

PROPOSED RULEMAKING

STATE ATHLETIC COMMISSION

[58 PA. CODE CHS. 1 AND 21] Communicable Disease Testing

The State Athletic Commission (Commission) proposes to amend §§ 1.1 and 21.8 (relating to definitions; and boxers) as they pertain to the testing of professional boxers for communicable diseases, such as Hepatitis, to read as set forth in Annex A.

A. *Effective Date*

This proposed rulemaking will take effect upon publication of the final-form rulemaking in the *Pennsylvania Bulletin*.

B. *Statutory Authority*

This proposed rulemaking is authorized under 5 Pa.C.S. § 103 (relating to duties of commission) which authorizes the Commission to establish policy and promulgate rules and regulations regarding professional boxing contests and exhibitions and all matters pertaining thereto.

C. *Background and Purpose*

Increasing concerns about the rapid spread of communicable diseases, particularly Hepatitis C, which is a disease of the liver caused by a virus that can be transmitted by contact with blood through one's occupation or vocation, has led to an ever greater call for testing professional boxers for these diseases. In fact, given the devastating long-term health consequences of Hepatitis C, which according to the Centers for Disease Control and Prevention often includes chronic liver disease, cirrhosis and even death in 3% of those infected, the American Association of Boxing Commissions and the American Association of Professional Ringside Physicians recently recommended that the boxing commissions in the various states consider adopting a requirement for the testing of Hepatitis C and other communicable diseases. The Commission's Medical Advisory Board (Board) also unanimously endorses the adoption of that requirement with the concurrence of the Commission.

Therefore, the Commission proposes to amend its current regulations pertaining to professional boxers to require annual testing for certain communicable diseases. It is the intent of this proposed rulemaking to better protect professional boxers, who frequently come into direct contact with the blood of an opponent in a boxing contest or exhibition, from contracting a communicable disease. The cost for the additional test will be limited to no more than \$50 per annual test, which is outweighed by the benefit of the protection that the test affords.

Description of the Proposed Rulemaking

The Commission is proposing that as a condition for an initial or renewal license as a professional boxer, in addition to being required to be tested for any virus, antibody, antigen or etiologic agent determined to cause or indicate the presence of human immunodeficiency virus as currently mandated by regulation, an applicant would also be required to be tested for Hepatitis C and other communicable diseases as defined in § 1.1 (relating to definitions).

The Commission developed its definition of "communicable disease" based upon the definition of "communicable disease" contained in 28 Pa. Code § 27.1 (relating to definitions).

As part of its review, the Commission also afforded the opportunity for a 30-day predraft comment by forwarding a draft of Annex A to the following categories of individuals: 4 physicians who are members of the Board and 3 physicians who are presently licensed as ringside physicians by the Commission; 12 professional boxing promoters; 8 professional boxing managers; 10 professional boxers; and 10 boxing seconds or trainers. Only two physicians commented by recommending slight changes to the definition of "communicable disease," one of which has been adopted.

F. *Fiscal Impact and Paperwork Requirements*

The proposed rulemaking will have no adverse fiscal impact on the Department of State (Department) or the Commission. The proposed rulemaking will also have no adverse fiscal impact on the Commonwealth or its political subdivisions and will not impose any additional paperwork requirements upon the Commonwealth, its political subdivisions or the private sector. The proposed rulemaking will have a minimal fiscal impact on the professional boxers the Commission regulates by requiring that they must incur the cost for an annual test for Hepatitis C and other communicable diseases but at an estimated cost of no more than \$50 per test.

G. *Sunset Date*

The Commission and the Department monitor the regulations of the Commission on a continuing basis. Therefore, no sunset date has been assigned.

H. *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on November 1, 2004, the Commission submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC), the Chairpersons of the Senate State Government Committee and the House State Government Committee. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objections regarding the proposed rulemaking within 30 days of the close of the public comment period. The notification shall specify the regulatory review criteria that have not been met. The Regulatory Review Act specifies detailed procedures for review of comments, recommendations and objections by the Commission, the General Assembly and the Governor prior to publication of the final rulemaking.

I. *Public Comment*

Interested persons are invited to submit written comments, recommendations or objections regarding this proposed rulemaking to Gregory P. Sirb, Executive Director of the State Athletic Commission, 2601 North 3rd Street, Harrisburg, PA 17110, within 30 days following publication of this proposed rulemaking in the *Pennsylvania Bulletin*. Please reference No. 16-34 (Communicable Disease Testing), when submitting comments.

CHARLES BEDNARIK,
Chairperson

Fiscal Note: 16-34. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART I. STATE ATHLETIC COMMISSION

Subpart A. GENERAL PROVISIONS

CHAPTER 1. PRELIMINARY PROVISIONS

§ 1.1. Definitions.

(a) The following words and terms, when used in this part, have the following meanings, unless the context clearly indicates otherwise:

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Communicable disease—An illness, such as Hepatitis, which is capable of being spread to a susceptible host through the direct or indirect transmission of an infectious agent or its toxic product by an infected person, animal or arthropod, or through the inanimate environment.

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Subpart B. BOXING

CHAPTER 21. PROFESSIONAL BOXING

§ 21.8. Boxers.

(a) Professional boxers shall be licensed by the Commission. The Commission will not license or renew the

license of a professional boxer unless the license application is accompanied by a report from a Department of Health facility, a laboratory possessing a permit from the Department of Health under 28 Pa. Code § 5.11 (relating to permit, requirements, application and conditions) or a report from a laboratory licensed in another jurisdiction that meets the requirements to be issued a permit under 28 Pa. Code § 5.11, and is acceptable to the Commission, which indicates that the applicant has been tested for any virus, antibody, antigen or etiologic agent determined to cause or indicate the presence of human immunodeficiency virus **and any other communicable disease as defined in § 1.1 (relating to definitions)**, and the results of those tests were negative. The tests shall have been initiated no more than 60 days prior to the date of filing the application. A boxer whose application for license has been denied has the right to a hearing before the Commission under 2 Pa.C.S. §§ 501—508 (relating to practice and procedure of Commonwealth agencies). The applicant shall apply, in writing, to the Commission requesting a hearing. The Commission will conduct a hearing within 10 business days from the receipt of the written request.

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