

CHAPTER 436a. HORSEMEN'S ORGANIZATIONS

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Authority

The provisions of this Chapter 436a issued under the Pennsylvania Race Horse Development and Gaming Act, 4 Pa.C.S. §§ 1202(b)(9), (13)—(20), (23) and (30), 1202.1(b) and (e), 1205, 1308, 1311, 1311.1, 1311.2, 1317, 1317.1, 1317.2, 1319, 1321, 1325, 1326, 1331, 1406 and 1518(a)(13), unless otherwise noted.

Source

The provisions of this Chapter 436a adopted October 26, 2007, effective October 27, 2007, 37 Pa.B. 5752; amended September 14, 2012, effective September 15, 2012, 42 Pa.B. 5857, unless otherwise noted. Immediately preceding text appears at serial pages (331195) to (331198).

§ 436a.1. Definitions.

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

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

Health benefits—A plan, fund or program which is maintained by a horsemen's organization and provides healthcare benefits to horsemen, their families and employees and others designated by the rules and eligibility requirements of the organization consistent with the act.

Horsemen—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 a horsemen's organization to participate in the receipt of benefits there from.

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.

Pension benefits—Any plan, fund or program which is maintained by a horsemen's organization and provides retirement income to horsemen, their

families and employees and any others designated by the rules and eligibility requirements of the organization consistent with the act.

Representative—

(i) A president, vice president, secretary, treasurer, director, governing body member or any individual routinely performing corresponding functions authorized to act on behalf of the horsemen's organization.

(ii) An individual, not otherwise specified in subparagraph (i), who is authorized to act on behalf of a horsemen's organization or members thereof in matters regarding horsemen's agreements with a licensed racing entity or who promotes, facilitates or otherwise influences the relations between a horsemen's organization and a licensed racing entity.

§ 436a.2. Horsemen's organization notification.

(a) A horsemen's organization or affiliate representing horsemen shall file a completed Horsemen's Organization Notification Form and supporting documentation with the Bureau of Licensing within 90 days of selection as a horsemen's organization or affiliate representing horsemen.

(b) A horsemen's organization or affiliate representing horsemen shall file an updated version of the Horsemen's Organization Notification Form and supporting documentation with the Bureau of Licensing within 30 days of a change in the information contained therein.

(c) Horsemen's organization notifications will be valid for 4 years from the date on which the notification is filed with the Bureau of Licensing.

(d) Renewals shall be filed no later than 60 days prior to the expiration of the current notification period.

§ 436a.3. Permitting of representatives and fiduciaries.

(a) Every representative or fiduciary shall be permitted in accordance with this section.

(b) Every representative or fiduciary shall file a completed Horsemen's Permit Application Form with the permit fee posted on the Board's web site (www.pgcb.pa.gov).

(c) Applicants and permittees under this section shall be subject to the general application requirements of Chapters 421a and 423a (relating to general provisions; and applications).

(d) Permits issued under this section will be valid for 3 years from the date on which the permit is approved by the Board.

(e) Renewals will be valid for 3 years and shall be filed at least 60 days prior to the expiration of the current permit.

(f) A permit for which a completed renewal application and fee has been received by the Board will continue in effect until the Board sends written notification to the permittee that the Board has approved or denied the renewal of the permit.

(g) If a representative or fiduciary is denied a permit required by this section, that representative or fiduciary shall be precluded from engaging in any activity involving gaming funds allocated to, received by or distributed from the horsemen's organization.

(h) 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.

§ 436a.4. Responsibilities of horsemen's organizations, representatives and fiduciaries.

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

(b) Funds allocated to horsemen's organizations for benevolent programs must be kept separate and apart from funds acquired from other sources and may not be used for the personal benefit of any representative or fiduciary of a horsemen's organization except to the extent that the representative or fiduciary is a participant in the benevolent programs on the same basis as other eligible program participants.

(c) Horsemen's organizations shall ensure that the funds allocated for thoroughbred jockeys and standardbred drivers are paid in accordance with section 1406(a) of the act (relating to distributions from Pennsylvania Race Horse Development Fund) and that the distribution of these proceeds is reflected in the annual audit required under section 1406(e) of the act and Article XVII-O of The Fiscal Code (72 P. S. § 1701-O).

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

(e) Horsemen's organizations shall file with the Board:

(1) A quarterly report, due by the 20th day of the month following the end of each calendar quarter, which shall account for:

(i) The amounts received from the Pennsylvania Race Horse Development Fund through the Category 1 licensee conducting live racing into the account established by and for the benefit of the horsemen under section 1406(a) of the act.

(ii) The amounts distributed for purse supplements from the account established by and for the benefit of the horsemen under section 1406(a) of the act.

(iii) The amounts received for health and pension benefits under section 1406(a) of the act.

(2) Two copies of the audited financial statements of the horsemen's organization and its affiliates, which comply with the requirements of section 1406(e) of the act and Article XVII-O of The Fiscal Code. Audited financial statements shall be filed within 90 days after the end of the organization's fis-

cal year and reflect funds received from the Pennsylvania Race Horse Development Fund which are used or intended to be used for purse supplements and health and pension benefits under section 1406(a) of the act. These filings will be available for public inspection during the normal operating hours of the Board at its Harrisburg office.

§ 436a.5. Fiduciaries.

Fiduciaries shall:

- (1) Ensure that the funds received for the benefit of the horsemen are distributed pursuant to the act.
- (2) Manage all health and pension benefit plans for the exclusive benefit of participants and beneficiaries.
- (3) Carry out their duties in a prudent manner and refrain from conflict-of-interest transactions.
- (4) Comply with limitations on certain plans' investments in particular securities and properties.
- (5) Fund benefits in accordance with applicable law and plan rules.
- (6) Provide documents to the Board as may be requested in the conduct of investigations or to ensure compliance with the act and this chapter.

§ 436a.6. Health and pension benefit plans.

(a) Contracts for health and pension benefit plans established for the benefit of members of a horsemen's organization shall be submitted to the Board at least 30 days prior to the proposed effective date of the contract. Contracts are not effective until approved by the Board.

(b) 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.

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