications or forms because it would be cumbersome, unduly expensive, or otherwise impractical to publish said documents in the California Code of Regulations. The documents are several pages in length and/or may undergo relatively frequent revision. Additionally, said documents were made available upon request from the Board or were reasonably available to the affected public on the Board's website.