CALIFORNIA STATE ATHLETIC COMMISSION

PROPOSED LANGUAGE
July 24, 2015

1. Amend Section 201.5 of Article 1 of Chapter 1 of Division 2 of Title 4 of the California Code of Regulations to read as follows:

§ 201.5. Definitions, Gender-neutral pronouns.

As used in this chapter:

(a) "commission" means the State Athletic Commission;

(b) "code" means the Business and Professions Code;

(c) "rules" means the Professional Boxing Rules.

(d) the terms "club" and "promoter" are synonymous and used interchangeably, and include any person, partnership, club, corporation, organization or association conducting, holding or giving boxing contests.

(e) ~~the masculine gender includes the feminine gender~~ all pronouns are gender-neutral unless the context clearly indicates otherwise.

Note: Authority cited: Section 18611, Business and Professions Code. Reference: Sections 18621 and 18622, Business and Professions Code.

2. Amend Section 303 of Article 6 of Chapter 1 Division 2 of Title 4 of the California Code of Regulations to read as follows:

§ 303. Administration or Use of ~~Drugs~~ Prohibited Substances, Prohibited Methods.

(a) Intent of the Commission: It is each athlete's personal duty to ensure that no Prohibited Substance enters his or her body. Athletes are responsible for any Prohibited Substance or its metabolites or markers found to be present in their Samples. All athletes licensed by the commission may be required to submit to testing for prohibited substances at any time whether in-competition or out-of-competition and whether or not they have a competition scheduled.

(b) Definitions. As used in this Regulation, the following terms have the following meanings:

(1) The "WADA Prohibited List" refers to the most current edition of "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 which is hereby incorporated by reference.

(2) "Prohibited Substance" means those substances included in the WADA Prohibited List.

(3) "Prohibited Method" means those methods included in the WADA Prohibited List.

(c) Athletes with documented medical conditions requiring the use of a Prohibited Substance or a Prohibited Method in any event sanctioned by the commission or its authorized amateur sanctioning bodies shall request a Therapeutic Use Exemption (TUE) from the commission pursuant to Regulation 424.

(d) A person who applies for or holds a license from the commission and who has at any time tested positive for a Prohibited Substance or Prohibited Method that has been confirmed by any state athletic commission shall be required as a condition of licensure or renewal to provide a urine specimen. In addition, a licensed athlete shall provide a urine specimen for drug testing either before or after the bout, as directed by the commission representative.

(e) A violation of this Regulation shall subject the athlete to administrative enforcement action pursuant to Business and Professions Code section 18841, et seq.

~~(a) The administration or use of any drugs, alcohol or stimulants, or injections in any part of the body, either before or during a match, to or by any boxer is prohibited.~~

~~(b) A person who applies for or holds a license as a professional boxer and who has at any time had a positive drug test confirmed by any commission for any substance described in subsection (c) shall be required as a condition of licensure or renewal to provide a urine specimen. In addition, a licensed boxer shall provide a urine specimen for drug testing either before or after the bout, as directed by the commission representative.~~

~~(c) A positive test (which has been confirmed by a laboratory utilized by the commission) for any of the following substances shall be conclusive evidence of a violation of subsection (a):~~

~~(1) Stimulants~~

~~(2) Narcotics~~

~~(3) Cannabinoids (marijuana)~~

~~(4) Anabolic agents (exogenous and endogenous)~~

~~(5) Peptide hormones~~

~~(6) Masking agents~~

~~(7) Diuretics~~

~~(8) Glucocorticosteroids~~

~~(9) Beta-2 agonists (asthma medications)~~

~~(10) Anti-estrogenic agents~~

~~(11) Alcohol~~

Note: Authority cited: Section 18611, Business and Professions Code. Reference: Sections 18640, Business and Professions Code.

3. Adopt Sections 424, 425 and 426 of Article 12.5 of Chapter 1 of Division 2 of Title 4 of the California Code of Regulations to read as follows:

ARTICLE 12.5. THERAPEUTIC USE EXEMPTION

§424. Statement of Commission's Intent, Application of Article, Definitions.

(a) It is the Commission's intent to allow a narrow exception to Regulation 303's prohibition against the Administration or use of Prohibited Substances and/or Prohibited Methods for those athletes who are medically required to use a Prohibited Substance or Prohibited Method. Such athletes may apply for a Therapeutic Use Exemption (TUE) only as provided by this Article. It is further the Commission's intent to ban all forms of Testosterone Replacement Therapy from use by athletes who are licensed by the Commission, except as expressly provided for in Commission Regulations, chapter 6.

(b) This Article shall to all athletes who are licensed by the Commission or are participating in Commission-regulated events.

(c) Definitions. As used in this Article, the following terms shall have the following meanings:

(1) "Prohibited Substance" is defined in Commission Regulation 303.

(2) "Prohibited Method" is defined in Commission Regulation 303.

(3) "Testosterone Replacement Therapy" or "TRT" means the use of natural or synthetic testosterone to treat or replace testosterone deficiency in men.

(4) "Board-certified physician" means a licensed doctor of medicine (M.D.) or osteopathy (O.D.), or a nurse practitioner or physician's assistant, in good standing and authorized to practice under state law, and practicing consistent with the laws governing their respective scope of practice in the state in which they are licensed.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Sections 18640, 18641, 18642, 18648, 18661, 18711 and 18714, Business and Professions Code.

§425. Application for a Therapeutic Use Exemption (TUE).

(a) A TUE shall not be granted for any form of Testosterone Replacement Therapy except as required by law.

(b) An athlete may apply to the commission for a TUE by submitting an Application for Determination of Therapeutic Use Exemption (form number PA014, revised 07/15). Such application must be complete and received by the Commission at least thirty (30) days in advance of the event in which the athlete will compete.

(c) Each of the following shall accompany the Application for Determination of Therapeutic Use Exemption:

(1) Medical information, which shall include:

(A) Diagnosis and etiology based upon the treating physician's evaluation.

(B) An evaluation by a Board-certified physician in the appropriate medical field.

(C) Patient medical history, which must be consistent with the standard of practice in the appropriate medical field relevant to the exemption requested.

(D) A physical exam, which must be consistent with the standard of practice in the appropriate medical field relevant to the exemption requested.

(E) A testing/laboratory evaluation, which must be consistent with the standard of practice in the appropriate medical field relevant to the exemption requested.

(F) Pre-Fight - Lab data for the Prohibited Substance. If a value is found to be out of the normal range, the athlete's medical provider should take action to correct the level by repeating the lab and/or adjusting medication appropriately, which should be documented in the records submitted to the Commission.

(G) Day of Fight - Lab data for the therapeutic agent in question. Agent specific levels shall be drawn on the day of fight.

(H) Name of the Prohibited Substance or Prohibited Method.

(I) Dosage taken or to be taken.

(J) Method of administration.

(K) Duration of treatment.

(2) A copy of the medical records in which the applicant's medical condition is well documented, and which must reflect that the condition existed prior to any test for a TUE application was performed.

(3) Declaration under penalty of perjury of a board certified physician in the appropriate field of medicine, attesting that he/she has read and understood this Therapeutic Use Exemption Regulation, examined the athlete, and the athlete qualifies for an exemption.

(d) A TUE application shall not be considered complete until the commission concludes there is sufficient medical information to determine the athlete is currently physically fit to compete safely.

(1) A TUE application may be considered incomplete if the commission cannot reasonably verify the current licensure status of the athlete's treating physician or the medical information submitted with the TUE application. If an application is incomplete, the commission may require the athlete to provide medical information, including but not limited to, an examination pursuant to Rule 280, and lab reports from a certified laboratory as designated by the commission.

(2) All costs of providing information to provide a complete Application shall be the athlete's responsibility and information provided pursuant to this Rule shall not be considered a special medical evaluation within the meaning of Business and Professions Code section 18710.

(e) If the athlete intends to compete further in any event or competition that may subject the athlete to drug testing by the commission, the athlete must apply for a

separate TUE for any prohibited substance in advance of such event or competition in accordance with the provisions of this Article.

(f) Retroactive Approvals in Emergency or Acute Medical Situations: The time period specified in this Article for submitting an application shall not apply to applications for retroactive approval. Retroactive TUE applications will only be considered in cases where emergency treatment or treatment of an acute medical condition was medically necessary.

(g) An application that is approved pursuant to this Article shall be valid for one approved competition.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Sections 18640, 18641, 18642, 18648, 18661, 18711 and 18714, Business and Professions Code.

§ 426. Denial of Application, Appeals.

(a) An incomplete TUE application may be deemed denied without further action by the commission.

(b) If the commission reasonably determines based upon the facts and circumstances of a particular application that the TUE application has been submitted for the purpose of enhancing the athlete's performance and/or giving the athlete an advantage over his/her competitor(s), the commission shall deny the application.

(c) A TUE shall not be granted when the commission reasonably concludes that denying the TUE application is in the best interests of protecting the public, or the health and safety of licensed athletes.

(d) If an application for TUE is denied, the athlete may submit an appeal in writing to the commission with seven (7) days of the commission's decision. The commission will set the matter for hearing within 30 days.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Sections 18640, 18641, 18642, 18648, 18661, 18711 and 18714, Business and Professions Code.

4. Adopt Sections 830 - 837, Article 1 of Chapter 6 of Division 2 of Title 4 of the California Code of Regulations to read as follows:

Chapter 6. Transgender Athletes

Article 1. General Provisions

§ 830. Definitions.

As used in this Chapter, the following terms have the following meanings:

(a) "Gender Identity" is an individual's internal, deeply-felt sense of being male or female. Everyone has a gender identity, which may or may not correspond to a person's assigned sex at birth.

(b) "Transgender" individuals are people with a gender identity that is different from their assigned sex at birth. A transgender male is a person who lives and identifies as a male, but who was assigned female gender at birth. A transgender female is a person who lives and identifies as female, but who was assigned male gender at birth.

(c) "Gender Dysphoria" refers to the condition in the United States diagnostic manual (DSM-5 2013). Gender Dysphoria is characterized by intense and persistent discomfort with one's sex characteristics—one's assigned sex. The suffering that arises has often been described as "being trapped in the wrong body."

(d) "Health Care Provider" includes any licensed doctor~~s~~ of medicine (M.D.) or osteopathy (D.O.) in good standing and authorized to practice medicine or surgery in their respective jurisdiction, as well as nurse practitioners or physician's assistants in good standing and authorized to practice and practicing consistent with the laws governing their respective scope of their practice in the jurisdiction in which they are licensed.

(e) "State-licensed physician or Doctor of Osteopathic Medicine" means a licensed doctor of medicine (M.D.) or osteopathy (D.O.) in good standing and authorized to practice under state law and practicing consistent with the laws governing their respective scope of practice in the state in which they are licensed.

(f) "Hormone" means a member of a class of signaling molecules produced by glands in the body that are transported in the blood stream to certain targeted organs to regulate physiology and behavior. Among other things, hormones can regulate or augment mood, weight and strength.

(g) "Application" refers to the Application for Professional Athlete (Form No. PA003, revised 07/15).

NOTE: Authority cited: Section 18611 Business and Professions Code. Reference: Sections 18640, 18642, 18648, 18660, 18661, 18711, 18712 and 18714, Business and Professions Code.

§ 831. Transgender Female Athletes (Male to Female)

(a) Transgender female (male to female) athletes who are not undergoing hormone therapy and without gonadectomy are eligible for licensure and participation in men's events.

(b) Transgender female athletes shall be eligible for licensure and participation in women's competitions if the commission approves the athlete's Application.

NOTE: Authority cited: Section 18611 Business and Professions Code. Reference: Sections 18640, 18642, 18648, 18660, 18661, 18711, 18712 and 18714, Business and Professions Code.

§ 832. Transgender Male Athletes (female to male).

(a) Transgender male (female to male) athletes who are not taking testosterone shall be eligible for licensure and participation in women's events.

(b) A transgender male athlete who is undergoing hormone treatment shall be eligible for licensure and participation in male competitions if the commission approved the athlete's Application.

NOTE: Authority cited: Section 18611 Business and Professions Code. Reference: Sections 18640, 18642, 18648, 18660, 18661, 18711, 18712 and 18714, Business and Professions Code.

§ 833. Applications and Appeals.

(a) At least 30 days before the event in which the athlete intends to compete, (1) a transgender female athlete who applies to compete in women's competitions, or (2) a transgender male athlete who applies to compete in men's competitions, shall submit their Application.

(1) No Application will be granted on an emergency basis.

(2) No Application will be granted on a retroactive basis.

NOTE: Authority cited: Section 18611 Business and Professions Code. Reference: Sections 18640, 18642, 18648, 18660, 18661, 18711, 18712 and 18714, Business and Professions Code.

(b) Transgender female athletes who apply to compete in women's competitions:

(1) A transgender female athlete who has had a gonadectomy shall also include as part of her Application:

(A) Written confirmation by a State-licensed physician or Doctor of Osteopathic Medicine has confirmed that hormone therapy

has been administered by a Health Care Provider for a minimum of 2 years after gonadectomy.

(B) A letter from the State-licensed physician or Doctor of Osteopathic Medicine responsible for the care of the applicant that must include the following:

(i) Name of surgeon who performed the gonadectomy and the date and location of surgery;

(ii) Initial date hormone therapy began after gonadectomy (and prior to surgery, if relevant);

(iii) Hormone name/type, dose and interval of administration over the past two years;

(iv) Name, dose and duration of any anti-androgen treatment used over the past two years.

(2) A transgender female athlete who is undergoing hormone therapy but has not had a gonadectomy shall also include as part of her Application:

(A) Written confirmation by a State-licensed physician or Doctor of Osteopathic Medicine that hormone therapy has been administered by a Health Care Provider for a minimum of two years.

(B) A letter from the State-licensed physician or Doctor of Osteopathic Medicine responsible for the care of the applicant that must include the following:

(i) Initial date hormone therapy began;

(ii) Hormone name/type, dose and interval of administration over the past two years;

(iii) Lab reports of estradiol and testosterone levels with a goal of serum estradiol levels within the normal range for healthy premenopausal women (lab specific) and suppression of testosterone levels to those normally found in women (lab specific) for the past two years;

(iv) Name, dose and duration of any anti-androgen treatment used over the past two years.

(c) Transgender male athletes who apply to compete in men's competitions:

(1) The athlete's Application shall also include:

(A) Confirmation from a State-licensed physician or Doctor of Osteopathic Medicine that hormone therapy has been administered by a Health Care Provider for a minimum of 2 years.

(B) A letter from the State-licensed physician or Doctor of Osteopathic Medicine responsible for the care of the applicant that must include the following:

(i) Initial date of hormone therapy;

(ii) Hormone name/type, dose and interval of administration for the past six months;

(iii) Lab reports of estradiol and testosterone levels for the past six months with a goal of serum estradiol levels within the normal range for healthy men (lab specific) and testosterone levels within the range for healthy men (lab specific).

(d) If the commission denies an Application submitted pursuant to this Chapter, the athlete may appeal that decision; such appeal must be submitted in writing to the commission within seven (7) days of the Commission's decision. The commission will set the matter for hearing within thirty (30) days.

NOTE: Authority cited: Section 18611 Business and Professions Code. Reference: Sections 18640, 18642, 18648, 18660, 18661, 18711, 18712 and 18714, Business and Professions Code.

§ 834. Provisions Applicable to All Transgender Athletes.

(a) An application shall not be considered complete until the commission concludes there is sufficient medical information to determine the athlete is currently physically fit to compete safely.

(1) An athlete's Application may be considered incomplete if the commission cannot reasonably verify the current licensure status of the athlete's treating physician or the medical information submitted with the Application. If an Application is incomplete, the commission may require the athlete to provide medical information, including but not limited to, an examination pursuant to Rule 280 that is conducted by a doctor of medicine or osteopathy as assigned by the commission, and lab reports showing Hormone levels (or other related blood work) from a certified laboratory as designated by the commission.

(2) All costs of providing information to provide a complete Application shall be the athlete's responsibility and information provided pursuant to this Rule shall not be considered a special medical evaluation within the meaning of Business and Professions Code section 18710.

(b) Pre-Competition and Day of Competition Testing Requirements:

(1) Transgender female athletes who have not had a gonadectomy and are participating in a female competition:

(A) Two weeks before a scheduled competition, the athlete must submit lab reports of estradiol and testosterone levels for the past six months showing serum estradiol levels within the normal range for healthy premenopausal women (lab specific) and suppression of testosterone levels to those normally found in women (lab specific).

(B) The day prior to any scheduled competition, the athlete must submit on the Pre-Bout Medical Questionnaire Form (Form Number PB001) the time, date, amount and method of the last dose(s) of estradiol used within the past two weeks.

(C) One the day of any scheduled competition, the athlete's test results for testosterone shall not be above the normal range for healthy premenopausal women.

(2) Transgender male athletes who are participating in a male competition:

(A) Two weeks before a scheduled competition, the athlete must submit lab reports of estradiol and testosterone levels for the past six months showing serum estradiol levels within the normal range for healthy men (lab specific) and testosterone levels within the range for healthy men (lab specific).

(B) The day prior to any scheduled competition, the athlete must submit on the Pre-Bout Medical Questionnaire Form (Form Number PB001) the time, date, amount and method of the last dose(s) of testosterone used within the past two weeks.

(C) On the day of the scheduled competition, the athlete's testosterone levels must not be above the normal range for healthy men (lab specific).

(3) Any level of testosterone above the normal range may result in the athlete's disqualification or other administrative enforcement action.

(4) Repeat elevated testosterone levels during the 6 months prior to the competition may be grounds for disqualification or other administrative enforcement action.

(c) Depending on the facts unique to each applicant, the commission may require or prohibit the use of certain clothing and/or safety equipment in competitions as a condition of licensure.

(d) The commission shall keep the athlete's medical information and application documentation confidential in accordance with applicable state and federal privacy laws.

NOTE: Authority cited: Section 18611 Business and Professions Code. Reference: Sections 18640, 18642, 18648, 18660, 18661, 18711, 18712 and 18714, Business and Professions Code.

§ 835. Commission Education.

Commission representatives shall be educated regarding Gender Dysphoria and Transgender athletes to ensure their safe and equal participation in events regulated by the commission.

NOTE: Authority cited: Section 18611 Business and Professions Code. Reference: Sections 18640, 18642 and 18648 Business and Professions Code.

§ 836. Not Subject to Delegation.

The provisions of this Chapter shall not be delegable by the commission pursuant to Business and Professions Code section 18646.

NOTE: Authority cited: Section 18611 Business and Professions Code. Reference: Sections 18646 Business and Professions Code.

§ 837. Approved Application Exempt from Rule 303.

An athlete whose Application is submitted pursuant to section 831(b) or 832(b) and is approved under this Chapter shall be exempt from Rule 303, “Administration or Use of Prohibited Substances, Prohibited Methods,” for only those substances and methods that are identified in the athlete’s Application.

NOTE: Authority cited: Section 18611 Business and Professions Code. Reference: Sections 18640, 18642, 18648, 18660, 18661, 18711, 18712 and 18714, Business and Professions Code.