

**CHAPTER 177. BUREAU OF THOROUGHBRED HORSE RACING—  
TEMPORARY REGULATIONS**

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**§ 177.1. Director of the Bureau of Thoroughbred Horse Racing.**

The Commission shall assign the Bureau Director duties and responsibilities as required to fulfill the Commission's statutory obligations under the act specifically related to the Thoroughbred industry. The Commission may, by order, delegate certain duties and responsibilities to the Bureau Director as the Commission determines necessary to discharge the day-to-day licensing, enforcement and administrative operations of the Commission.

**§ 177.2. Authority of the Bureau Director.**

(a) The Bureau Director shall have authority to enter and issue the orders of the Commission and to certify copies of papers and documents which are part of the files or records of the Commission.

(b) The Bureau Director, in addition to the powers set forth in this part, shall be responsible for the efficient and orderly discharge of administrative matters including the keeping of Commission records, annual reports, minutes of Commission meetings and the keeping of the dockets, files and other records of the Commission.

**§ 177.3. Powers and duties of the Bureau Director.**

(a) The Bureau Director shall have the following powers and duties:

(1) Evaluate, review and issue all applicants and applications for a Thoroughbred horse racing license in accordance with the standards set forth in the act. The Bureau Director shall be prohibited from disclosing any portion of an investigation or evaluation of an applicant to a Commissioner prior to the decision relating to the applicant's suitability for licensure if that determination is to be rendered the Commission.

(2) Inspect and monitor licensees and other persons regulated under this part for noncriminal violations, including potential violations of racing referred to the bureau by the Commission or any other person.

(3) Monitor horse racing operations and racing activities by all licensees to ensure compliance with the act and these regulations.

(4) Inspect, review, examine and investigate licensees, including the physical spaces and facilities in which licensees engages in racing activities, including stalls, barns, administrative offices, front-side and back-side areas of the licensed racing facility and racetrack enclosure.

(i) The Bureau Director's powers and duties may include the review and reproduction of any document or record.

(ii) Examinations may include the review of accounting, administrative and financial records, management control systems, procedures and other records.

(5) Refer possible criminal violations to law enforcement entities.

(6) Cooperate in the investigation and prosecution of any criminal violation by criminal law enforcement entities.

(7) Begin any racing related investigation as deemed necessary and appropriate under the general jurisdiction of the Commission.

(8) Implement, with the approval of the Commission and publication in the *Pennsylvania Bulletin*, a complete racing penalty matrix to be utilized by the Director, the Board of Judges or the Commission for violations of the rules of racing and administrative regulations.

(b) Upon the Bureau Director's own motion or upon written request of a licensee, the Bureau Director may review, for consistency and appropriateness, any administrative penalty issued by the Board of Stewards. Based upon the Bureau Director's review and analysis of the underlying matter, the Bureau Director may enforce the consistency of penalties imposed by the Board of Stewards, up to and including, the dismissal of the underlying ruling, or increasing or decreasing the imposed penalty.

#### § 177.4. Subpoena powers.

Under section 9311(d)(3) of the act (relating to State Horse Racing Commission), the Bureau Director or designee, shall have the authority to issue administrative or documentary subpoenas to compel the attendance of witnesses and production of all relevant and material reports, books, papers, documents, correspondence and other evidence related to regulation and enforcement of horse racing matters under the act and these regulations. The procedures for the issuance and enforcement of subpoena powers are governed by Chapter 179 (relating to Rules of Administrative Practice and Procedure—temporary regulations).

#### § 177.5. Date of filing appeals.

Appeals from the actions or rulings of the Board of Stewards shall be prepared and filed with the Bureau Director in accordance the provisions set forth in §§ 179.3 and 179.7 (relating to filings and appeals; and request for hearing by applicant or licensee). The date of filing of an appeal or request for hearing shall be the date the written petition or request was physically received and date-stamped in the Executive Offices of the Commission.

**§ 177.6. Contents of petition for stay.**

(a) In addition to the provisions of § 179.7 (relating to request for hearing by applicant or licensee), a party seeking a stay of an underlying ruling or determination by the Board of Stewards or other Commission staff shall comply with the following:

- (1) A petition for a stay must be in writing, contain numbered paragraphs and must plead facts with particularity and be supported by affidavits and specific evidence of those facts.
- (2) A petition for stay must state with particularity the citations of legal authority the petitioner believes form the basis for the grant of a stay.
- (b) A petition for stay may be summarily denied by the Bureau Director for failure to comply with the following reasons:
  - (1) Lack of particularity of the facts pleaded.
  - (2) Lack of particularity or inapplicability of the legal authority cited as the basis for the grant of the supersedeas.
  - (3) Failure to provide an affidavit supporting the facts alleged in the petition.
  - (4) Failure to state grounds sufficient for the granting of a supersedeas.

**Cross References**

This section cited in 7 Pa. Code § 179.7 (relating to request for hearing by applicant or licensee); and 7 Pa. Code § 179.42 (relating to request for stay).

**§ 177.7. Circumstances affecting grant or denial.**

- (a) The Bureau Director, in granting or denying a stay, will be guided by prevailing case law and precedent. The factors to be weighed include the following:
- (1) The applicant is likely to prevail at the ultimate hearing on the merits;
  - (2) The applicant will sustain irreparable harm without the stay;
  - (3) The issuance of the stay will not substantially harm other interested parties in the proceedings;
  - (4) The issuance of a stay will not adversely affect the public interest.
- (b) A stay will not be issued if injury to the health, safety and welfare of a horse, licensee or other racing participant exists or is threatened during the period when the stay would be in effect.
- (c) In granting a stay, the Bureau Director may impose specific conditions in the stay that are reasonably warranted by the circumstances.

**§ 177.8. Waiver of hearings.**

A hearing need not be held if any of the following occurs:

- (1) The appellant waives the right to a hearing and elects to proceed under the alternative procedures governing documentary hearings set forth in Subchapter E (relating to documentary hearings).

(2) The appellant enters in a negotiated resolution of the underlying ruling of the Board of Stewards with the Bureau Director.

(3) The Bureau Director determines, after reviewing the appeal and/or stay documents, that there are no material facts in dispute.

(4) Subsections (a)—(c) supersede 1 Pa. Code § 35.101 (relating to waiver of hearing).

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