

WALLACE, BROWN
& SCHWARTZ

ATTORNEYS AT LAW
215 NORTH MARENGO AVENUE
THIRD FLOOR
PASADENA, CA 91101-1504

TELEPHONE
(626) 844-6777
FACSIMILE
(626) 795-0353

March 31, 2014

RECEIVED

APR 01 2014

VMB / RVTC

Annemarie Del Mugnaio, Executive Director
California Veterinary Medical Board
1747 North Market Blvd., Suite 230
Sacramento, CA 95834-2987

Re: California Horse Racing Board
Proposed Change to Rule 1845-Authorized Bleeder Medication.

Dear Ms. Del Mugnaio:

I am enclosing materials for inclusion in the document packet to be distributed to all Veterinary Board Members in advance of the April 25, 2014, meeting concerning the above-referenced matter. The materials are the proposed new Rule 1845 along with declarations from Joe Morris, Mary Scollay, DVM and Jeff A. Blea, DVM.

We will be appearing at the meeting for further presentation and to answer any questions that may arise.

Please call should you have any questions

Sincerely,

Wallace, Brown & Schwartz

Steve R. Schwartz

SRS

Enclosures: As stated above

CALIFORNIA HORSE RACING BOARD
TITLE 4. CALIFORNIA CODE OF REGULATIONS
ARTICLE 15. VETERINARY PRACTICES
RULE 1845. AUTHORIZED BLEEDER
MEDICATION

1845. Authorized Bleeder Medication.

Authorized bleeder medication for the control of exercised induced pulmonary hemorrhage (EIPH) may be administered to a horse on the authorized bleeder medication list.

(a) A horse is eligible to race with authorized bleeder medication if the licensed trainer and/or veterinarian determines it is in the horse's best interest. If a horse will race with authorized bleeder medication, form CHRB 194 (~~New~~ *08/04 Updated*), Authorized Bleeder Medication Request and Prescription, which is hereby incorporated by reference, shall ~~be~~ constitute a prescription for the administration of furosemide and shall be used to notify the official veterinarian prior to entry.

Formatted: Font: Italic

Formatted: Underline

Formatted: Underline

Formatted: Underline

(b) The official laboratory shall measure the specific gravity of post-race urine samples to ensure samples are sufficiently concentrated for proper chemical analysis. The specific gravity of such samples shall not be below 1.010.

(c) If the specific gravity of the post-race urine sample is determined to be below 1.010, or if a urine sample is not available for testing, quantitation of furosemide in serum or plasma shall then be performed. Concentrations may not exceed 100 nanograms of furosemide per milliliter of serum or plasma.

(d) A horse qualified to race with authorized bleeder medication shall be assigned to a pre-race security stall prior to the scheduled post time for the race in which it is entered, and shall remain there until it is taken to the receiving barn or the paddock to be saddled or harnessed for the race. While in the security stall, the horse shall be in the care, custody, control and

constant view of the trainer, or a licensed person assigned by the trainer. The trainer shall be responsible for the condition, care and handling of the horse while it remains in the security stall. The official veterinarian may permit a horse to leave the security stall to engage in track warm-up heats prior to a race.

(e) A horse qualified for administration of authorized bleeder medication must be treated on the grounds of the racetrack where the horse will race no later than four hours prior to post time of the race for which the horse is entered.

(1) The only authorized bleeder medication, ~~furosemide~~, shall be furosemide administered by a single intravenous injection only, in a dosage of not less than 150 mg. or not more than 500 mg.

(2) Furosemide shall be administered by the official veterinarian, the racing veterinarian or a veterinarian designated by the official veterinarian. Registered veterinary technicians under the supervision of the official veterinarian, racing veterinarian or a designee of the official veterinarian may administer authorized bleeder medication.

(a) Any veterinarian or registered veterinary technician designated to administer authorized bleeder medication shall ~~be prohibited from working not practice~~ as a private veterinarian or registered veterinary technician at the race track or with participating licensees during the period they are designated to administer authorized bleeder medication.

(b) The licensed owners of horses administered furosemide in the manner prescribed in this section shall pay the costs associated with such administration.

(c) Every licensed horse owner that owns a horse qualified for administration of authorized bleeder medication consents to the procedures described in subparagraph (e) hereof

and waives establishment of a veterinary-client-patient relationship with the individual administering furosemide.

(3) A horse racing with furosemide must show a detectable concentration of the drug in the post-race serum, plasma or urine sample.

(4) The veterinarian administering the bleeder medication shall notify the official veterinarian of the treatment of the horse. Such Notification shall be made using CHRB form-36 (New 08/04), Bleeder Treatment Report, which is hereby incorporated by reference, not later than two hours prior to post time of the race for which the horse is entered.

(5) Upon the request of a Board representative, the veterinarian administering the authorized bleeder medication shall surrender the syringe used to administer such medication, which may then be submitted for testing.

(f) A horse placed on the official authorized bleeder medication list must remain on the list unless the licensed trainer and/or veterinarian requests that the horse be removed. The request must be made using CHRB form 194 (~~(new)~~New 08/04MM/YY), and must be submitted to the official veterinarian prior to the time of entry. A horse removed from the authorized bleeder medication list may not be placed back on the list for a period of 60 calendar days unless the official veterinarian determines it is detrimental to the welfare of the horse. If a horse is removed from the authorized bleeder medication list a second time in a 365-day period, the horse may not be placed back on the list for a period of 90 calendar days.

(g) If the official veterinarian observes a horse bleeding externally from one or both nostrils during or after a race or workout, and determines such bleeding is a direct result of EIPH, the horse shall be ineligible to race for the following periods:

Formatted: Underline

- First incident—14 days;
- Second incident within 365-day period—30 days;
- Third incident within 365-day period—180 days;
- Fourth incident within 365-day period—barred for racing lifetime.

For the purposes of counting the number of days a horse is ineligible to run, the day after the horse bled externally is the first day of such period. The voluntary administration of authorized bleeder medication without an external bleeding incident shall not subject a horse to the initial period of ineligibility as defined under this subsection.

Authority: Sections 19440 and 19562,
Business and Professions Code.

Reference: Sections 19580 and 19581,
Business and Professions Code.

DECLARATION OF JOE MORRIS

I, Joe Morris, declare:

1. I am the President of the Thoroughbred Owners of California, an organization consisting of all racehorse owners licensed by the California Horse Racing Board in California. Our organization works to represent horse owners and better the California racing industry as a whole by promoting issues related to integrity and the health and welfare of our horses.

2. I am making this declaration on behalf of the nearly seven thousand (7,000) members of the Thoroughbred Owners of California in support of the California Horse Racing Board's proposal to amend the authorized bleeder medication rule to allow for third party administration of authorized bleeder medication on raceday.

3. We believe that the proposed change to CHRB Rule 1845 serves to protect the health interests of the horses while at the same time allowing the racing commission a reasonable means to exercise its policing power over the industry it is charged with regulating to achieve the highest level of integrity.

4. The procedure for third party administration of authorized bleeder medication is an important part of the Racing Medication and Testing Consortium's model rule for the reform and regulation of medications commonly used in equine racing practices.

5. This industry wide attempt to adopt uniform medication rules throughout the United States is a response to frequent criticism by Congress and State governments who have been critical

of the lack of centralized drug regulation in horse racing.

6. We, the Thoroughbred Owners of California, believe that this regulatory change is in the best interests of the health and welfare of the horses we own. We request that the California Veterinary Medical Board defer to the California Horse Racing Board in matters related to the regulation and oversight of the conduct of horse racing in this State.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. This declaration was executed on 3/28/14, 2014, at Arcadia, California.



Joe Morris, Declarant

DECLARATION OF MARY SCOLLAY, DVM

I, Mary Scollay, DVM, declare:

1. I am a veterinarian and currently hold the position of Equine Medical Director for the Kentucky Horse Racing Commission. I have personal knowledge of the facts stated herein and if called as a witness, I could and would competently testify to those facts.

2. I make this declaration in support of the California Horse Racing Board's proposal to amend its rule 1845, "Authorized Bleeder Medication" to allow for third party administration of authorized bleeder medication on raceday.

3. I am a graduate of the University Of Illinois School of Veterinary Medicine, 1984, and have practiced regulatory veterinary medicine at racetracks for 26 years. In 2008, I was appointed to my current position as Equine Medical Director for the Kentucky Horse Racing Commission.

4. I am a member of the American Association of Equine Practitioners, a member of the Board of Directors of the Racing Medication and Testing Consortium, the International Group of Specialist Racing Veterinarians and the European Horse Racing Scientific Liaison Committee.

5. In October 2012, the Kentucky Horse Racing Commission adopted a rule in which Commission veterinarians took over the responsibility for administration of furosemide on race day. Furosemide is a loop diuretic originally developed to treat congestive heart failure. It is routinely administered to racehorses at prescribed times and dosage ranges as a prophylactic measure for

the prevention or lessening of the severity of exercise induced pulmonary hemorrhage.

6. The proposal to amend CHRB Rule 1845 "Authorized Bleeder Medication" follows an industry policy to achieve uniformity in medication regulations across the United States. In August, 2011, The Racing Medication and Testing Consortium (RMTC), a national organization within the racing industry dedicated to working on policies and issues related to racehorse medication, adopted a policy in which furosemide may only be administered on race day by regulatory veterinarians.

7. Since the creation of this model rule by the RMTC, it has been adopted by the eight states comprising the Mid-Atlantic Region and my home state of Kentucky. In addition to California, this procedure is under consideration in Arkansas, Idaho, Indiana, Minnesota, Ohio, New Mexico, Wyoming, Colorado, Virginia and West Virginia.

8. The main purpose of the rule requiring third-party veterinarians to administer race day furosemide is to insure integrity, promote public confidence, and compliance with racing rules.

9. My own experience with this process has revealed certain interesting developments. The mean post-race serum concentrations of furosemide decreased by slightly more than 30% indicating late administrations or administrations which violated time or route of administration regulations.

10. It became readily apparent that the rules pertaining to

the administration of furosemide and those prohibiting the administration of other substances via injection on raceday were routinely disregarded.

11. I think the procedure in Kentucky has been successful. Horses are receiving furosemide by the permitted route of administration, within the permitted dose range, and by the regulatory prescribed deadline. The medication information used by the wagering public is accurate.

12 This reform is in the best interests of the health and welfare of the horse and the safety of the rider, enhances the integrity of our sport, ensures a level of playing field for our competitors, assists horsemen who race in multiple jurisdictions and accomplishes the uniform regulation of racing in the United States.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. This declaration was executed on March 13, 2014, at Lexington, Kentucky.



Mary Scollay, DVM

DECLARATION OF JEFF A. BLEA, DVM

I, Jeff A. Blea, DVM, declare:

1. I am a veterinarian duly licensed by the State of California. I am a partner in the practice Von Bluecher, Blea, Hunkin, Inc., Equine Medicine and Surgery. My practice focuses on racetrack equine medicine exclusively. I am also the 2014 President of the American Association of Equine Practitioners (AAEP).

2. I am making this declaration in support of the California Horse Racing Board's proposal to amend its Rule 1845, "Authorized Bleeder Medication" to allow for third party independent regulatory veterinarians or Registered Veterinary Technician administration of authorized bleeder medication on raceday.

3. The American Association of Equine Practitioners supports the use of furosemide as the only medication administered to a horse on the day of the race with the specific purpose of prevention or lessening the incidence of exercise-induced pulmonary hemorrhage. The AAEP further supports the administration of furosemide in accordance with uniform national medication guidelines set by the Racing Medication and Testing Consortium.

4. The AAEP is aware of the controversy surrounding the use of furosemide by those who feel this activity compromises public perception of the integrity of the sport versus the opinions of doctors of veterinary medicine who believe that administration of authorized bleeder medication is supportive of racing safety and the health of the racehorses.

5. The AAEP believes that administration of furosemide by

independent third party veterinarians serves to regulate the process of managing exercise-induced pulmonary hemorrhage in a manner that is both good for the horse and good for racing's perception for integrity.

6. In a letter dated July 18, 2013, from then Executive Officer, Susan M. Geranen, the California Veterinary Medical Board noted that third party regulatory administration of furosemide would create a conflict with the Veterinary Medicine Practice Act's rules regarding establishment of a valid veterinary-client-patient relationship.

7. In exercising its regulatory police powers California Horse Racing Board (CHRB) activities currently involve many practices by regulatory veterinarians which do not involve an established veterinary-client-patient relationship where that relationship might otherwise be required. For example, the CHRB Official Veterinarian and the Racing Veterinarian are privileged to administer drugs, draw blood samples, collect urine samples and euthanize injured animals in appropriate cases. Regulatory veterinarians also conduct prerace soundness examinations on horses entered to race which requires palpation and joint flexion among other activities common to a physical examination.

8. In response from criticism from the United States Congress and organizations within the industry to create national unity in medication regulation, the Racing Medication and Testing Consortium (RMTC) created medication reforms promulgated into the model rules designed to be adopted by all United States racing

jurisdictions. An integral part of those guidelines is the independent third party administration of furosemide.

9. The California Horse Racing Board formally adopted the RMTTC guidelines at its regular monthly meeting on November 21, 2013. In so doing, California became the 10th State to formally agree to adopt these controlled medication rules.

10. For myself and the American Association of Equine Practitioners, we ask that the California Veterinary Medical Board defer to the California Horse Racing Board in exercising its police powers related to supervision of controlled medication policies and achievement of reaching the goal of national uniformity.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. This declaration was executed on March 10, 2014, at

Academy, CA.



Jeff A. Blea, DVM