

CHAPTER 15. PROHIBITED DRUG TESTING

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Authority

The provisions of this Chapter 15 issued under 5 Pa.C.S. § 103(b)(1), unless otherwise noted.

Source

The provisions of this Chapter 15 adopted October 1, 1993, effective October 2, 1993, 23 Pa.B. 4645, unless otherwise noted.

§ 15.1. Definitions.

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

Confirmed positive test result—A result of a test conducted in accordance with the procedures in this chapter, indicating the presence of a prohibited drug.

Drug—A substance which is one of the following:

- (i) Recognized in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official national formulary, or a supplement to one or more of them.
- (ii) Intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in humans or other animals.
- (iii) Intended to affect the structure or a function of the body of a human or other animal, not including food.
- (iv) Intended for use as a component of another substance described in subparagraph (i), (ii) or (iii).

Executive Director—The Executive Director of the Commission.

Laboratory—A laboratory approved by the Department of Health under 28 Pa. Code § 5.50 (relating to approval to provide special analytical services), which has been designated by the Commission to conduct tests.

Prohibited drug—

- (i) A drug which falls within one of the following classes or types of substances:

- (A) Opiates.
 - (B) Methadone.
 - (C) Barbiturates.
 - (D) Amphetamines.
 - (E) Benzodiazepines.
 - (F) Propoxyphene.
 - (G) Cocaine.
 - (H) PCP.
 - (I) Cannabinoids.
 - (J) Anabolic steroids.
- (ii) A drug other than one which either:
- (A) Has been purchased legally without a prescription, if a medical professional acting within the scope of his license or certification has certified that the drug will not affect the boxer's ability to participate safely in the boxing contest and the attending or ringside physician agrees.
 - (B) Has been obtained by the individual under a valid prescription or order of a licensed or certified medical professional acting within the scope of his license or certification if the medical professional has certified that the drug will not affect the boxer's ability to participate safely in the boxing contest, and the attending or ringside physician agrees.
- Reasonable cause*—Conduct or information from which a reasonable person could believe that an individual is under the influence or drugs.
- Test*—A urinalysis test approved by the Department of Health designed to detect drugs.

§ 15.2. Purpose.

The purpose of this chapter is to ensure the safety of boxers and to protect the integrity of boxing in this Commonwealth by regulating the use of prohibited drugs by professional and amateur boxers. Boxers shall be in total control of their mental faculties and physical capabilities. Boxing requires acute alertness, coordination, skill and reflex ability. The risk of serious injury is readily apparent considering the nature of the sport of boxing and could be greatly increased if a boxer participates while under the influence of a prohibited drug.

§ 15.3. Use of prohibited drugs.

- (a) A boxer is not permitted to participate in a boxing contest if the boxer:
 - (1) Has a prohibited drug in his possession or control or in his system.
 - (2) Refuses to submit to a test ordered under this chapter.
- (b) A boxer using a drug shall notify the Commission at the time he is asked to submit to a test under this chapter. The boxer shall set forth this information on the Urinalysis/Drug Test Consent Form SAC:UDT-1, under § 15.12 (relating to official form).

§ 15.4. Test for prohibited drugs.

(a) The Executive Director, or an authorized representative may, upon random selection or with reasonable cause, order a boxer to submit to a test for the detection of a prohibited drug.

(b) Reasonable cause will be deemed to exist if one or more of the following exists:

(1) A boxer has been arrested for, or convicted of, an offense involving the possession, sale, distribution or use of a drug.

(2) A boxer has previously tested positive for a prohibited drug.

(3) The Commission obtains information that a boxer is under the influence of a drug.

(4) A boxer is observed to be acting under the influence of a drug.

(c) Random selection will be done by a lottery system. Each bout occurring on a given day will be numbered and the number of each bout will be written on a separate card supplied by the Commission. Cards will then be shuffled and at least one card will be randomly selected by a Commission representative. A boxer participating in the event or the boxer's representative may witness the selection of the card. The boxers who are the contestants in the selected bout shall submit to a test.

(d) Each boxer participating in a championship bout shall submit to a test.

(e) The test will be administered either at the weigh-in, during the event of which the contest is a part or within 2 hours after the end of the contest in which the boxer was a participant.

§ 15.5. Testing procedures.

(a) A representative of the Commission will inform a boxer that he has been selected for a test and will give him a Urinalysis/Drug Test Consent Form SAC:UDT-1. The boxer shall complete the Form and shall cooperate with the representative in the administration of the test. The boxer shall note a perceived irregularity in the administration of the test on the form.

(b) If the boxer is to be given a test, the following procedures shall be observed:

(1) The Commission representative will give a sealed urine sample container to the boxer.

(2) The boxer shall wash and dry his hands prior to urination.

(3) The boxer shall urinate into the container in the presence of the Commission representative, the attending or ringside physician and, at the option of the boxer, an individual chosen by the boxer to accompany him. Observers shall be the same sex as the boxer.

(4) Subject to these procedures, the test will be administered in a manner to allow maximum privacy to the boxer.

(5) The boxer shall provide at least 60 ml of urine in the sample container, and shall give the container to the Commission representative.

(6) In the presence of the boxer and other observers, the Commission representative will divide the sample as evenly as possible into two sample containers.

(7) Each sample container will have a label attached which contains the following information: the boxer's Social Security Number, the Commission representative's signature and the physician's signature. One sample will be labeled "A" and the other will be labeled "B."

(8) The Commission representative will seal each container with a lock-cap and will attach to each sample container a tag provided by the laboratory designated to conduct the test. The tag will contain the boxer's Social Security Number.

(9) None of the labels or tags attached to any container will identify the boxer by name.

(10) The Commission representative will tag and label the sample containers. The sample containers will remain in the custody of the representative until they are delivered to the laboratory or its agent.

(11) At the time of delivery, the Commission representative will attach a label to each sample container which will have spaces for the date and time of delivery, the initials of the Commission representative and the initials of the laboratory employe or agent who is picking up the sample. The Commission representative and laboratory employe or agent will complete the label in the presence of each other.

(12) The laboratory will perform its initial test on the urine contained in the sample container labeled "A." If that test reveals the presence of a drug, the laboratory will perform a second screening using the same test used in testing the urine in the sample container labeled "A," on the urine contained in the sample container labeled "B."

(13) If the tests of samples "A" and "B" both reveal the presence of a drug, the laboratory will immediately notify the Executive Director. The Executive Director will then compare the laboratory results with the information supplied by the boxer on the boxer's Urinalysis/Drug Testing Form SAC:UDT-1 to determine if there has been a confirmed positive test result.

§ 15.6. Refusal to submit to test.

(a) A boxer may not refuse to submit to a test ordered under this chapter. A boxer will not be found to have refused to submit to a test if he submits to the test within 1 hour after having been requested to do so.

(b) If a boxer refuses to submit to a test ordered under this chapter, the Commission will issue a written order that suspends the boxer's license for 90 days in accordance with 5 Pa.C.S. § 1304(a)(3) (relating to suspension or revocation of

licenses or permits), which imposes a civil penalty of \$100 and requires forfeiture to the Commission the purse or prizes which the boxer may have earned from that day's event.

(c) A boxer who has refused to submit to a test ordered under this chapter will not be permitted to participate in a boxing contest until he has submitted to the test. If a confirmed positive test result exists, the boxer shall be subject to the disciplinary action in § 15.7 (relating to disciplinary action).

(d) Subsequent refusal to submit to a test ordered under this chapter will result in the revocation of the boxer's license and other disciplinary actions which the Commission may take.

(e) A boxer who was denied a license or whose license was suspended or revoked in another state for refusal to submit to a test will be required to submit to a test as a requirement for applying for a license within this Commonwealth.

§ 15.7. Disciplinary action.

(a) If the Executive Director determines that a confirmed positive test result exists, the Director will:

(1) Rule that the boxer will not be permitted to participate in the contest if test results are available prior to the contest.

(2) Rule that the bout will be declared a no contest if test results are not available until after the contest and the boxer is the winner of the contest.

(3) Recommend to the Commission that the boxer will forfeit to the Commission all, or a part of, purses or prizes which he may have earned from that day's event.

(4) Inform the Commission that the boxer will be subject to the disciplinary action in subsection (b).

(b) Disciplinary action for a boxer with a confirmed positive test result shall be set forth in a written order and will be as follows:

(1) *First occurrence.* A preliminary suspension in accordance with 5 Pa.C.S. § 1303(a) (relating to preliminary suspension of licenses or permits), and a civil penalty of \$100. If, in reviewing the imposition of the preliminary suspension as provided for under 5 Pa.C.S. § 1303(c) and § 15.8 (relating to procedural rules; Commission review), the Commission determines that the preliminary suspension was appropriate, it will suspend the boxer's license for 30 days in accordance with 5 Pa.C.S. § 1304(a) (relating to suspension or revocation of licenses or permits). In addition, after the suspension period but before being allowed to participate in a subsequent contest, the boxer will be required to submit to a test. If that test or a subsequent test results in a second confirmed positive test result, the boxer will be subject to the disciplinary action in paragraph (2).

(2) *Second occurrence.* A preliminary suspension in accordance with 5 Pa.C.S. § 1303(a), and a civil penalty of \$200. If, in reviewing the imposition of the preliminary suspension as provided for under 5 Pa.C.S. § 1303(c) and

§ 15.8, the Commission determines that the preliminary suspension was appropriate, it will suspend the boxer's license for 90 days in accordance with 5 Pa.C.S. § 1304(a). In addition, the boxer shall successfully complete a drug treatment program approved by the Department of Health under 28 Pa. Code Chapters 709 and 711 (relating to standards for licensure of freestanding treatment facilities; and standards for certification of treatment activities which are a part of a health care facility). The boxer will not be permitted to participate in a boxing contest prior to successful completion of the program. The boxer shall direct the treatment facility to provide the Commission with written confirmation of the boxer's successful completion and discharge from the program. In addition, after the suspension period and completion of the program but before being permitted to participate in a subsequent contest, the boxer shall be required to submit to a test. If that test or a subsequent test results in a third confirmed positive test result, the boxer will be subject to the disciplinary action in paragraph (3).

(3) *Third occurrence.* A preliminary suspension in accordance with 5 Pa.C.S. § 1303(a). If, in reviewing the imposition of the preliminary suspension as provided for under 5 Pa.C.S. § 1303(c) and § 15.8, the Commission determines that the preliminary suspension was appropriate, the boxer's license will be revoked and the boxer will be permanently banned from participating in any type of boxing event, in any capacity, in this Commonwealth in accordance with 5 Pa.C.S. § 1304(a).

(c) If a boxer is found to have tampered with a sample taken for a urinalysis test or is found to have falsified information in connection with a test performed under this chapter, the Commission will preliminarily suspend the boxer's license in accordance with 5 Pa.C.S. § 1303(a), impose a civil penalty of \$100 on the boxer and order the forfeiture to the Commission of purses or prizes which the boxer may have earned from that day's event. If, in reviewing the imposition of the preliminary suspension as provided under 5 Pa.C.S. § 1303(c) and § 15.8, the Commission determines that the preliminary suspension was appropriate, it will suspend the boxer's license for 90 days in accordance with 5 Pa.C.S. § 1304(a).

Cross References

This section cited in 58 Pa. Code § 15.6 (relating to refusal to submit to test).

§ 15.8. Procedural rules; Commission review.

(a) A boxer whose license has been preliminarily suspended in accordance with 5 Pa.C.S. § 1303(a) (relating to preliminary suspension of licenses or permits) under this chapter will be entitled to a hearing before the Commission within 10 business days after the date on which the license was suspended in accordance with 5 Pa.C.S. § 1303(c).

(b) A boxer whose license has been suspended for 90 days in accordance with 5 Pa.C.S. § 1304(a)(3) (relating to suspension or revocation of licenses or permits), for refusing to submit to a test as ordered under § 15.6 (relating to refusal to submit to test) will be entitled to a hearing within 10 business days after the date on which the license is suspended in accordance with 5 Pa.C.S. § 1304(b).

(c) A boxer against whom a civil penalty has been imposed under this chapter will be entitled to a hearing within 10 business days after notice of the Commission's intent to impose the penalty is received in accordance with 5 Pa.C.S. § 1305 (relating to civil penalties).

(d) A boxer who has forfeited all, or a part of, purses or prizes under this chapter may apply in writing to the Commission for a hearing regarding the withheld purse within 10 days after the end of the contest in accordance with 5 Pa.C.S. § 1524(b) (relating to hearing regarding withheld purse). Upon receipt of the application, the Commission will fix a date for a hearing. Within a reasonable time after the hearing or after the expiration of 10 days following the contest, if an application for a hearing is not filed, the Commission will determine the disposition to be made of the withheld purse or prize in accordance with 5 Pa.C.S. § 1525 (relating to disposition of withheld purse).

(e) The Commission will conduct hearings under 2 Pa.C.S. §§ 501—508 (relating to practice and procedure of Commonwealth agencies). Under 1 Pa. Code § 31.1 (relating to scope of part), 1 Pa. Code Part II (relating to general rules of administrative practice and procedure) is applicable to proceedings before the Commission.

Cross References

This section cited in 58 Pa. Code § 15.7 (relating to disciplinary action).

§ 15.9. Records.

(a) The following information concerning each test performed under this chapter will be recorded in the records of the Commission:

- (1) The name and Social Security Number of the boxer from whom the sample was obtained.
- (2) The date and time the sample was obtained.
- (3) The name of the individual who ordered the sample and the names of other persons, including the attending or ringside physician and observer chosen by the boxer, who were present when the sample was taken.
- (4) The type of sample obtained.
- (5) The dates on which the sample was sent to and received by the testing laboratory.
- (6) The results of the analysis, especially a confirmed positive result.
- (7) Actions taken by the Executive Director and Commission with respect to a test.

(b) The information listed in subsection (a) will be stored in a locked secure area in the office of the Executive Director for 1 year, after which it will be destroyed. The Commission may retain the information received on a boxer who is found to have violated this chapter for the purpose of documenting the number of violations and the results of treatment, and for consideration if future violations occur.

§ 15.10. Confidentiality.

Information received in the process of performing a test under this chapter, including medical information, test results and reports filed as a result of attending a treatment program, will be treated as confidential, except for use with respect to an order issued by the Commission or judicial hearing with regard to the order. Access to the information in the records of the Commission will be limited to the Commissioners, the Executive Director, a representative of the Commission and the tested boxer. Nothing in this section prohibits the disclosure of a civil penalty, suspension or revocation imposed on a boxer under this chapter and the fact that the civil penalty, suspension or revocation was imposed due to the boxer having a confirmed positive test result. The disclosure shall also include the type of drug which served as the basis of the confirmed positive test result.

§ 15.11. Costs.

(a) The promoter or sponsor shall be responsible for costs incurred with respect to tests performed under this chapter.

(b) The boxer shall be responsible for costs incurred with respect to completion of a drug treatment program ordered under this chapter.

§ 15.12. Official form.

The following official form is to be used in conjunction with this chapter: SAC:UDT-1 Urinalysis/Drug Test Consent Form.

SAC:UDT-1

URINALYSIS/DRUG TEST CONSENT FORM

Individual's Name _____

Social Security Number _____

Address _____

I hereby voluntarily submit a urine sample and authorize an approved laboratory to test such sample for the presence of a prohibited drug. Such test will be performed by an approved laboratory designated by the Pennsylvania State Athletic Commission to conduct such tests. I hereby consent to the results of said test being released to the Pennsylvania State Athletic Commission. Since medications can affect test results, I have listed below all medications I have taken during the past ten (10) days (both over-the-counter and prescribed). I understand that the failure to supply a urine sample, refusing to submit to a test, tampering with the sample or falsifying any information obtained in connection with this test will result in an immediate suspension of not less than ninety (90) days, a civil penalty of \$100 and a forfeiture of any purses or prizes which have been earned from the day's event. I also understand that if the analysis of this urine sample results in a confirmed positive test result I will be suspended and a civil penalty imposed depending on whether I have had any prior confirmed positive test results. I understand that I am entitled to a hearing regarding any disciplinary action taken against me in accordance with the State Athletic Code. I agree to hold the Pennsylvania State Athletic Commission, its agents, directors, officers and employees harmless from any liability in connection with the drug test conducted. I have noted any perceived irregularities in the collection procedures in the space provided below.

During the past ten (10) days, or at the present time, are you taking:

Over-the-counter medication	yes	no
Prescription medication	yes	no

If "yes" to either question, please describe in detail below:

<u>Medication</u>	<u>Last Taken</u>	<u>Physician's Name, Address and Telephone Number</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

ANY PERCEIVED IRREGULARITIES IN THE COLLECTION PROCEDURES MUST BE NOTED BELOW:

_____	_____	_____
<u>Signature of Boxer</u>	<u>Date</u>	<u>Time</u>
_____	_____	_____
<u>Signature of Witness</u>	<u>Date</u>	<u>Time</u>
_____	_____	_____
<u>Commission Representative</u>	<u>Date</u>	<u>Time</u>

Cross References

This section cited in 58 Pa. Code § 15.3 (relating to use of prohibited drugs).

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