

PUBLIC PROTECTION CABINET
Kentucky Horse Racing Commission
(New Administrative Regulation)

809 KAR 10:008. Disciplinary actions and hearings.

RELATES TO: KRS Chapter 230

STATUTORY AUTHORITY: KRS 230.260(16), 230.361, Chapter 13B

NECESSITY, FUNCTION, AND CONFORMITY: KRS 230.260 requires the commission to "promulgate administrative regulations to establish standards for the conduct of sports wagering." KRS 230.361 states the "racing commission shall promulgate administrative regulations to establish a fully functioning sports wagering system...." This administrative regulation establishes procedures and articulate grounds for disciplinary actions, imposing sanctions, investigating suspected violations, providing notice of disciplinary actions, and requesting and conducting an administrative hearing.

Section 1. Grounds for Disciplinary Actions.

- (1) The racing commission may take disciplinary action against any person holding a license for a violation of any of the provisions of KRS Chapter 230, or any of the regulations promulgated thereunder, by the Licensee or its employees or agents.
- (2) Acceptance or renewal of a license by a Licensee constitutes an agreement on the part of the license-holder to be bound by all the racing commission statutes and regulations.

Section 2. Violations.

- (1) It shall be a violation of this administrative regulation if an applicant or licensee:
 - (a) Provides the racing commission, any advisory committee, or any racing commission employee with incorrect, false, or misleading information;
 - (b) Fails to furnish information requested by the racing commission, any advisory committee, or any racing commission employee;
 - (c) Is charged or convicted of a crime involving moral turpitude, a felony, sports wagering, cruelty, mistreatment, abuse, or neglect of a horse, or if the crime discredits or tends to discredit the Commonwealth of Kentucky, sports wagering, or the gaming industry;
 - (d) Engages in conduct that is against the best interests of horse racing, pari-mutuel wagering, or sports wagering; or
 - (e) Violates any provision of KRS Chapter 230, KAR Title 810, or KAR Title 809.
- (2) For any violation established in subsection (1) of this section, the racing commission may:
 - (a) Deny a license application;
 - (b) Suspend or revoke a license;
 - (c) Issue a fine or monetary penalty;
 - (d) Issue licensure conditions, such as restitution of money, restitution of property, or making periodic reports to the racing commission or designee as required; or
 - (e) Issue a written reprimand or admonishment.

Section 3. Disciplinary Process Investigations.

- (1) The racing commission shall investigate suspected violations of KRS Chapter 230 and KAR Titles 809 and 810 of the Kentucky Administrative Regulations.
- (2) Upon the completion of the investigation, the person or persons completing the investigation shall submit a written report to the commission containing a statement of facts revealed by the investigation.
- (3) Based on consideration of the investigative report, the commission shall determine whether there is probable cause to believe that a violation has been committed.

Section 4. Notice of Disciplinary Action and Appeals.

- (1) Upon determination that probable cause exists, the commission shall issue written notice of disciplinary action. The notice shall establish:
 - (a) The statutory or regulatory violation;
 - (b) The factual basis on which the disciplinary action is based;
 - (c) The penalty imposed; and
 - (d) A statement that the notice may be appealed in accordance with KRS Chapter 13B by written notice sent to the racing commission within twenty (20) calendar days.
- (2) Notice of a disciplinary action under this section may be appealed to an administrative hearing.
- (3) A written request for an administrative hearing shall be filed with the racing commission within twenty (20) calendar days of the date of the notice. The request shall identify the specific issues in dispute and the legal basis on which the racing commission's or designee's decision on each issue is believed to be erroneous.
- (4) An administrative hearing under this section shall be conducted in accordance with KRS Chapter 13B.
- (5) If the request for an administrative hearing is not timely filed, the penalty laid out in the notice of disciplinary action shall be effective upon the expiration of the time to request an administrative hearing.
- (6) Denial of an application for licensure may also be appealed in accordance with KRS Chapter 13B, by submitting a written request for an administrative hearing to the racing commission within twenty (20) calendar days of the date of the notice of denial.

JONATHAN RABINOWITZ, Commission Chair
RAY PERRY, Secretary

APPROVED BY AGENCY: July 10, 2023

FILED WITH LRC: July 10, 2023 at 4 p.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall be held on September 22, 2023, at 9:00 a.m., at the Kentucky Horse Racing Commission, 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through September 30, 2023. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Jennifer Wolsing, General Counsel, Kentucky Horse Racing Commission, 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511, phone (859) 246-2040, fax (859) 246-2039, email jennifer.wolsing@ky.gov.