

TITLE 4. CALIFORNIA STATE ATHLETIC COMMISSION

NOTICE IS HEREBY GIVEN that the California State Athletic Commission (hereinafter "commission") is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held:

September 21, 2015 - 10:00 a.m.
Department of Consumer Affairs
Donner Lake Room - 2nd Floor
2005 Evergreen Street
Sacramento, CA 95815

Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the commission at its office not later than 5:00 p.m. **September 21, 2015**, or must be received by the commission at the hearing. The commission, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Business Code section 18611 authorizes the Commission to adopt these proposed regulations. The proposed regulations implement, interpret, and make specific sections 18611, 18640, 18641, 18642, 18645, 18648, 18661, 18711, 18714 of the Business Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Amend section 201.5. Existing regulations gives definitions for "commission, "code", "rules", "club", "promoter" and further states that as used in this chapter, the masculine gender included the feminine gender. This proposal amends the current definitions to include that all pronouns used in the chapter are gender-neutral unless context clearly indicates otherwise.

Amend section 303. Existing regulations sets the rules regarding the administration or use of drugs and lists those substances. The Commission's drug tests athletes for prohibited substances based on the "The World Anti-Doping Code, The Prohibited List International Standard" (World Anti-Doping Agency). Since the WADA "Prohibited Substances" and "Prohibited Methods" periodically change, the Commission regulations should reference WADA directly rather than go through a rule change annually to update the prohibited substances list. This proposal clarifies and further defines the administration or use of prohibited substances, prohibited methods. This proposal also defines that "Prohibited Substances" and "Prohibited Method" means those substances and methods included in "The World Anti-Doping Code, The Prohibited List International Standard" (World Anti-Doping Agency) <https://www.wada->

ama.org/en/resources/science-medicine/prohibited-list .

Adopt section 424 - 426. Currently, there is no exemption to allow an athlete to use a medically prescribed drug that may be necessary to maintain the athlete's health. This proposal would establish an exemption process and provide the necessary authority to the commission to allow an athlete to use a medically prescribed drug that is necessary to maintain their health, before or during a match, provided said usage does not provide an advantage to the athlete during competition.

Existing law at Section 18611 of the Business and Professions Code authorizes the commission to adopt, amend, or repeal, in accordance with the Administrative Procedure Act, rules and regulations as may be necessary to enable it to carry out the laws relating to boxing and the martial arts. By adopting section 424, the commission will honor its commitment to the health and safety of athletes, allowing them to use the medication necessary to maintain their health, as diagnosed and prescribed by a licensed physician.

It is anticipated that the adoption of regulations such as these will protect the health and safety of athletes, prevent discrimination against those athletes with legitimate medical conditions and promote fairness and social equity by allowing eligible legitimate contenders an equal opportunity to enter the ring. The adoption of Rule 424 will allow athletes an avenue, not otherwise afforded, to request permission from the Commission to use a prohibited substance, when proven necessary and that does not provide an unfair advantage during competition, before and during competition. The athlete upon asking permission from the Commission is required to complete a form, named "Application for Determination of Therapeutic Use Exemption" (Rev 07/15, this form is incorporated by reference).

Without this avenue, fighters may choose to fight in other states where exemptions exist, or discontinue taking medications that are necessary thereby risking their health in order to fight in California, or quit fighting altogether.

Adopt sections 830-837. This rulemaking action clarifies and makes specific the licensing requirements for a transgender athlete with the Commission.

Business Code Section 18640 requires all persons that engage in the promotion of, or participate in, a boxing or martial arts contest, match, or exhibition, shall have a license. Business Code section 18611 authorizes the Commission to adopt regulations necessary to enable it to carry out the laws relating to boxing and the martial arts.

The regulations proposed in this rulemaking action would specify the steps required in order to obtain a license as a transgender athlete in order to compete in a Commission regulated boxing or martial arts contest, match, or exhibition. It establishes procedures for transgender athletes and specific testing performed to ensure hormone levels are within prescribed standards. It would also establish specific testing requirements pre-fight and day of the fight in order to establish the transgender athlete meets licensing requirements.

The broad objective of the regulation is to promote fair participation in combat sports and prevent discrimination on the basis of gender or gender identity in a manner that

will also protect public health and safety for all participants. The specific benefits anticipated from the regulation is increased protection of the transgender athletes and their opponents by specifying transgender licensing standards, including measurable hormone levels.

The Commission has determined that this proposed regulation is not inconsistent or incompatible with existing regulations. After conducting a review for any regulations that would relate to or affect this area, the Commission has concluded that these are the only regulations that concern the licensing of transgender athletes to participate in a boxing or martial arts contest, match, or exhibition in California.

CONSISTENCY AND COMPATIBILITY WITH EXISTING STATE REGULATIONS

The commission has conducted an evaluation for any other regulations on this area and has concluded that these are the only regulations concerning Therapeutic Use Exemptions and Transgender Athletes. Therefore, the proposed regulations are neither inconsistent nor incompatible with any other existing state regulations.

FORMS INCORPORATED BY REFERENCE

- Application for Determination of Therapeutic Use Exemption (form number PA014, revised 07/15)
- Application for Professional Athlete (form number PA003, revised 07/15)

FISCAL IMPACT ESTIMATES

Mandate on local agencies and school districts: **None.**

Cost or savings to any state agency: **None.**

Cost to any local agency or school district which must be reimbursed in accordance with Government Code sections 17500 through 17630: **None.**

Other nondiscretionary cost or savings imposed on local agencies: **None.**

Cost or savings in federal funding to the state: **None.**

Cost impacts on a representative private person or business: The Commission is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

The CSAC has made an initial determination that there will be no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

Significant effect on housing costs: **None.**

EFFECT ON SMALL BUSINESS

The commission has determined that the proposed regulations would not affect small businesses. The proposed changes provide a mechanism to allow an athlete an avenue to continue to use specific medications necessary to maintain the athlete's health.

RESULTS OF THE ECONOMIC IMPACT ANALYSIS

The commission has derived that this proposal will affect the State of California business environment as follows:

- Unlikely to eliminate any jobs, including for health care professionals
- Unlikely to create jobs, including for health care professionals
- Unlikely to create new businesses
- Unlikely to eliminate any existing businesses
- Unlikely to expand current business

Benefits of the Proposed Action: The proposed regulation will benefit California residents by protecting professional athletes by only allowing use of performance enhancing drugs when medically needed and appropriate. It is even possible that the proposal will make promoters within the combative sports industry more likely to promote events due a consistent therapeutic use exemption policy. The proposal will also set standards for transgender athletes to ensure fairness, and prevent discrimination.

CONSIDERATION OF ALTERNATIVES

The commission must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would either be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposal described in this Notice or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

INITIAL STATEMENT OF REASONS AND INFORMATION

The commission has prepared an initial statement of the reasons for the proposed action and has available all the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations, any document incorporated by reference and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the California State Athletic Commission at 2005 Evergreen Street, Suite 2010, Sacramento, California 95815.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the person named below.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below or by accessing the website listed below.

CONTACT PERSON

Inquiries or comments concerning the proposed rulemaking action may be addressed to:

Name: Sophia Cornejo
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The backup contact person is:

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Website Access: Materials regarding this proposal can be found at <http://www.dca.ca.gov/csac>.