

DUE PROCESS AND HEARINGS - CHAPTER 3

ARCI-003-005 Purpose

To describe the rules of procedure for stewards'/judges' hearings and commission proceedings.

Adopted in Version 1.4 ARCI 8/27/02 NAPRA 10/2/02

ARCI-003-010 Proceedings By Stewards/Judges

A. Rights of the Licensee

A person who is the subject of the disciplinary hearing conducted by the stewards/judges is entitled to:

- (1) proper notice of all charges;
- (2) confront the evidence presented including:
 - (a) the right to counsel at the person's expense;
 - (b) the right to examine all evidence to be presented against him/her;
 - (c) the right to present a defense;
 - (d) the right to call witnesses;
 - (e) the right to cross examine witnesses; and
 - (f) waive any of the above rights.

B. Complaints

- (1) A complaint must be in writing and filed with the stewards/judges not later than ___ after the action that is the subject of the complaint.
- (2) On their own motion or on receipt of a complaint from an official or other person regarding the actions of a licensee, the stewards/judges may conduct an inquiry and disciplinary hearing regarding a licensee's actions.

C. Summary Suspension

- (1) If the stewards/judges determine that a licensee's actions constitute an immediate danger to the public health, safety or welfare, the stewards/judges may summarily suspend the license pending a hearing.
- (2) A licensee whose license has been summarily suspended is entitled to a hearing on the summary suspension not later than the ___ day after the license was summarily suspended. The licensee may waive his/her right to a hearing on the summary suspension within the ___-day limit.
- (3) The stewards/judges shall conduct a hearing on the summary suspension in the same manner as other disciplinary hearings. At a hearing on a summary suspension, the sole issue is whether the licensee's license should remain suspended pending a final disciplinary hearing and ruling.

D. Notice

- (1) Except as provided by these rules regarding summary suspensions, the stewards/judges shall provide written notice at least ___ before the hearing to a person who is the subject of a disciplinary hearing. The person may waive his/her right to ___ notice by executing a written waiver.

- (2) Notice given under this section must include:
 - (a) a statement of the time, place and nature of the hearing;
 - (b) a statement of the legal authority and jurisdiction under which the hearing is to be held;
 - (c) a reference to the particular sections of the statutes or rules involved;
 - (d) a short, plain description of the alleged conduct that has given rise to the disciplinary hearing;
 - (e) the possible penalties that may be imposed; and
 - (f) a statement summarizing the rights of the licensee as outlined in Subsec. A, 2 a-e of this rule.
- (3) If possible, the stewards/judges or their designee shall hand deliver the written notice of the disciplinary hearing to the person who is the subject of the hearing. If hand delivery is not possible, the stewards/judges shall mail the notice to the person's last known address, as found in the Commission's licensing files, by regular mail and by certified mail, return receipt requested. If the disciplinary hearing involves an alleged medication violation that could result in the disqualification of a contestant, the stewards/judges shall provide notice of the hearing to the owner, managing owner or lessee of the contestant in the manner provided by this subsection.
- (4) Nonappearance of a summoned party after adequate notice shall be construed as a waiver of the right to a hearing before the stewards/judges. The stewards/judges may suspend the license of a person who fails to appear at a disciplinary hearing after written notice of the hearing has been sent, in compliance with this subsection.

E. Continuances

- (1) Upon receipt of a notice, a person may request a continuance of the hearing.
- (2) The stewards/judges may grant a continuance of any hearing for good cause shown.
- (3) The stewards/judges may at any time order a continuance on their own motion.

F. Evidence

- (1) Each witness at a disciplinary hearing conducted by the stewards/judges must be sworn by the presiding steward/judge.
- (2) The stewards/judges shall allow a full presentation of evidence and are not bound by the technical rules of evidence. However, the stewards/judges may disallow evidence that is irrelevant or unduly repetitive of other evidence. The stewards/judges shall have the authority to determine, in their sole discretion, the weight and credibility of any evidence and/or testimony. The stewards/judges may admit hearsay evidence if the stewards/judges determine the evidence is of a type that is commonly relied on by reasonably prudent people. The rules of privilege recognized by state law apply in hearings before the stewards/judges.
- (3) The burden of proof is on the person bringing the complaint to show, by a preponderance of the evidence, that the licensee has violated or is responsible for a violation of the Act or a Commission rule.
- (4) The stewards/judges shall make a tape recording of a disciplinary hearing. A copy or a transcript of the recording may be made available at the expense of the requesting person.

G. Ruling

- (1) The issues at a disciplinary hearing shall be decided by a majority vote of the stewards/judges. If the vote is not unanimous, the dissenting steward/judge shall include with the record of the hearing a written statement of the reason(s) for the dissent.
- (2) A ruling by the stewards/judges must be on a form prescribed by the Commission and include:
 - (a) the full name, social security number, date of birth, last record address, license type and license number of the person who is the subject of the hearing;
 - (b) a statement of the charges against the person, including a reference to the specific section of the Act or rules of the Commission that the licensee is found to have violated;
 - (c) the date of the hearing and the date the ruling was issued;
 - (d) the penalty imposed;
 - (e) any changes in the order of finish or purse distribution;
 - (f) other information required by the Commission and;
- (3) A ruling must be signed by a majority of the stewards/judges.
- (4) If possible, the stewards/judges or their designee shall hand deliver a copy of the ruling to the person who is the subject of the ruling. If hand delivery is not possible, the stewards/judges shall mail the ruling to the person's last known address, as found in the Commission's licensing files, by regular mail and by certified mail, return receipt requested. A copy of the ruling shall be electronically submitted to the NAPRA or RCI Ruling Data-Base, and if the ruling includes the disqualification of a contestant, the stewards/judges shall provide a copy of the ruling to the owner of the contestant, the bookkeeper, the appropriate past performance service(s).
- (5) At the time the stewards/judges inform a person who is the subject of the proceeding of the ruling, the stewards/judges shall inform the person of the person's right to appeal the ruling to the Commission.
- (6) All fines imposed by the stewards/judges shall be paid to the Commission within ___ after the ruling is issued, unless otherwise ordered.

H. Effect of Rulings

- (1) Rulings against a licensee apply to another person if continued participation in an activity by the other person would circumvent the intent of a ruling by permitting the person to serve, in essence, as a substitute for the ineligible licensee.
- (2) The transfer of a contestant to avoid application of a Commission rule or ruling is prohibited.

I. Appeals

- (1) A person aggrieved by a ruling of the stewards/judges may appeal to the Commission except as provided in # 6 of this subsection. A person who fails to file an appeal by the deadline and in the form required by this section waives the right to appeal.
- (2) An appeal under this section must be filed with the Commission's executive director not later than ____. If the Commission determines the appeal to be frivolous, the appellant may be subject to a fine.
- (3) An appeal must be in writing on a form prescribed by the Commission. The appeal must include:

- (a) the name, address, telephone number and signature of the person making the appeal; and
 - (b) a statement of the basis for the appeal
- (4) On notification by the Commission that an appeal has been filed, the stewards/judges shall forward to the Commission the record of the proceeding on which the appeal is based.
 - (5) If a person against whom a fine has been assessed files an appeal of the ruling that assesses the fine, the person shall pay the fine in accordance with these rules. If the appeal is disposed of in favor of the appellant, the Commission shall refund the amount of the fine.
 - (6) A decision by the stewards/judges regarding a disqualification during the running of the race is final and may not be appealed to the Commission.

J. Stay

- (1) A person who has been disciplined by a ruling of the stewards/judges may apply to the executive director for a stay of the ruling.
- (2) An application for a stay must be filed with the Commission's executive director not later than the deadline for filing an appeal.
- (3) An application for a stay must be in writing and include:
 - (a) the name, address and telephone number and signature of the person requesting the stay; and
 - (b) a statement of the justification for the stay.
- (4) The executive director may grant a stay for cause. The executive director shall notify the person in writing of the decision. The executive director may rescind a stay granted under this subsection for reasonable cause.
- (5) The fact that a stay is granted is not a presumption that the ruling by the stewards/judges is invalid.

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ARCI-003-015 *Proceedings By The Commission*

A. Party Designations

- (1) A person who is the subject of a disciplinary hearing, who filed an appeal from a stewards/judges' ruling or who otherwise seeks relief from the Commission is a party to that proceeding.
- (2) A party to a proceeding has the right to present a direct case, cross examine each witness, submit legal arguments and otherwise participate fully in the proceeding.
- (3) A party summoned to appear at a hearing must appear unless he/she is excused by the Commission presiding officer. Parties may appear with counsel or other representatives of their choice.
- (4) A non-party to a proceeding who wishes to appear in a contested case pending before the Commission must prove that he/she has an effected interest sufficient to create standing in the case. The burden of proof is on the party asserting standing in such a contested case.

B. Notice

- (1) Not less than ___ days before the date set for a hearing, the Commission shall serve written notice on each party of record to the proceeding. The person may waive his/her right to said notice by executing a written waiver.

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- (2) The Commission shall mail the notice to the person's last known address, as found in the Commission's licensing files, by regular mail and by personal service or certified mail, return receipt requested.
- (3) A notice of the hearing must include:
 - (a) statement of time, place and nature of the hearing;
 - (b) statement of the legal authority and jurisdiction under which the hearing is to be held;
 - (c) reference to the particular sections of the statutes and rules involved;
 - (d) short, plain statement of the matters asserted; and
 - (e) any other statement required by law.
- (4) If the Commission determines that a material error has been made in a notice of hearing, or that a material change has been made in the nature of a proceeding after notice has been issued, the Commission shall issue a revised notice. The party who has caused the change or error requiring revised notice shall bear the expense of giving revised notice.
- (5) A party to a proceeding may move to postpone the proceeding. The motion must be in writing, set forth the specific grounds on which it is sought and be filed with the Commission before the date set for hearing. If the person presiding over the proceeding grants the motion for postponement, the Commission shall cause new notice to be issued.
- (6) After a hearing has begun, the presiding officer may grant a continuance on oral or written motion, without issuing new notice, by announcing the date, time and place for reconvening the hearing before recessing the hearing.

C. Subpoenas and Depositions

- (1) A member of the Commission, the executive director, the stewards/judges, the presiding officer of a Commission proceeding or other person authorized to perform duties under the Act may require by subpoena the attendance of witnesses and the reproduction of books, records, papers, correspondence and other documents.
- (2) A member of the Commission, the executive director, a presiding officer of a Commission proceeding or other person authorized by the Commission may administer an oath or affirmation to a witness appearing before the Commission or a person authorized by the Commission.
- (3) Each party is responsible for proper service of any subpoenas it requests and for the payment of witness fees and expenses as provided by this jurisdiction's civil procedures statute.
- (4) On written request by a party, the presiding officer may issue a subpoena addressed to a sheriff or any constable to require the attendance of witnesses and the production of books, records, papers or other objects as may be necessary and proper for the purposes of a proceeding. A motion for a subpoena to compel the production of books, records, papers or other objects shall be addressed to the appropriate person, shall be verified and shall specify the books, records, papers or other objects desired and the relevant and material facts to be proved by them.
- (5) The Administrative Procedures Act, _____ Civil Statutes, Art. _____, Sec. _____ governs the taking and use of depositions. Rule _____ of the _____ Rules of Civil Procedure governs admissions of fact and genuineness of documents.

D. Pleadings

- (1) Pleadings filed with the Commission include appeals, applications, answers, complaints, exceptions, replies and motions. Regardless of an error in designation, a pleading shall be accorded its true status in the proceeding in which it is filed.
- (2) A request for discovery or a response to a request for discovery is not a pleading and is not a part of the administrative record of a contested case unless the request or response is offered into evidence.
- (3) A pleading for which the Commission staff has not prepared an official form must contain:
 - (a) the name of the pleader;
 - (b) the telephone number and street address of the pleader's residence and business and the telephone number and street address of the pleader's representative, if any;
 - (c) the jurisdiction of the Commission over the subject matter;
 - (d) a concise statement of the facts relied on by the pleader;
 - (e) a request stating the type of Commission action desired by the pleader;
 - (f) the name and address of each person who the pleader knows or believes will be affected if the request is granted;
 - (g) a proposed order, containing proposed findings of fact and conclusions of law;
 - (h) any other matter required by statute or Commission rule; and
 - (i) a certificate of service.
- (4) A party filing a pleading shall mail or deliver a copy of the pleading to each party of record. If a party is being represented by an attorney or other representative, service must be made on the attorney or representative instead of on the party. The knowing failure of a party to make service in accordance with this subsection is grounds for the Commission to strike the pleading from the record.
- (5) An objection to a defect, omission or fault in the form or content of a pleading must be specifically stated in a motion or an exception presented not later than the prehearing conference if one is held and not later than ___ before the date of the hearing if a prehearing conference is not held. A party who fails to timely file an objection under this subsection waives the objection.
- (6) Except as otherwise provided by this subsection, a pleader may amend or supplement a pleading at any time before the ___ day after the date the pleading was filed, but not later than ___ days before the date of the hearing. A pleader may amend or supplement a pleading at any time:
 - (a) on written consent of each party of record; or
 - (b) as permitted by the presiding officer for the proceeding, when justice requires the amendment or supplementation and when the amendment or supplementation will not unfairly surprise another party.
- (7) A pleading may adopt or incorporate by specific reference any part of a document in the official files and records of the Commission. This subsection does not relieve the pleader of the duty to allege in detail all facts necessary to sustain the pleader's burden of proof.

E. Conferences

- (1) On written notice, the presiding officer may, on the officer's own motion or on the motion of a party, direct each party to appear at a specified time and place for a prehearing conference to formulate issues and consider any of the following:
 - (a) simplifying issues;
 - (b) amending the pleadings;
 - (c) making admissions of fact or stipulations to avoid the unnecessary introduction of proof;
 - (d) designating parties;
 - (e) setting the order of procedure at a hearing;
 - (f) identifying and limiting the number of witnesses;
 - (g) resolving other matters that may expedite or simplify the disposition of the controversy, including settling issues in dispute; and
 - (h) identifying provisions and mandates of statute or rules relating to the issues.
- (2) The presiding officer shall record the action taken at the prehearing conference unless the parties enter into a written agreement as to the action. The presiding officer may enter appropriate orders concerning prehearing discovery, stipulations of uncontested matters, presentation of evidence and scope of inquiry.
- (3) During a hearing, on written notice or notice stated into the record, the presiding officer may direct each party or the representative of each party to appear for a conference to consider any matter that may expedite the hearing and serve the interests of justice. The presiding officer shall prepare a written statement regarding the action taken at the conference and the statement must be signed by each party and made a part of the record.

F. Discovery

All motions for discovery shall be subject to the civil procedures statutes of this jurisdiction.

G. Reporters and Transcripts

- (1) If necessary, the Commission shall engage a court reporter to make a stenographic record of a hearing. The Commission may allocate the cost of the reporter and transcript among the parties.
- (2) If a person requests a transcript of the stenographic record, the Commission may assess the cost of preparing the transcript to the person.
- (3) A party may challenge an error made in transcribing a hearing by noting the error in writing and suggesting a correction not later than ___ after the date the transcript is filed with the Commission. The party claiming errors shall serve a copy of the suggested corrections on each party of record, the court reporter and the presiding officer. If proposed corrections are not objected to before the ___ day after the date the corrections were filed with the Commission, the presiding officer may direct that the suggested corrections be made and the manner of making them. If the parties disagree on the suggested corrections, the presiding officer shall determine whether to change the record.

H. Nature of Hearings

- (1) An appeal from a decision of the stewards/judges shall be a hearing on the record of the stewards/judges' hearing. The hearing may be a de novo hearing at the Commission's discretion.

- (2) A hearing in a Commission proceeding is open to the public, however, witnesses may be excluded or sequestered. Commission deliberations may be conducted in private if permitted by statute.
- (3) Unless precluded by law or objected to by a party, the Commission may allow informal disposition of a proceeding without a hearing. Informal disposition includes disposition by stipulation, agreed settlement, consent order and default.

I. Presiding Officers

- (1) A member of the Commission, a Commission appointee or an administrative law judge may serve as the presiding officer for a Commission proceeding.
- (2) The presiding officer may:
 - (a) authorize the taking of depositions;
 - (b) issue subpoenas to compel the attendance of witnesses and the production of papers and documents;
 - (c) administer oaths;
 - (d) receive evidence;
 - (e) rule on the admissibility of evidence and amendments to pleadings;
 - (f) examine witnesses;
 - (g) set reasonable times within which a party may present evidence and within which a witness may testify;
 - (h) permit and limit oral argument;
 - (i) issue interim orders;
 - (j) recess a hearing from day to day and place to place;
 - (k) request briefs before or after the presiding officer files a report or proposal for decision;
 - (l) propose findings of fact and conclusions of law;
 - (m) propose orders and decisions; and
 - (n) perform other duties necessary to a fair and proper hearing.
- (3) A person serving as the presiding officer of a proceeding must be a disinterested party to the proceeding.

J. Order of Hearing

- (1) The presiding officer shall open the hearing, make a concise statement of its scope and purposes and announce that a record of the hearing is being made.
- (2) When a hearing has begun, a party or a party's representative may make statements off the record only as permitted by the presiding officer. If a discussion off the record is pertinent, the presiding officer shall summarize the discussion for the record.
- (3) Each appearance by a party, a party's representative or a person who may testify must be entered on the record.
- (4) The presiding officer shall receive motions and afford each party of record an opportunity to make an opening statement.
- (5) Except as otherwise provided by this subsection, the party with the burden of proof is entitled to open and close. The presiding officer shall designate who may open and close in a hearing

on a proceeding if the proceeding was initiated by the Commission or if several proceedings are heard on a consolidated record.

- (6) After opening statements, the party with the burden of proof may proceed with the party's direct case. Each party may cross examine each witness.
- (7) After the conclusion of the direct case of the party having the burden of proof, each other party may present their direct case and their witnesses will be subject to cross examination.
- (8) The members of the Commission and/or the presiding officer may examine any witnesses.
- (9) At the conclusion of all evidence and cross examination, the presiding officer shall allow closing statements.
- (10) Before writing a report or proposal for decision if required by law, the Commission or the presiding officer may call on a party for further relevant and material evidence on a issue. The Commission or the presiding officer may not consider the evidence or allow it into the record without giving each party an opportunity to inspect and rebut the evidence.

K. Behavior

- (1) Each party, witness, attorney or other representative shall behave in all Commission proceedings with dignity, courtesy and respect for the Commission, the presiding officer and all other parties and participants.
- (2) An individual who violates this section may be excluded from a hearing by the presiding officer.

L. Evidence

- (1) All testimony must be given under oath administered by the presiding officer. The presiding officer may limit the number of witnesses and shall exclude all irrelevant, immaterial or unduly repetitious evidence.
- (2) The presiding officer shall follow the rules of evidence as applied in administrative hearing procedures in this jurisdiction. The rules of privilege recognized by law in this jurisdiction apply in Commission proceedings.
- (3) A party may object to offered evidence and the objection shall be noted in the record. A party, at the time an objection is made or sought, shall make known to the presiding officer the action the party desires. Formal exceptions to rulings by the presiding officer during a hearing are unnecessary.
- (4) When the presiding officer rules to exclude evidence, the party offering the evidence may make an offer of proof by dictating or submitting in writing the substance of the proposed evidence, before the closing of the hearing. The offer of proof preserves the point for review. The presiding officer may ask a witness or offered witness questions necessary to indicate that the witness would testify as represented in the offer of proof. An alleged error in sustaining an objection to questions asked on cross examination is preserved without making an offer of proof.
- (5) The presiding officer may take official notice of judicially cognizable facts and of facts generally recognized within the area of the Commission's specialized knowledge. The Commission shall notify each party of record before the final decision in a proceeding of each specific fact officially noticed, including any facts or other data in staff memoranda. A party must be given an opportunity to rebut the facts to be noticed.
- (6) The special skills and knowledge of the Commission and the Commission staff may be used in evaluating the evidence.

- (7) The presiding officer may receive documentary evidence in the form of copies or excerpts if the original is not readily available. On request, the presiding officer shall allow a party to compare the copy with the original. If many similar documents are offered in evidence, the presiding officer may limit the documents admitted to a number which are representative of the total number, or may require that the relevant data be abstracted from the documents and presented as an exhibit. If the presiding officer requires an abstract, the presiding officer shall allow each party or the party's representative to examine the documents from which the abstracts are made.
- (8) The presiding officer may require prepared testimony in a hearing if the presiding officer determines that it will expedite the hearing without substantially prejudicing the interests of a party. Prepared testimony consists of any document that is intended to be offered as evidence and adopted as sworn testimony by a witness who prepared the document or supervised its preparation. A person who intends to offer prepared testimony at a hearing shall prefile the testimony with the Commission on the date set by the presiding officer and shall serve a copy of the prepared testimony on each party of record. The presiding officer may authorize the late filing of prepared testimony on a showing of extenuating circumstances. The prepared testimony of a witness may be incorporated into the record as if read or received as an exhibit, on the witness being sworn and identifying the writing as a true and accurate record of what the testimony would be if the witness were to testify orally. The witness is subject to clarifying questions and to cross examination and the prepared testimony is subject to a motion to strike either in whole or in part.
- (9) The party offering an exhibit shall tender the original of the exhibit to the presiding officer for identification. The party shall furnish one copy to the presiding officer and one copy to each party of record. A document received in evidence may not be withdrawn except with the permission of the presiding officer. If an exhibit has been offered, objected to and excluded and the party offering the exhibit withdraws the offer, the presiding officer shall return the exhibit to the party. If the party does not withdraw the offered exhibit, the exhibit shall be numbered for identification, endorsed by the presiding officer with the ruling on the exhibit and included in the record to preserve the exception.
- (10) The presiding officer may allow a party to offer an exhibit in evidence after the close of the hearing only on a showing of extenuating circumstances and a certificate of service on each party of record.

M. Findings of Fact and Conclusions of Law

- (1) The presiding officer may direct any party to draft and submit proposed findings of fact and conclusions of law or a proposal for decision. The presiding officer may limit the request for proposed findings to a particular issue of fact.
- (2) Proposed findings of fact submitted under this section must be supported by concise and explicit statements of underlying facts developed from the record with specific reference to where in the record the facts appear.
- (3) Only if the presiding officer requires the filing of proposed findings of fact or a proposal for decision is the Commission required to rule on the proposed findings of fact in accordance with statute. If a party is permitted but not required to submit proposed findings or a proposal for decision, the Commission is not required to rule on the party's proposed findings.

N. Proposal for Decision

- (1) In a contested case, if a majority of the Commissioners have not heard the case or read the record, the Commission may not render a decision adverse to a party other than the Commission unless a proposal for decision is served on each party and each party has an opportunity to file exceptions and present briefs to the Commissioners. The proposal for decision must be prepared by the person who conducted the hearing and contain a statement of the reasons for the proposed decision and for each finding of fact and conclusion of law necessary to the proposed decision. The parties may waive the requirements of this subsection by written stipulation.
- (2) The person preparing a proposal for decision under this section shall serve a copy of the proposal on each party of record.
- (3) A proposal for decision may be amended by documents submitted by the parties without the amended proposal for decision being served on the parties. Unless the amended proposal for decision is served on all parties, amendments adopted by the Commission must be noted and embodied with specificity in the Commission's final order.
- (4) A party of record may, not later than _____ days after the date of service of a proposal for decision, file exceptions to the proposal. A reply to an exception filed under this subsection must be filed not later than _____ days after the last day for filing the exceptions. A copy of each exception and reply must be served on all parties of record.
- (5) After the expiration of time for filing exceptions and replies, the Commission shall consider the proposal for decision in open meeting. The Commission may:
 - (a) adopt or modify the proposal for decision, in whole or in part;
 - (b) decline to adopt the proposal for decision, in whole or in part;
 - (c) remand the proceeding for further examination by the same or a different presiding officer; or
 - (d) direct the presiding officer to give further consideration to the proceeding with or without reopening the hearing.
- (6) If on remand additional evidence is received which results in a substantial revision of the proposal for decision, a new proposal for decision shall be prepared, unless a majority of the Commission, on remand, has heard the case or read the record. A new proposal for decision must be clearly labeled as such and all parties of record are entitled to file exceptions, replies and briefs.

O. Dismissal

On its own motion or a motion by a party, the presiding officer may dismiss a proceeding, with or without prejudice, under conditions and for reasons that are just and reasonable, including:

- (1) failure to timely pay all required fees to the Commission;
- (2) unnecessary duplication of proceedings;
- (3) withdrawal;
- (4) moot questions or obsolete petitions; and
- (5) lack of jurisdiction.

P. Orders

- (1) Except as otherwise provided by these rules, the Commission shall issue a final order not later than ____ after the conclusion of the hearing. A final order of the Commission must be in

writing and be signed by a majority of the members of the Commission who voted in favor of the action taken by the Commission. A final order must include findings of facts and conclusions of law, separately stated.

- (2) The Commission staff shall mail or deliver a copy of the order to each party or the party's representative.
- (3) A final order of the Commission takes effect on the date the order is issued, unless otherwise stated in the order.
- (4) If the Commission finds that an imminent peril to the public health, safety or welfare requires an immediate final order in a proceeding, the Commission shall recite that finding in the order in addition to reciting that the order is final from the date issued. An order issued under this subsection is final and appealable from the date issued and a motion for rehearing is not a prerequisite to appeal.
- (5) The commission staff shall electronically submit the order to the NAPRA or RCI Ruling Database.

Q. Rehearing

The Administrative Procedure Act, _____ Civil Statutes, Art. _____, Sec. _____, pertaining to rehearing after Commission action, is hereby incorporated by reference.

R. Ex Parte Communications

- (1) No Commission member may discuss the merits of a matter which is pending before the Commission prior to a formal hearing, or between the hearing and announcement of the Commission's final decision.
- (2) The Administrative Procedure Act, _____ Civil Statutes, Art. _____, Sec. _____, pertaining to ex parte communications, is hereby incorporated by reference.

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ARCI-003-020 Ejection/Exclusion

- (1) The stewards/judges or Commission may order an individual ejected or excluded from all or part of any grounds under the regulatory jurisdiction of the Commission if the stewards/judges, executive director or Commission determine that:
 - (a) the individual may be ejected or excluded under the statutes or rules of this jurisdiction; and
 - (b) the individual's presence on association grounds is inconsistent with maintaining the honesty and integrity of racing.
- (2) An exclusion may be ordered separately or in conjunction with other disciplinary action taken by the stewards/judges or Commission. If an exclusion is ordered separately, the excluded individual is entitled to a hearing before the stewards/judges or Commission. A hearing on an exclusion shall be conducted in the same manner as other hearings conducted by the stewards/judges or Commission.
- (3) If an individual is excluded under this section, a contestant owned or trained by or under the care or supervision of the individual is ineligible to be entered or to start in a race in this jurisdiction.

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ARCI-003-025 *Rulings In Other Jurisdictions*

A. Reciprocity

The commission and the stewards/judges shall honor rulings from other pari-mutuel jurisdictions regarding license suspensions, revocation or eligibility of contestants.

B. Appeals of Reciprocal Rulings

- (1) Persons subject to rulings in other jurisdictions shall have the right to request a hearing before the Commission to show cause why such ruling should not be enforced in this jurisdiction.
- (2) Any request for such hearing must clearly set forth in writing the reasons for the appeal.

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