

FINAL STATEMENT OF REASONS

UPDATED INFORMATIVE DIGEST

The California Horse Racing Board (Board) did not hold a public hearing for the amendments of Board Rule 1846.5, Postmortem Examination, and Board Rule 1846.6, Postmortem Examination Review, 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. During the 45-day comment period of the regular rulemaking process, which was from April 14, 2023, to May 30, 2023, one public comment was received.

The Board made substantive changes to the originally proposed regulations and made the modified text available during the 15-day public comment period of September 1, 2023, to September 16, 2023. The discussion of these changes in the 15-day is incorporated by reference herein.

On a second occasion the Board made substantive changes to the original proposed text of the regulations and made the modified text available during a second 15-day public comment period of January 22, 2024, to February 6, 2024. The discussion of these changes in the 15-day is incorporated by reference herein.

LOCAL MANDATE DETERMINATION

The amendments of Board Rules 1846.5 and 1846.6 do not impose any mandates on local agencies or school districts.

SUMMARY AND RESPONSE TO COMMENTS RECEIVED DURING THE ORIGINAL NOTICE PERIOD OF APRIL 14, 2023, TO MAY 30, 2023. (45-day public comment period)

Summary of Public Comment Received from Eric Sindler, on behalf of Santa Anita Park and Golden Gate Fields dated June 1, 2023:

Comment (page 1): Santa Anita Park and Golden Gate Fields urged the Board to add the requirement that the racing association or training facility where the horse suffered a catastrophic injury receive an unredacted copy of the necropsy report. Santa Anita Park and Golden Gate Fields believe that that the racing association or training facility receiving an unredacted copy of the necropsy report may be helpful in reducing future catastrophic injuries.

Response: The Board agrees. The proposed text was modified as follow:

Modification of the Text for Rule 1846.5 on the First 15-day Public Comment Period, Dates September 1, 2023, to September 16, 2023:

Subsection 1846.5(g) was modified to add "Once the report is filed with the listed designees, the Board may release a copy to the racing association or training facility where the horse last resided." The addition of this language to the rule amendment

addresses the recommendation made by Santa Anita Park and Golden Gate Fields. This is necessary to provide the racing association where catastrophic injury occurred to fully review the history of the horse and will aid in reducing future catastrophic injuries. This amendment will permit licensed racing associations to receive unredacted necropsy and postmortem reports. Current privacy laws only apply to licensed veterinarians, not racing associations.

Modification of the Text for Rule 1846.5 on the Second 15-day Public Comment Period, Dates January 22, 2024, to February 6, 2024:

Currently, “racing association” and “racetrack” are both used in the text of Rule 1846.5. For consistency and clarity purposes, on the existing text of subsection 1846.5 (c), “racing association” was stricken and replaced with “racetrack.” It is necessary to replace “racing association” with “racetrack” to be consistent with terminology already used in Rule 1846.5 and throughout existing regulations. Specifically, the term “racetrack” is used on subsections 1846.5 (a), (c), and (f).

On the proposed new text of subsection 1846.5 (c), for consistency and clarity purposes, “racing association” was stricken and replaced with “racetrack;” “facility” was stricken and replaced with “center;” “resided” was stricken and replaced with “stabled.” It is necessary to replace the terms “racing association,” “facility,” and “resided” from the proposed new text to be consistent with the terminology already used in Board Rule 1846.5 and other regulations in the California Code of Regulations. Currently, “racetrack” is used in subsections 1846.5 (a), (c), and (f). Currently, “center” is used in subsections 1846.5 (c) and (f). Currently, “stabled” is used in subsection 1846.1 (a).

For clarity purposes, the proposed new text of subsection 1846.5 (c) was modified, the following statement was added “immediately prior to the time of death” to the end of the proposed new text of subsection 1846.5 (c), after the word “stabled.” This change is necessary for the Board to assign responsibility to the racetrack or training center “where the horse was last stabled immediately prior to the time of death,” for the costs associated with transportation of a horse, after it has died, to the diagnostic laboratory. It is the intent of the Board to reduce the risk of non-payment of the costs associated with transportation of the horse. The Board made the determination that assigning the responsibility to the racetrack or training center, “where the horse was last stabled immediately prior to the time of death,” for the costs associated with transportation of a horse to the diagnostic laboratory, is consistent with the existing process per subsection 1846.5 (c). Currently, subsection 1846.5 (c) states, “The costs associated with transportation to the diagnostic laboratory of any horse which has died under the provisions of subparagraph (a) shall be the responsibility of the racetrack conducting the meeting where the death occurred or the training center or racetrack where death occurred when no meeting is in progress.”

For clarity purposes, the proposed new text of subsection 1846.5 (d) was modified, the sentence beginning with, “The trainer is” and continued with the statement “the absolute insurer of the horse and responsible for the timely submission of CHRB-72 to the extent that the trainer exercised care and control at the time of death,” was stricken. This change is necessary for the Board to assign responsibility for the timely submission of CHRB-72 and to mitigate and reduce the risk of non-timely submission or non-submission of CHRB-72.

Furthermore, for clarity purposes, on the proposed new text of subsection 1846.5 (d), the last sentence that began with “The owner,” and continued with the statement, “of the horse is the joint absolute insurer and is equally responsible for ensuring CHRB-72 is filed,” was stricken and replaced with the text, “is co-responsible to supply all information to complete and file CHRB-72.” This change is necessary for the Board to assign the responsibility of completing and filing CHRB-17, to the trainer and owner, and to mitigate and reduce the risk of non-completion or non-filing of CHRB-72. Additionally, this change was necessary to provide clarity that we were referring to responsibility of completing the CHRB-72 and not for insurance purposes.

On the proposed new text of subsection 1846.5 (e), the last sentence that began with, “On the official,” and continued with the statement, “veterinarian’s next scheduled work day of the racing association or training facility where the horse was last resided,” was stricken and replaced with new text. This change is necessary for the Board to provide written guidance to the owner and trainer on how to proceed with the handling of the original CHRB-72, in the case of a horse which a horse dies or is euthanized in California within 72 hours of leaving a facility under the jurisdiction of the Board, to mitigate misunderstandings and reduce the risk of misplacement of original CHRB-17.

For consistency and clarity purposes, on the existing text of subsection 1846.5 (f), “racing association” was stricken and replaced with “racetrack.” It is necessary to replace “racing association” with “racetrack” to be consistent with terminology already used in Rule 1846.5 and throughout existing regulations. Specifically, the term “racetrack” is used on subsections 1846.5 (a), (c), and (f).

For clarity purposes, the proposed new text of subsection 1846.5 (g) was modified, the sentence beginning with “Once” and ending with the word “release,” was stricken and replaced with the statement “Upon written request, the Board shall release.” In addition, the following terms were added to proposed new text of subsection 1846.5 (g): “unredacted,” “of the report,” and “was.” Furthermore, “racing association” was stricken and replaced with “racetrack,” “facility” was stricken and replaced with “center,” “resided” was stricken and replaced with “stabled.” It is necessary to replace the terms “racing association,” “facility,” and “resided” to be consistent with the terminology already used in Board Rule 1846.5 and other regulations in the California Code of Regulations. Currently, “racetrack” is used in subsections 1846.5 (a), (c), and (f). Currently, “center” is used in subsections 1846.5 (c) and (f). Currently, “stabled” is used in subsection 1846.1 (a). Lastly, the following statement was added to the end of the sentence of the proposed new text, “immediately prior to the time of death.” This change is necessary to implement the proposed new text for subsection 1846.5 (g) to enact the changes presented and adopted by the Board at its August 17, 2023, meeting. The Board determined that it agreed with the public comment received, during the 45-day comment period (April 14, 2024, to May 30, 2023), on behalf of Santa Anita and Golden Gate Fields, to release an unredacted copy of the necropsy report to the racetrack (former term racing association) or training center (former term training facility) where the horse suffered a catastrophic injury. Currently per existing subsection 1846.5 (g) upon completion of the postmortem examination, a written report is filed with the Executive Director of the Board. The written report filed with the Executive Director is an unredacted report. It is the intent of the Board to improve the safety of racehorses and to further the efforts to reduce equine fatalities in

California. The Board concluded that releasing an unredacted copy of the report to the racetrack or training center where the horse was last stabled immediately prior to the time of death, will support the goal to improve the safety of racehorses and reduce equine fatalities in California. Currently, necropsy reports are released as unredacted reports after completed only to related parties and other copies of the reports are released through Public Records Act Requests pursuant to Government Code section 7920.000 et seq. and are redacted for confidentiality purposes. In order to decrease fatalities and increase the welfare of horses, and improve the overall mission of the Board, the Board proposes to include racetrack or training center to be authorized to receive an unredacted copy of the report.

Modification of the Text for Rule 1846.6 on the First 15-day Public Comment Period, Dates September 1, 2023, to September 16, 2023:

Subsection 1846.6(g) was modified to add "Once the report is filed with the listed designees, the Board may release a copy to the racing association or training facility where the horse last resided." The addition of this language to the rule amendment addresses the recommendation made by Santa Anita Park and Golden Gate Fields. This is necessary to provide the racing association where catastrophic injury occurred to fully review the history of the horse and will aid in reducing future catastrophic injuries. This amendment will permit licensed racing associations to receive unredacted necropsy and postmortem reports. Current privacy laws only apply to licensed veterinarians, not racing associations.

Modification of the Text for Rule 1846.5 on the Second 15-day Public Comment Period, Dates January 22, 2024, to February 6, 2024:

For clarity purposes, the proposed new text of subsection 1846.6 (g) was modified, the sentence beginning with "Once" and ending with the word "release," was stricken and replaced with the statement "Upon written request, the Board shall release." In addition, the following terms were added to proposed new text of subsection 1846.6 (g): "unredacted," "of the report," and "was." Furthermore, "racing association" was stricken and replaced with "racetrack;" "facility" was stricken and replaced with "center;" "resided" was stricken and replaced with "stabled." It is necessary to replace the terms "racing association," "facility," and "resided" to be consistent with the terminology already used in Board Rule 1846.5 and other regulations in the California Code of Regulations. Currently, "racetrack" is used in subsections 1846.5 (a), (c), and (f). Currently, "center" is used in subsections 1846.5 (c) and (f). Currently, "stabled" is used in subsection 1846.1 (a). Lastly, the following statement was added to the end of the sentence of the proposed new text, "immediately prior to the time of death." This change is necessary to adopt the proposed new text for subsection 1846.5 (g) to implement the changes presented and adopted by the Board at its August 17, 2023, meeting. The Board determined that it agreed with the public comment received, during the 45-day comment period (April 14, 2024, to May 30, 2023), on behalf of Santa Anita and Golden Gate Fields, to release an unredacted copy of the necropsy report to the racetrack (former term racing association) or training center (former term training facility) where the horse suffered a catastrophic injury. Currently per existing subsection 1846.6 (g) upon completion of the postmortem examination review, a written report is filed with the Executive Director of the Board, the owner, and trainer of the expired horse. The written report filed with the Executive

Director, the owner, and the trainer is an unredacted report. It is the intent of the Board to improve the safety of racehorses and to further the efforts to reduce equine fatalities in California. The Board concluded that releasing an unredacted copy of the report to the racetrack or training center where the horse was last stabled immediately prior to the time of death, will support the goal to improve the safety of racehorses and reduce equine fatalities in California. Currently, necropsy reports are released as unredacted reports after completed only to related parties and other copies of the reports are released through Public Records Act Requests pursuant to Government Code section 7920.000 et seq. and are redacted for confidentiality purposes. In order to decrease fatalities and increase the welfare of horses, and improve the overall mission of the Board, the Board proposes to include racetrack or training center to be authorized to receive an unredacted copy of the report.

The adoption of the proposed modifications to the text of subsections 1846.5(g) and 1846.6(g) will authorize the racetrack or training center, where the horse was last stabled immediately prior to the time of death, to request and obtain an unredacted copy of the necropsy report. In addition, the proposed modifications to the text of subsections 1846.5(g) and 1846.6(g) will provide clarity to who can request and obtain the unredacted copy of the necropsy report. This amendment to Board Rules 1846.5 and 1846.6 will further support the CHRB's mission of reducing horse injuries and fatalities.

SUMMARY AND RESPONSE TO COMMENTS RECEIVED DURING THE REGULAR BOARD MEETING AUGUST 17, 2023.

One public comment from Heather Wilson was received during the public comment period of Board item number eight, "DISCUSSION AND ACTION BY THE BOARD REGARDING THE PROPOSED AMENDMENTS TO CHRB RULE 1846.5, POSTMORTEM EXAMINATION, AND RULE 1846.6, POSTMORTEM EXAMINATION REVIEW," CHRB regular Board meeting, August 17, 2023:

Summary of Public Comment from Heather Wilson (pages 55-58): One comment was received from Heather Wilson, at the August 17, 2023, regular Board meeting, for Board item number eight. The public comment was unrelated to rulemaking and thus no response is required. The public comment referenced two horses that were euthanized outside of the jurisdiction of State of California. Heather Wilson advocated that every horse which suffers a fatal injury on the racetrack in training or in competition should be afforded a necropsy report. However, the two horses that Heather Wilson referenced as an example of horses that need a necropsy report were not in the State of California and were not part of the jurisdiction of the Board at the time of death.

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 AND RESPONSE TO COMMENTS RECEIVED DURING THE 15-DAY PUBLIC COMMENT PERIOD OF SEPTEMBER 1, 2023, THROUGH SEPTEMBER 16, 2023.

No comments were received during the 15-Day Public comment period of September 1, 2023, through September 16, 2023.

SUMMARY AND RESPONSE TO COMMENTS RECEIVED DURING THE SECOND 15-DAY PUBLIC COMMENT PERIOD OF JANUARY 22, 2024, THROUGH FEBRUARY 6, 2024.

No comments were received during the 15-Day Public comment period of January 22, 2024, through February 6, 2024.

The amendments to Board Rules 1846.5 and 1846.6 have no significant, adverse economic impact on small business.

The amendments to Board Rules 1846.5 and 1846.6 have 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 to Board Rule 1846.5 will expand the scope of authority to require a postmortem examination of every horse that dies or is euthanized in California within 72 hours of leaving a facility under the jurisdiction of the Board. The amendment to Board Rule 1846.6 will expand the scope of authority to require a postmortem examination review on each equine fatality in California within 72 hours of leaving a facility under the jurisdiction of the Board.

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.