

491—4.6(99D,99F) Stewards—licensing and regulatory duties.

4.6(1) The stewards shall make decisions whether to approve applications for occupational licenses, in accordance with the rules and statutes.

a. Each decision denying an application for an occupational license shall be in writing. The decision must contain a brief explanation of the reason for the decision, including a reference to the statute or rule serving as the basis for the decision.

b. Rescinded IAB 2/5/03, effective 3/12/03.

c. An applicant for an occupational license may appeal a decision denying the application. An appeal must be made in writing to the office of the stewards or the commission's office in Des Moines. The appeal must be received within 72 hours of service of the decision. The appeal must contain numbered paragraphs and set forth the name of the person seeking review, the decision to be reviewed, separate assignments of error, clear and concise statement of relevant facts, reference to applicable statutes, rules or other authority, prayer setting forth relief sought and signature, name, address, and telephone number of the person seeking review or that person's representative, or shall be on a form prescribed by the commission.

d. Upon the filing of a timely and perfected appeal, the applicant has the right to a contested case proceeding, as set forth supra in these rules.

4.6(2) The stewards shall monitor, supervise, and regulate the activities of occupational and pari-mutuel racetrack licensees. A steward may investigate any questionable conduct by a licensee for any violation of the rules or statutes. Any steward may refer an investigation to the board of stewards upon suspicion that a licensee or nonlicensee has committed a violation of the rules or statutes.

4.6(3) A steward shall summarily suspend an occupational license when a licensee has been formally arrested or charged with a crime that would disqualify the licensee, if convicted, from holding a license and the steward determines that the licensee poses an immediate danger to the public health, safety, or welfare of the patrons, participants, or animals associated with a facility licensed under Iowa Code chapter 99D or 99F. Upon proof of resolution of a disqualifying criminal charge or formal arrest, regardless of summary suspension of a license, the stewards shall take one of the following courses of action:

a. If the license was summarily suspended and the charges are dismissed or the licensee is acquitted of the charges, the stewards shall reinstate the license.

b. If the licensee is convicted of the charges, the stewards shall deny the license.

c. If the licensee is convicted of a lesser charge, it is at the discretion of the stewards whether to reinstate or deny the license pursuant to 491—Chapter 6.

4.6(4) The stewards may summarily suspend an occupational license in accordance with rule 491—4.47(17A).

4.6(5) Hearings before the board of stewards intended to implement Iowa Code section 99D.7(13) shall be conducted under the following parameters:

a. Upon finding of reasonable cause, the board shall schedule a hearing to which the license holder shall be summoned for the purpose of investigating suspected or alleged misconduct by the license holder. The license holder may request a continuance in writing for good cause not less than 24 hours prior to the hearing except in cases of unanticipated emergencies. The continuance need not necessarily stay any intermediate sanctions.

b. The notice of hearing given to the license holder shall give adequate notice of the time, place and purpose of the board's hearing and shall specify by number the statutes or rules allegedly violated. If a license holder, after receiving adequate notice of a board meeting, fails to appear as summoned, the license holder will be deemed to have waived any right to appear and present evidence to the board.

c. The board has complete and total authority to decide the process of the hearing. The administrator may designate an employee to assist and advise the board of stewards through all aspects of the hearing process. The board shall recognize witnesses and either question the witnesses or allow them to give a narrative account of the facts relevant to the case. The board may request additional documents or witnesses before making a decision. The licensee has no right to present testimony, cross-examine witnesses, make objections, or present argument, unless specifically authorized by the board.

d. It is the duty and obligation of every licensee to make full disclosure at a hearing before the board of any knowledge possessed regarding the violation of any rule, regulation or law concerning racing and

gaming in Iowa. No person may refuse to testify before the board at any hearing on any relevant matter within the authority of the board, except in the proper exercise of a legal privilege. No person shall falsely testify before the board.

e. Persons who are not holders of a license or occupational license and who have allegedly violated commission rules or statute, or whose presence at a track is allegedly undesirable, are subject to the authority of the board and to any penalties, as set forth in rule 491—4.7(99D,99F).

f. The board of stewards has the power to interpret the rules and to decide all questions not specifically covered by them. The board of stewards has the power to determine all questions arising with reference to the conduct of racing, and the authority to decide any question or dispute relating to racing in compliance with rules promulgated by the commission or policies approved for licensees, and persons participating in licensed racing or gaming agree in so doing to recognize and accept that authority. The board may also suspend the license of any license holder when the board has reasonable cause to believe that a violation of law or rule has been committed and that the continued performance of that individual in a licensed capacity would be injurious to the best interests of racing or gaming.

g. The board of stewards shall enter a written decision after each hearing. The decision shall state whether there is a violation of the rules or statutes and, if so, shall briefly set forth the legal and factual basis for the finding. The decision shall also establish a penalty for any violation. The board of stewards has the authority to impose any penalty, as set forth in these rules.

h. Rescinded IAB 9/29/04, effective 11/3/04.

i. Upon the filing of a timely and perfected appeal, the licensee has the right to a contested case proceeding, as set forth supra in these rules.

4.6(6) A steward may eject and exclude any person from the premises of a pari-mutuel racetrack, excursion gambling boat, or gambling structure for any reason justified by the rules or statutes. The steward may provide notice of ejection or exclusion orally or in writing. The steward may define the scope of the exclusion to any degree necessary to protect the integrity of racing and gaming in Iowa. The steward may exclude the person for a certain or indefinite period of time.

4.6(7) The stewards shall have other powers and duties set forth in the statutes and rules, and as assigned by the administrator.

4.6(8) Informal settlements. A licensee may enter into a written stipulation representing an informed mutual consent with the stewards. This stipulation must specifically outline the violation and the penalty imposed. Stipulations must be approved by the board of stewards. Stipulations are considered final agency action and cannot be appealed.

[ARC 8029B, IAB 8/12/09, effective 9/16/09]