

ANNEX A

RULES AND REGULATIONS

TITLE 58. RECREATION

PENNSYLVANIA GAMING CONTROL BOARD

[58 PA. CODE CHS 436]

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§ 436.1. Definitions.

The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

Fiduciary - A person who is entrusted by the horsemen's organization or its members to hold or manage any funds received for horsemen under section 1406 of the act (relating to distributions from the Pennsylvania Race House Development Fund) or who exercises control or discretionary authority over selection or management of the health and pension benefit plan, disposition of its assets or distribution of its funds.

Health benefits - Any plan, fund or program which is maintained by the horsemen's organization and that provides healthcare benefits to horsemen at licensed racetracks, their families and employees, and any others so designated by the rules and eligibility requirements of the organization consistent with the act.

Horseman - A thoroughbred or standardbred horse owner or trainer who enters and runs a horse at a licensed racing entity in the current or prior calendar year and meets the membership requirements of the horsemen's organization to participate in the receipt of benefits therefrom.

Horsemen's organization - A trade association which represents the majority of horsemen at a licensed racetrack and which exists for the purpose, in whole or in part, of negotiating a horsemen's contract and resolving grievances, disputes or other matters with management of a licensed racing

entity, as defined by section 1103 of the act (relating to definitions).

Horsemen's organization officer - Any officer or person authorized to perform the functions of president, vice president, secretary/treasurer or other executive function of a horsemen's organization, and any member of its executive board or similar governing body.

Horsemen's organization representative - Any person, compensated or not, who is authorized to represent a horsemen's organization or any member thereof in any matter relating to horsemen's agreements with the licensed racing entity, or who undertakes on behalf of a horsemen's organization or any member thereof to promote, facilitate or otherwise influence the relations between a horsemen's organization and the licensed racing entity.

Pension benefits - Any plan, fund or program which is maintained by the horsemen's organization and that funds a program which provides retirement income to horsemen at licensed racetracks, their families and employees, and any others so designated by the rules and eligibility requirements of the organization consistent with the act.

§ 436.2. Horsemen's organization registration.

(a) Each horsemen's organization or affiliate representing horsemen shall register with the Board in accordance with this section.

(b) Each horsemen's organization shall file a completed registration form in a format prescribed by the Board with the registration fee established by the Board.

(c) Horsemen's organization applicants and registrants shall be subject to the general application and licensing requirements of chapters 421 and 423 (relating to general provisions and applications).

(d) Horsemen's organization registrations shall be valid for a period of 4 years from the date on which the registration is approved by the Board. Renewals shall be valid for a period of four years and shall be filed no later than 120 days prior to the expiration of the current registration period. A registration for which a completed renewal application and fee has been received by the Board will continue in effect unless the Board sends written notification to the horsemen's organization that the Board has denied renewal of the registration.

§ 436.3. Licensing of officers, directors, representatives and fiduciaries.

(a) Every officer, director or representative of a horsemen's organization, or any individual acting in a fiduciary

capacity on behalf of horsemen shall be licensed as a key employee by the Board pursuant § 435.3 (relating to key employee license).

(b) A person who is a third party provider of a health or pension benefit plan to a horsemen's organization shall be exempt from the requirements of this section.

§ 436.4. Responsibilities of horsemen's organizations, officers, directors, representatives and fiduciaries.

(a) Horsemen's organizations, officers, directors, representatives and fiduciaries shall ensure that all funds allocated to the horsemen and horsemen's organizations are used for the benefit of all horsemen of this Commonwealth.

(b) Horsemen's organizations shall maintain adequate records of receipts and distributions of all funds allocated to them under the act.

(c) No later than March 30 of each calendar year, each horsemen's organization shall file with the Board two copies of its audited financial statements together with any management letters or reports written thereon as prepared by its independent auditor. These filings shall be made available for public inspection during the normal operating hours of the Board.

§ 436.5. Fiduciaries.

Fiduciaries shall:

(a) Ensure that all funds received for the benefit of the horsemen are distributed pursuant to the act.

(b) Manage all health and pension benefit plans for the exclusive benefit of participants and beneficiaries.

(c) Carry out their duties in a prudent manner and refrain from conflict-of-interest transactions.

(d) Comply with any limitations on certain plans' investments in particular securities and properties.

(e) Fund benefits in accordance with applicable law and plan rules.

(f) File quarterly reports with the Board within 20 days of the end of each calendar quarter. The reports shall detail the expenditure of funds designated by the act for the benefit of horsemen and shall be in a format and manner designated by the Board.

(g) Provide documents to the Board as may be requested in the conduct of investigations or to ensure compliance with the act and this chapter.

§ 436.6. Health and pension benefit plans.

(a) All contracts for health and pension benefit plans established for the benefit of members of a horsemen's organization shall:

(1) Be submitted to the Board for review no later than 90 days prior to the proposed effective date of the contract.

(2) Not be effective until approved by the Board.

(b) All administrative and overhead costs incurred by the horsemen's organization for the administration of health and pension benefit plans must be reasonable. Administrative costs that do not exceed 15% of the statutory allocation are considered reasonable.

§ 436.7. Enforcement.

The Office of Enforcement Counsel may initiate proceedings against any person, including any horsemen's organization, for violations of any provisions of the act or this chapter.