

## DIVISION 130

### PROHIBITED CONDUCT AND HEARING PROCEDURES

#### 462-130-0010

##### Prohibited Conduct; Investigations; Discipline

(1) No person (including licensees) shall:

(a) Incite, encourage, instruct, assist, or cause or attempt to cause another person to engage in any violation of ORS chapter 462 or any rule of the commission, or to commit any prohibited act in relation to racing in another racing jurisdiction.

(b) Offer or accept any form of compensation for cashing a pari-mutuel ticket for another.

(c) Direct any personally offensive language, inappropriate gesture or sign, profanity, obscenity, or abusive epithets toward any racing official or employee of the commission at any place under the jurisdiction of the racing commission.

(d) Take any action upon a racecourse that creates or causes a clear and present danger of violence.

(e) Initiate any physical altercation with another person on a racecourse.

(f) Threaten another person with physical harm or probable physical harm.

(g) Refuse to obey reasonable orders or directions of a racing official, security personnel of the race meet licensee or Oregon Racing Commission employees.

(h) Sell or offer to sell tip sheets or any other written, electronic or oral predictions as to the outcome of races at any place under the jurisdiction of the commission unless licensed to do so by the commission.

(i) Gamble, bet, or wager on a racecourse except as authorized by the State of Oregon.

~~(j) Possess on a racecourse during a race meet any device, machine, or paraphernalia normally used for gambling or gaming, except with written permission of the commission.~~

~~(k)(j)~~ Except for the race meet licensee, solicit any wagers from the public.

~~(l)(k)~~ Give or offer to give any bribe directly or indirectly, to any licensee, racing official, commission member or employee, or any other person having official duties in relation to any race, racecourse, or racing animal.

~~(m)(l)~~ Tamper or attempt to tamper with an animal, or apply or aid in applying to an animal or possess on a racecourse any electrical or mechanical device or prohibited medication intended to affect the performance of an animal.

~~(n)(m)~~ Use any lure except an artificial lure for training or racing a greyhound at any time.

~~(o)(n)~~ Possess a hypodermic needle or usable injectable syringe on which a needle may be attached on a racecourse, except veterinarians or veterinarian assistants licensed by the Oregon Racing Commission. On a racecourse, veterinarians may use only one-time disposable needles, and shall dispose of them off the racecourse. If a person has a medical condition which makes it necessary to have a syringe on the racecourse, that person must request permission of the stewards/judges in writing, furnish a letter from a licensed physician explaining why it is necessary for the person to have a syringe on the racecourse, and must comply with any conditions and restrictions set by the stewards/judges.

~~(p)(o)~~ Administer, offer to administer, or allow to be administered to any racing animal any prohibited drug or medication, or an unauthorized quantity of an approved drug or medication.

~~(q)(p)~~ Alter or forge a prescription for medication for a racing animal, or any legal document including but not limited to: a bill of sale, a claim blank, a license application, a treatment form, a registration certificate, ownership registration certificate, lease certificate, a check, or a license application.

~~(r)(q)~~ Impersonate any racing official, commission member or employee, or any other person having official duties in relation to any race, racecourse, or animal in any manner including forging any of these individuals' names or initials on any document.

~~(s)~~(r) Submit or knowingly allow to be submitted to the commission, commission personnel, racing secretary or any racing animal registry, any report or document or application which contains false or misleading information.

~~(t)~~(s) Mar or alter any identification mark on a racing animal.

~~(u)~~(t) With the exception of commission staff and racing officials in the conduct of official business, use cell phones in the paddock, jockeys' room, test barn enclosure/area and on the racing surface when the area is actively in use.

~~(v)~~(u) Have any interest in more than one kennel racing greyhounds in Oregon.

~~(w)~~(v) Smoke inside the test barn/storage area, under the covered portion of the stables, including stalls, tack rooms, shedrow, or in designated "No Smoking" areas.

~~(x)~~(w) Use any tobacco products or have food or beverages in the designated testing areas.

(x) Test barn commission staff is permitted to have food or beverages in specified areas only under the following conditions:

(A) Test barn staff is to be free of food residues on their person and to wash their hands prior to testing horses or handling samples.

(B) Food or beverage items that contain prohibited substances are not permitted in the test barn enclosure.

(y) Possess on a racecourse any deadly weapon or firearm, a BB gun, blow gun, pellet gun or similar device, except law enforcement officers, commission officials and security personnel.

(z) While employed by the race meet licensee, racing commission or acting as a racing official, wager at the racecourse where employed or working, while on duty, or ask any other person to place a bet on their behalf. This includes individuals working under contract with the race meet licensee during the racing program and the employees of contractors of the race meet licensee who are working during the racing program. This does not include individuals with kennel contracts.

(aa) Allow any person under the age of eighteen (18) years to place or collect a wager. Race meet licensee shall turn over to the proper civil authorities any person who violates this rule, to be punished upon conviction of any such violation, according to law. This rule shall be posted conspicuously at entrance gates and throughout wagering areas. The license of any employee participating in any transaction relative to wagering with persons under the age of eighteen (18) years may be summarily, suspended or revoked.

(bb) Move, nominate or enter to race a racing animal on a racecourse except with express permission of the trainer, racing secretary, owner, stall superintendent or the stewards/judges.

(cc) Submit any animal in their charge to cruel or inhumane treatment. Cruel or inhumane treatment includes, but is not limited to:

(A) Inadequate food, shelter and water as defined by typical industry standards for those animals kept in similar climates and conditions;

(B) Neglect in any manner, including adequate veterinary care and attention when necessary;

(C) Conditions which cause the animal unnecessary physical pain or suffering;

(D) Prohibited conduct described in ORS 167.310 to 167.388 in the form the statute provided on the effective date of this rule.

(dd) Commit theft or buy, sell or possess any stolen property, or buy, sell or possess any illegal contraband.

(ee) Illegally influence or conspire, or attempt to influence or conspire, to affect the result of any race or manipulate the odds in which an animal participates.

(ff) Violate any written agreement entered into with the Oregon Racing Commission, the board of stewards, or the board of judges or any other commission employee as a result of an order of the commission, stewards or judges.

(gg) Engage in any lewd, obscene, indecent, or inappropriate conduct.

(2) No licensee shall:

(a) Enter for official racing, official schooling, start, cause or allow to be entered or start, a racing animal that the licensee knows or should know does not meet all entry requirements.

(b) Come onto a racecourse or participate in a race meet while suspended, excluded or ruled off by the official body of any racing jurisdiction unless otherwise ordered by the board of stewards/judges or the Oregon Racing Commission.

(c) Knowingly harbor or otherwise enable the unlawful presence of any individual who is suspended or revoked by the official body of any racing jurisdiction or excluded by the race meet licensee.

~~(e)~~(d) Fail to immediately notify the racing secretary when the licensee discovers that any entry or starting requirement for a racing animal under the licensee's control is not met or is no longer being met.

~~(e)~~(e) Allow or cause a scratch to become necessary, which could have been avoided by the exercise of reasonable care.

~~(e)~~(f) Fail to request a scratch immediately upon learning that a scratch is necessary.

~~(f)~~(g) Solicit, offer or accept any bribe in any form, directly or indirectly, to or from any person, in connection with any race meet in any racing jurisdiction which is a member of ARCI. A conviction is not required in order to prove a violation of this rule.

~~(g)~~(h) Commit any corrupt, fraudulent, or unlawful act on any racecourse or in connection with any race meet in any racing jurisdiction which is a member of ARCI.

~~(h)~~(i) Fail to cooperate with commission personnel, officials or security personnel when requested to comply with these statutes and rules relating to racing.

~~(i)~~(j) Fail to report to the judges/stewards' office promptly upon request.

~~(j)~~(k) Be intoxicated or under the influence of controlled substances in a restricted area or on duty.

~~(k)~~(l) Lodge a frivolous complaint.

~~(l)~~(m) Knowingly allow an unlicensed person to participate in a race meet if the licensee knows or should know that the person is required to be licensed.

(n) Fail to properly escort unlicensed individuals after registering them with security personnel as guests.

~~(m)~~(o) Fail to immediately report to the commission the unlicensed participation in a race meet of any person who the licensee knows or should know is required to be licensed.

~~(n)~~(p) Fail to report promptly to a commission representative any possession or use of a prohibited drug, prohibited medication or prohibited paraphernalia.

~~(o)~~(q) Fail to notify the commission in writing of a change of officer, director, stockholder (except for publicly traded corporations), or partner, within 30 days, if the change occurred during a race meet, or prior to the next race meet, if the change occurred after a race meet.

~~(p)~~ Fail to pay a fine or civil penalty within 10 days of the effective date of an order. Failure to pay a fine within the time limit described by this rule may result in a suspension of up to 30 days after the fine is paid in full.

~~(q)~~(r) Ride a horse on the racecourse without properly wearing an approved helmet and vest.

~~(r)~~(s) Retain any prize or purse money which the person has reason to know was paid in error or lost because of disqualification or commission action as a result of an appeal.

~~(s)~~(t) If an owner, assistant trainer, groom or other person having charge, custody or care of a racing animal, fail to protect the racing animal and guard it against the administration of unauthorized drugs or any other illegal conduct.

~~(t)~~(u) Direct, by use of language, gesture or sign, any profanity, obscenity or abusive epithets toward the public at a racecourse.

(v) Direct any personally offensive language, inappropriate gesture or sign, profanity, obscenity, or abusive epithets toward any person while in view of the public.

~~(u)~~(w) Allow anyone other than participating jockey, authorized racing officials, representatives of the commission, licensed valets and authorized licensed vendors in the jockey room between two

hours before post time for the first race of the day and one hour after the last race without consent of the stewards for each time of entry.

~~(w)(x)~~ Other than a licensed jockey agent, make engagements for a jockey. A jockey may make his/her own engagements if not represented by a jockey agent.

~~(w)(y)~~ Engage in any dishonest conduct on a racecourse.

~~(x)(z)~~ Engage in any unprofessional conduct on a racecourse.

~~(y)(aa)~~ Willfully and deliberately fail or refuse to pay any monies when due for any service, supplies or fees connected with their operations as a licensee; nor shall a licensee falsely deny any such amount due or the validity of the complaint thereof with the purpose of hindering or delaying the payment of the debt or defrauding the person to whom the indebtedness is due.

~~(z)(bb)~~ Write, issue, make or present any check in payment for any license fee, fine, nomination or entry fee or other fees, or for any service or supplies when such licensee knows or should reasonably know that the said check will be refused for payment by the bank upon which it is written, or that the account upon which the check is written does not contain sufficient funds for payment of the said check, or that the check is a stop payment check or is written on a closed account or a nonexistent account. The fact that such a check is returned to the payee by the bank as refused, constitutes a rebuttable presumption for a finding of financial irresponsibility.

### (3) Substance Abuse

(a) Alcohol Consumption: No licensee may have present within his/her system an amount of alcohol which would constitute being intoxicated, defined as .08% blood alcohol content or greater, while in a restricted area. No jockey, apprentice jockey, valet, assistant starter, pony person, exercise person, or racing official may have present within his/her system an amount of alcohol which would constitute being impaired, defined as .02% or greater blood alcohol content, while responsible for performing their official duties.

(A) Any licensee may be required to take a breath alcohol test prior to their participation in racing events.

(B) Acting with reasonable suspicion, the stewards/judges or a designated Racing Commission representative may direct any licensee to submit to a breathalyzer test to determine blood alcohol content.

(C) Refusal to take a breath test will be considered as positive evidence of a violation of subsection (3)(a). Violation of subsection (a) will result in an immediate suspension until such time a formal hearing before the board of stewards may be held.

(D) Sanctions for alcohol violations

(i) Penalties for a first offense may result in a fine and/or a suspension up to 15 days. The licensee may be required to present an evaluation by a certified rehabilitation program approved in advance by the commission. If the evaluation determines treatment is needed, the licensee shall provide documented proof of completion or current enrollment in an appropriate certified rehabilitation program prior to reinstatement.

(ii) Penalties for a second offense may result in a fine and suspension up to 30 days. The licensee shall be required to present an evaluation by a certified rehabilitation program approved in advance by the commission. If the evaluation determines treatment is needed, the licensee shall provide documented proof of completion or current enrollment in an appropriate certified rehabilitation program prior to reinstatement.

(iii) Penalties for third and subsequent offenses shall result in a fine and suspension for no less than 90 days. The licensee shall be required to present an evaluation by a certified rehabilitation program approved in advance by the commission. If the evaluation determines treatment is needed, the licensee shall provide documented proof of completion or current enrollment in an appropriate certified rehabilitation program prior to reinstatement.

(iv) A history of substance abuse violations other than alcohol may be considered as aggravating circumstances when considering penalties for alcohol abuse, and may result in penalties greater than those listed in these rules.

(b) Drugs/Controlled Substances: No licensee within any place under the jurisdiction of the racing commission shall have in the licensee's body any controlled substance or drug listed in Schedules I through V of 21 USC Section 812 except for a drug which was obtained or taken pursuant to a valid legal written prescription or order from a licensed physician acting in the course of the physician's professional conduct and which is produced by the licensee upon request.

(A) Acting with reasonable suspicion, the stewards/judges or a designated racing commission representative may direct any licensee observed in a restricted area or any racing official acting in their capacity to submit to drug testing for analysis. When so directed, said licensee shall submit to such examination. If the result of the test indicates the presence of a controlled substance as delineated above, or if the person refuses to be tested, either for reasonable suspicion or under random testing criteria, or if the specimen was adulterated as reported by the official testing laboratory, the person may be fined and/or suspended as described in this rule. If the laboratory determines that the sample is dilute, the licensee being tested shall be required to submit another urine sample. To ensure the sample will not be dilute, the licensee will be required to report for testing at a specified time and remain until the sample is acquired.

(B) Controlled Substance Testing Expense: Except for split samples, laboratory analysis will be performed at the racing commission's expense, unless pursuant to a prior order of the stewards/judges or commission reinstating the licensee, or the person produced an adulterated specimen, in which case retesting may be performed only after the person pays the cost of the first test to the commission.

(C) Sanctions for Controlled Substance Violations:

(i) A licensee's first violation shall result in a suspension for not less than 30 days, however, reinstatement shall not occur until the licensee has been evaluated by, and a current written report is received from a drug counselor certified by the State of Oregon and who is approved in advance by the commission or stewards/judges. If the report states that treatment is required, reinstatement shall not occur until the licensee presents documented proof of current enrollment in or completion of an appropriate certified rehabilitation program approved in advance by the commission.

Reinstatement is also subject to licensee producing at licensee's expense, a negative test from a laboratory approved in advance by the commission, and the licensee agreeing in writing to submit urine specimens at the request of the stewards/judges or designated racing commission representative for not less than five years, or until no longer licensed. Any failure to comply with the certified counselor's and/or stewards' instructions may result in immediate suspension.

(ii) A licensee's second violation within five years of the first violation shall result in an indefinite suspension, but in no case less than six months, and reinstatement shall not occur until the licensee completes all of the contingencies listed above in subsection (i).

(iii) A licensee's third violation within seven years of the second violation shall result in a 365-day suspension by the stewards/judges and immediate referral to the commission for consideration of exclusion and/or revocation of the license. The stewards/judges may not reinstate the licensee unless the laboratory analysis was proven to be incorrect or a fraud was perpetrated resulting in a mistaken judgment by the stewards/judges.

(iv) A history of alcohol abuse violations may be considered as aggravating circumstances when considering penalties for drug abuse violations and may result in penalties greater than those listed in these rules.

(D) Prescription Medication:

(i) Any licensee who has obtained a medical prescription for any drug listed in Schedules I through V of 21 USC Section 812 may be required to furnish the Commission or the stewards/judges written documentation from the issuing physician that the use of the prescribed drug will not impede the licensee from performing the duties for which they are licensed or threaten the safety or welfare of others or a racing animal.

(ii) If, in the opinion of the board of stewards/judges, the use of any lawfully prescribed drug listed in Schedules I through V of 21 USC Section 812 would or could pose a threat to the health, safety

or welfare of the licensee, others or a racing animal, the board of stewards/judges, after having an appropriate hearing, can bar the licensee from entering a restricted area of any racecourse or their handling of any race animal subject to appeal.

(E) Knowledge of a person's voluntary and active participation in an approved rehabilitation program will not constitute grounds for "reasonable suspicion" under this rule.

(4) Any licensee who violates any provision of ORS chapter 462 or any rule adopted there under is subject to further discipline by the board of stewards/judges, up to the limits imposed by law, and also is subject to further discipline by the racing commission, including suspension, revocation, civil penalties, exclusion, probation, and such other discipline as may be appropriate in the case. Whenever a licensee is suspended, the stewards/judges have the commission's authority to also exclude him or her. Any non-licensee who, in the opinion of the stewards/judges, acts in a manner detrimental to racing may be subject to exclusion.

(5) When grounds exist for suspension of a license, the stewards/judges or commission may also impose other appropriate sanctions including, but not limited to, forfeiture of purse, return of prizes, ruling off, or forbidding entry of racing animals.

(6) When a license is suspended, it may be suspended for all categories licensed, including reciprocity suspensions.

(7) Ejection. The race meet licensee may eject any person from the race course for any reasons and in any manner that is not contrary to law. The race meet licensee shall notify the commission within 24 hours of any ejection or arrest occurring on the racecourse, including the details thereof.

(8) All licensees shall report any known irregularities or wrong doings by any person immediately to a commission employee and cooperate in subsequent investigations.

#### **462-130-0040**

##### **Formal Stewards/Judges' Hearing**

(1) If the board of stewards/judges has reason to believe that a violation has occurred, they may hold a formal hearing after providing written notice to the licensee. The written notice shall:

(a) Cite the statutes or rules which were allegedly violated.

(b) Briefly describe the time, place, and nature of the alleged violation(s).

(c) Identify the type of penalty or sanction which may be imposed.

(d) Specify the time and place of the hearing, at least three calendar days after service of the notice excluding Saturdays, Sundays, and legal holidays, unless all parties agree to an earlier time.

(e) State that the licensee may be represented by an attorney licensed to practice in the state of Oregon.

(f) Be personally served within the timeline set forth in OAR 462-130-0040(1)(d) or mailed by first class mail to the current address on file for the licensee at least ten days prior to the hearing.

(2) If given the option by the board of stewards, the licensee may waive the right to a formal stewards'/judges' hearing by signing a waiver agreeing to the penalty or sanctions listed on the waiver. By signing the waiver the licensee waives the right to appeal the penalty to the commission, as provided by OAR 462-130-0050.

(3) If the licensee does not sign a written waiver, the board of stewards/judges shall hold a formal hearing. At least two stewards/judges shall be present. The fact finding portion of the hearing shall be open. The state steward/judge or designee shall preside, and within reason, shall allow all available evidence to be presented, without regard for technical rules of procedure or rules of evidence. All witnesses must testify under oath. The hearing may be recorded. After hearing the evidence and any closing statements, the stewards/judges may deliberate in private before making a decision. Unless the charges are dismissed, the decision shall be put in the form of a written order either finding the licensee guilty of a violation or referring the case for a formal commission hearing or a combination thereof. If the licensee is found guilty of a violation, the order shall:

(a) Identify the licensee by name and license classification.

(b) Identify the specific statutes or rules violated.

- (c) Set forth the findings of fact which establish the violation(s).
- (d) Indicate the penalty or sanctions to be imposed, and when they are to go into effect.
- (e) Inform the licensee of the right to appeal to the commission and to request a stay pending appeal as provided in OAR 462-130-0050.
- (4) ~~Copies of the order shall be delivered to each party. Notification to the licensee of a written order, for the purpose of this rule, will include efforts to contact the licensee by commission staff using the information supplied by the licensee on his/her license application.~~ Thereafter, copies shall be sent to the commission and ~~ARCI~~, posted in a designated area at the racecourse for a period of two racing days. Fines must be paid within ten calendar days of the ~~date of service~~effective date of the order. Failure to pay a fine within the time limit described by this rule may result in a suspension of up to 30 days after the fine is paid in full.
- (5) The licensee may still appeal the matter to the commission for a formal commission hearing, and for good cause may request that the commission executive director stay the stewards'/judges' penalty pending the commission hearing. The executive director has discretion whether or not to grant the stay.
- (6) Any licensee who fails to appear before the stewards/judges after having been given notice by the stewards/judges, a racing official, or an investigator of the commission, in accordance with these rules or by any ruling or order which has been issued and published directing such appearance, may be suspended and the case may be referred to the commission. Failure to appear in response to such order shall be a separate cause for disciplinary action.

#### **462-130-0070**

##### **License Reinstatement**

###### (1) Application.

(a) Any person who was licensed by the commission but whose license was revoked, or whose license was surrendered while under investigation or while pending a disciplinary proceeding, and who desires to become relicensed by the commission must make application for reinstatement by:

(A) Completing a license reinstatement form provided by commission staff, along with a completed license application and fee, and

(B) Otherwise complying with this rule.

(b) The application shall contain sufficient information on its face or on accompanying documents so that the commission may make an informed decision regarding:

(A) The applicant's reformation,

(B) The applicant's remorse for the conduct and character deficiencies that caused the disciplinary action,

(C) The applicant's current good moral character,

(D) The applicant's general fitness to engage in the activities required by the type of license, including, without limitation, the licensee's willingness to abide by the statutes, rules, regulations and orders relating to racing in Oregon, and

(E) Whether the applicant's presence in places under the jurisdiction of the commission may be detrimental to the best interests of racing.

###### (2) Ineligibility.

~~(a) After October 1, 1997, a~~A person will be presumed ineligible for reinstatement of any license if that person's license was revoked or was surrendered while under investigation or pending a disciplinary proceeding, based upon the following allegations:

~~(A)~~(a) Fixing or attempting to fix a race on which pari-mutuel gambling was intended to be conducted or attempting to manipulate the odds.

~~(B)~~(b) Training any racing animal using a live animal or a dead animal or a part of a live or dead animal as a lure.

~~(C)~~(c) Committing animal abuse in the first degree, animal neglect in the first degree, or involvement in animal fighting or in dog fighting, if any such charges are proven by at least a

preponderance of the evidence or the person was convicted, plead guilty or entered a no contest plea.

~~(D)~~(d) Stealing, extorting or misappropriating money from any source under the direct control of or owned by the commission, or from a race track's money room or extension thereof, or from any race meet account held in trust for another or from any nonprofit organization whose purpose is to benefit members of the racing industry or racing animals.

~~(E)~~(e) Committing any misdemeanor or felony person crime if directed against a person who is a commissioner, commission legal counsel, an employee of the commission, or an agent of the commission, racing official or employee of the race meet licensee engaged in that capacity.

~~(b) No person shall have a license reinstated if the person previously was revoked, then reinstated, then after October 1, 1997, revoked again.~~

(3) Procedure.

(a) An application for reinstatement of license shall not be accepted by commission staff for at least two years after the license has been revoked or surrendered unless a different time period is specified by the commission at the time of the revocation or surrender.

(b) The application shall be filed in the commission office and reviewed and investigated by commission staff. Except for good cause shown, no less than 90 days after receipt of the application, the ~~executive director or designee~~board of stewards shall make a recommendation to the commission concerning the applicant's compliance with these rules and whether or not the applicant appears to have met the criteria for reinstatement.

(c) ~~If the board of stewards recommends reinstatement, the application shall be forwarded to the commission for consideration, may, but need not, schedule an oral presentation from the applicant or the applicant's legal counsel, or may take testimony from witnesses, in addition to reviewing the application, written documents and the recommendation from staff.~~ If the commission denies the application, it shall comply with ORS 183.435.

(d) The commission will require a greater quantum of evidence to support reinstatement of a license after revocation (or surrender while under investigation or pending a disciplinary process) than is required of initial applicants or for issuance of licenses under other circumstances. The applicant for reinstatement shall have the burden of proving by clear and convincing evidence that the applicant meets the criteria required by this rule and also has the burden of producing evidence in support of the applicant's position. If the applicant produces evidence which meets the burden of proof, and it is not overcome by evidence to the contrary, then the applicant will be reinstated, however, nothing in this rule precludes the commission from issuing a license with conditions attached.

(e) The commission may impose such conditions as, in its judgment, will tend to prevent a reoccurrence of a situation similar to the applicant's prior problem. The reinstated license may be subject to such conditions for a reasonable period of time considering all the circumstances. If the applicant obeys all laws, rules and the conditions of licensure for the prescribed period of time, the license will be restored fully without conditions. The order granting a conditional license may state that breach of any of the conditions will result in loss of license without the right to a prior hearing.

~~(f) If the board of stewards does not recommend reinstatement, the applicant shall be notified of this recommendation in writing. Applicant has the right to request a hearing under ORS 183 before an administrative law judge and subsequent commission consideration of the adverse recommendation. The appeal must be in writing and filed with the commission offices at Portland State Office Building, 800 NE Oregon Street, Suite 310, Portland, Oregon 97232, within ten days from the effective date of the board of stewards' recommendation. The appeal must be signed by the appealing party and shall set forth clearly and concisely the following information:~~

~~(A) The recommendation to be reviewed and the date thereof.~~

~~(B) The reason for the appeal.~~

~~(C) The address to which any notices from the commission may be mailed to the appealing party.~~

(4) Criteria. The following factors must be proven to the commission by clear and convincing evidence in favor of the applicant in order to support reinstatement of license:

(a) Applicant has reformed and is now possessed of good moral character. Applicant may meet this burden by proving that applicant is a person who possesses the sense of ethical responsibility and the maturity of character to withstand the many temptations which the applicant will confront in and around the race course and other sites under the jurisdiction of the commission. Stronger proof of good character is required to reinstate a license where a character flaw was earlier established in the case or investigation against the applicant.

(b) Applicant must identify the character flaw which lead to the conduct which resulted in the revocation or surrender of license. Applicant must prove that the character flaw no longer exists or is under control by applicant; i.e., applicant is reformed with respect to the particular flaw.

(c) Applicant must present evidence that his or her presence at places under the jurisdiction of the commission will not be detrimental to the best interests of racing. Many of the other criteria, if met, will tend to prove this factor, but other evidence may be required. If the applicant has performed activities for the public good or for the good of members of the racing community during the time that applicant was not licensed, that is some evidence that applicant's presence may not be detrimental to the best interests of racing.

(d) Applicant acknowledges wrongdoing, has taken responsibility for his or her misconduct, and shows sincere remorse for that misconduct. Evidence that demonstrates that the applicant has not made excuses, has not blamed others and has not criticized the administrative process and the courts and has cooperated in the investigation which led to the revocation or surrender is the type of evidence that shows acknowledgement of wrongdoing and misconduct; but this list is not exclusive. Evidence of remorse is more subjective and the demeanor of the applicant and any oral testimony or written references of other witnesses generally will be relevant.

(e) If applicable in the particular case, resolution of substance abuse problems, personal financial problems and medical, mental and emotional problems which did or may have contributed to the revocation or surrender. Applicant must show general fitness to perform the functions required by the particular licensed position without substantially altering the nature of the job.

(f) Willingness to pay restitution to those who were injured or victimized by applicant's prior conduct resulting in the disciplinary action, as well as other similar conduct for which applicant is responsible. This criterion is best met by paying restitution that equitably should be paid.

(g) Willingness to comply with the statutes, rules, regulations and orders relating to racing in Oregon.