

BEFORE THE BOARD OF ATHLETICS  
DEPARTMENT OF LABOR AND INDUSTRY  
STATE OF MONTANA

In the matter of the amendment of ARM ) NOTICE OF AMENDMENT,  
24.117.301 definitions, 24.117.401, 24.117.402, ) ADOPTION, AND REPEAL  
24.117.403, 24.117.404, 24.117.405 and )  
24.117.406 general provisions, 24.117.601 and )  
24.117.602 contest regulations, 24.117.702, )  
24.117.703, 24.117.705, 24.117.706, )  
24.117.709 and 24.117.710 boxing regulations, )  
24.117.801, 24.117.802, 24.117.803, )  
24.117.804, 24.117.805, 24.117.810, )  
24.117.811, 24.117.812 and 24.117.815 ring )  
regulations, 24.117.901, 24.117.903, )  
24.117.904, 24.117.905, 24.117.906 and )  
24.117.907 boxing officials, 24.117.1001, )  
24.117.1002, 24.117.1005, 24.117.1006 and )  
24.117.1007 club boxing, the adoption of New )  
Rule I promoter, New Rule II bout approval, )  
New Rule III referee, New Rule IV fee )  
abatement, New Rule V suspension and )  
revocation, New Rules VI through XIV mixed )  
martial arts, and the repeal of 24.117.502, )  
24.117.902, 24.117.1003 and 24.117.1004 )

TO: All Concerned Persons

1. On January 26, 2006, the Board of Athletics published MAR Notice No. 24-117-30 regarding the public hearing on the proposed amendment, adoption, and repeal of the above-stated rules, at page 157 of the 2006 Montana Administrative Register, issue no. 2.

2. On February 17, 2006, a public hearing was held in Helena, Montana. A single individual appeared at the public hearing and that same individual provided written comments.

3. The Board of Athletics (board) has thoroughly considered the comments and testimony received. A summary of the comments received and the board's responses are as follows:

COMMENT 1: The commenter requested the board adopt additional rules for club boxing events to permit club boxing contestants to gain experience participating in matches using ten ounce gloves and no headgear.

RESPONSE 1: The board is unable to adopt new rules that were not previously included in the proposed rule notice as doing so would preclude public notice and

comment as required by the Montana Administrative Procedure Act. The board will place the request on the board's agenda for subsequent discussion.

COMMENT 2: The commenter requested that the definition of "recognized amateur association" at ARM 24.117.301(11) be amended to allow the licensure of club boxing contestants aged 16 and 17 years old as amateurs under club boxing and not under the rules of United States Amateur Boxing, Inc.

RESPONSE 2: Currently, state law exempts from board jurisdiction matches conducted by a recognized amateur association for contestants under age 16. The board is amending the rule to specify that only matches conducted by United States Amateur Boxing, Inc. will be exempt. Further, the board is seeking a statutory change in the 2007 legislature to remove from the board's jurisdiction all amateur events and contestants. The board is amending the rule exactly as proposed.

COMMENT 3: The commenter requested that ARM 24.117.404(4) be amended to not require payment of the contract guarantee when a club boxing opponent fails to appear at a bout. The commenter stated that while it is fairly common for club boxing no-shows, the promoter always attempts to have alternate bouts scheduled and the scratched fighters are scheduled for the following week.

RESPONSE 3: The board determined that the situation of a no-show opponent is much more likely in club boxing than with professional contestants. The board concluded that the public, including the contestants, would remain adequately protected by not requiring the payment of the contract guarantee for opponents of no-show club boxers. The board is amending the rule accordingly.

COMMENT 4: The commenter requested that club boxing contestants be exempt from the HIV testing requirements in ARM 24.117.406(6). The commenter stated that club boxing weigh-ins and matchmaking occur the night before the boxing event, making it impossible to have HIV tests processed in that time frame. Additionally, club boxing contestants are asked to disclose to the promoter if they have tested positive for HIV.

RESPONSE 4: The board concluded that the logistics and time frames of club boxing do not fit with the currently available HIV tests. The board noted that high speed HIV tests may become prevalent in the future and then may be required for club boxing contestants as well as professional boxers. The board will amend the rule to exempt club boxing contestants from the HIV testing, but will require club boxing contestants to acknowledge in writing at the prefight physical examination that they have not tested positive for HIV.

COMMENT 5: The commenter requested that the upper age limit for club boxing contestants in ARM 24.117.702(4) be amended to 40 instead of the proposed 35. The commenter stated that there are only a few club boxing contestants in competition between 35 and 40 and those boxers are in very good health. The

commenter agreed that any club boxing contestant over 40 should be required to obtain a physical exam and a physician's statement on fitness to participate.

RESPONSE 5: The board notes that the rules had allowed club boxing contestants to compete up to the age of 45 without a physical and a physician's release. The board will amend the rule to require the physical exam and physician's release for club boxing contestants over 40 years.

COMMENT 6: The commenter requested that ARM 24.117.709(1) be changed to require that contestants' physical exams are completed within one hour before entering the ring, as most ringside health care professionals and contestants cannot arrive at the venue until an hour or two before the event.

RESPONSE 6: The board concluded that as long as the prefight physical is completed prior to competing, the time frame is irrelevant. The board will amend the rule to require all prefight physical examinations be conducted between the time of weigh-in and prior to the contestant entering the ring.

COMMENT 7: The commenter requested that ARM 24.117.815(1) be amended to permit the use of club boxing rings that measure 15 feet inside the ropes.

RESPONSE 7: The board determined that requiring a ring measurement of 16 feet does not protect the contestants in any greater way than a ring of 15 feet. The board will amend the rule to allow ring measurements of no less than 15 feet or more than 20 feet square.

COMMENT 8: The commenter requested that NEW RULE I be amended at (1)(b) to not require the \$5,000 surety bond. The commenter stated that this requirement was adopted to assure that all contestants and officials were paid by the promoter but that in nearly five years and 1,000 bouts, there have been no complaints concerning non-payment of club boxing contestants or officials.

RESPONSE 8: Pursuant to section 23-3-502, MCA, the board may not issue a promoter's license unless the promoter executes a bond of not less than \$5,000. The board may not by rule eliminate a licensure requirement that is statutorily mandated and is therefore amending the rule as proposed.

COMMENT 9: The commenter requested that the \$5,000 surety bond requirement be deleted from NEW RULE I(2)(b). The commenter stated that the bond requirement is unnecessary because of the board's complaint procedure and further stated his belief that the board did not intend to fine a promoter \$5,000 for a violation of the board's rules.

RESPONSE 9: Pursuant to section 23-3-502, MCA, the board may not issue a promoter's license unless the promoter executes a bond of not less than \$5,000. The statute requires that the bond be conditioned on the promoter's compliance with

the board laws and rules. The board may not by rule eliminate a licensure requirement that is statutorily mandated and is amending the rule as proposed.

COMMENT 10: The commenter requested that the medical insurance requirement of NEW RULE I(2)(c) be eliminated. The commenter stated that club boxing shows operate on a very marginal profit and because medical insurance would cost \$1,000 per event, all shows would close. The commenter stated that he has operated for 4½ years under the medical insurance exemption for club boxing, but has required contestants to carry their own insurance and sign a waiver of liability.

RESPONSE 10: The board discussed the reasoning behind requiring promoters to carry this insurance and concluded that a contestant's ability to pay for future medical care does not relate to public safety. The board determined that having or not having insurance is better left to the individual and unlike the requirement for a \$5,000 bond, insurance is not required by board statute. The board is amending ARM 24.117.1002(1) and NEW RULE I(2)(c) to delete the requirements for medical and death benefit insurance coverage.

COMMENT 11: The commenter asked that the requirement in NEW RULE I(2)(g) for the promoter to give the board the names and weights of contestants be eliminated or amended to a 3:00 p.m. deadline because club boxing fight cards are usually not finalized until noon or 1:00 p.m. the day of the event.

RESPONSE 11: The board concluded that receiving notice of contestants' names and weights prior to a club boxing event does not increase public protection. The board is therefore amending the rule to delete the prefight notification requirement for club boxing.

COMMENT 12: The commenter requested that the requirement for promoters to provide gauze and tape for handwraps in NEW RULE I(2)(i) be deleted as club boxing contestants provide their own training handwraps without gauze or tape.

RESPONSE 12: The board concluded that because the rule simply requires promoters to furnish whatever materials are necessary for an event, it would allow club boxing contestants to furnish their own handwraps. The board is amending NEW RULE I(2)(i) exactly as proposed.

COMMENT 13: The commenter asked that the qualifications for a club boxing promoter license (to be repealed in ARM 24.117.502) be retained. The commenter stated that he has struggled desperately to remain financially sound, and relaxing the qualifications will spur half-hearted attempts to promote club boxing. The commenter further argued that to open the promoter's license to anyone who can get three people to attest to their boxing experience is very risky. The commenter stated his belief that anyone challenging the old requirements would need to show the dedication and experience necessary to make their venture successful.

RESPONSE 13: The board is statutorily mandated to set minimum licensure qualifications for licensees to ensure adequate protection of the public. The board determined that requiring that a club boxing promoter's principal place of business be in Montana does nothing to ensure public protection and may raise restraint of trade issues. Further, the board concluded that requiring the applicant to have promoted at least two professional or semiprofessional boxing events to qualify for a club boxing promoter's license does not enhance public protection. The board is amending the rule exactly as proposed.

COMMENT 14: The commenter opposed the \$500 licensure fee for all promoters in ARM 24.117.402 and requested the fee for club boxing promoters remain at \$100.

RESPONSE 14: The board determined that the 500% fee increase for club boxing promoters is too great an increase and the board's budget constraints do not justify such an increase. The board is amending the rule to a \$250 club boxing promoter license fee, while keeping in place the \$500 license fee for all other promoters.

COMMENT 15: The commenter made several comments regarding the board's budget and expenditures. The commenter stated that since 2001, he has paid the board \$159,367 in taxes and licensing fees and questioned where the money goes. The commenter asked why the board spent \$3,380 to send a board member, a staff member, and the board's medical advisor to the Association of Boxing Commissions' National Convention in Las Vegas when professional boxing has absolutely nothing to do with club boxing. He further stated that in the past 4½ years, there have been over 600 club boxing events and only one professional boxing event. The commenter asserted that the board isn't one that governs professional boxing as most of the board's effort is spent on club boxing.

The commenter questioned whether it makes sense that a board inspector "that answered an ad in a newspaper" is paid five times what club boxing judges are paid? The commenter asserted that there are many times the board uses state employees "who are being paid overtime, expenses, travel, etc., to attend" club boxing matches. The commenter stated that it is no wonder the board has a cash flow problem since the board doesn't run their business like he does. The commenter further stated that "using his tax dollars, the board routinely sends representatives to conventions for absolutely no sane reason" as they learn nothing to help club boxing. The commenter argued that someone has to stop this "ridiculous amount of expenditures" and asserted that there are no spending guidelines – the board just keeps spending and spending, and when there's no more money, the board raises his fees. The commenter stated that it's time for the board to take control and stop letting state employees tell the board what to do. The commenter stated that he hopes his business doesn't close, as there will be no need for the board.

RESPONSE 15: The board acknowledges the comments and notes that the comments are not germane to the changes proposed in the rule notice. The board also notes that a response is not required in this notice, but because the comments were made at the public hearing, the board is including them at this time. The

board's budget is, in fact, set and approved legislatively. The board's budget information, as is the budget information for all governmental agencies, is available for public inspection. If concern exists that the board maintains too large a budget, such concerns should be addressed to the legislature through the budgetary process.

The board also notes that its members, when acting in their official capacity, serve as state employees, and are obligated to follow Montana law. The board notes that its discretion is constrained by state law, and that the board does not have the authority to abandon its statutory duties. The board expects that it will continue to rely upon its professional staff to provide it with appropriate advice as to what those duties are, and about the ways in which those obligations can be fulfilled.

4. After consideration of the comments, the board has amended ARM 24.117.301, 24.117.401, 24.117.403, 24.117.405, 24.117.601, 24.117.602, 24.117.703, 24.117.705, 24.117.706, 24.117.710, 24.117.801, 24.117.802, 24.117.803, 24.117.804, 24.117.805, 24.117.810, 24.117.811, 24.117.812, 24.117.901, 24.117.903, 24.117.904, 24.117.905, 24.117.906, 24.117.907, 24.117.1001, 24.117.1002, 24.117.1005, 24.117.1006, and 24.117.1007 exactly as proposed.

5. After consideration of the comments, the board has adopted NEW RULES II (24.117.409), III (24.117.909), IV (24.117.412), V (24.117.2303), VI (24.117.1501), VII (24.117.1504), VIII (24.117.1507), IX (24.117.1510), X (24.117.1513), XI (24.117.1516), XII (24.117.1519), XIII (24.117.1522), and XIV (24.117.1525) exactly as proposed.

6. After consideration of the comments, the board has repealed ARM 24.117.502, 24.117.902, 24.117.1003, and 24.117.1004 exactly as proposed.

7. After consideration of the comments, the board has amended ARM 24.117.402, 24.117.404, 24.117.406, 24.117.702, 24.117.709, and 24.117.815 with the following changes, stricken matter interlined, new matter underlined:

24.117.402 FEES

(1) through (8) remain as proposed.

(9) Club boxing promoter 250

(9) remains as proposed, but is renumbered (10).

AUTH: 23-3-405, 37-1-134, MCA

IMP: 23-3-405, 23-3-501, 37-1-134, MCA

24.117.404 CONTRACTS AND PENALTIES (1) through (3) remain as proposed.

(4) Except in club boxing, when ~~When~~ a contestant under contract appears at weigh-in time, is ready to fulfill the contract, and neither an opponent nor a substitute

appears, the promoter must pay the contestant the contract guarantee unless a forfeit is provided.

(5) through (7) remain as proposed.

AUTH: 23-3-405, MCA

IMP: 23-3-404, 23-3-405, 23-3-603, MCA

24.117.406 GENERAL LICENSING REQUIREMENTS (1) through (5) remain as proposed.

(6) Except in club boxing, all All contestants shall submit a certified laboratory report documenting that the contestant has, within 30 days prior to each bout or match in which the contestant is scheduled to appear, been administered an HIV test for the presence of AIDS antibodies and that the results of such test were negative.

AUTH: 23-3-405, MCA

IMP: 23-3-404, 23-3-405, 23-3-501, 23-3-502, MCA

24.117.702 BOXING CONTESTANTS (1) through (4)(a) remain as proposed.

(b) Club boxing contestants over the age of 40 wishing to compete must provide to the board a written statement by the contestant's personal physician (M.D.) that:

(i) the physician has performed a full physical examination of the contestant within a year of the event; and

(ii) the contestant is medically fit to participate in the event.

(5) through (14) remain as proposed.

AUTH: 23-3-405, MCA

IMP: 23-3-404, 23-3-405, 23-3-501, 23-3-603, MCA

24.117.709 PHYSICAL EXAMINATION (1) Contestants, including substitutions and exhibition contestants, shall be examined by a ringside health care professional approved by the board, at between the time of weigh-in ~~or at least five hours~~ and prior to entering the ring. Only the contestant and his manager/trainer are allowed in the examination room during the physical.

(2) through (7) remain as proposed.

AUTH: 23-3-405, MCA

IMP: 23-3-405, MCA

24.117.815 RING--EQUIPMENT (1) The ring shall be no less than ~~46~~ 15 or more than 20 feet square when measured inside the line of the ropes. The apron of the ring shall extend beyond the ropes not less than two feet. The ring shall be equipped with four ropes with two spacer ties on each side of the ring to secure the ropes.

(2) through (5) remain as proposed.

AUTH: 23-3-405, MCA

IMP: 23-3-405, MCA

24.117.1002 CLUB BOXING CONTESTANTS ~~(1) Each participant must provide proof of medical insurance coverage or sign a waiver of liability for any medical bills incurred as a result of lack of coverage.~~

(2) remains as proposed but is renumbered (1).

AUTH: 23-3-405, MCA

IMP: 23-3-404, 23-3-405, 23-3-501, 23-3-603, MCA

8. After consideration of the comments, the board has adopted New Rule I (24.117.503) with the following changes, stricken matter interlined, new matter underlined:

NEW RULE I (24.117.503) PROMOTER (1) through (2)(b) remain as proposed.

~~(c) provide insurance in the amount of \$10,000 medical coverage and \$10,000 death benefits for each participant and shall furnish proof of such insurance to the board before sanction shall be granted;~~

(d) through (f) remain as proposed, but are renumbered (c) through (e).

~~(g)(f) provide the names and weights of all contestants scheduled for an athletic event to the board at least 10 days before the event. For club boxing events, prefight notification of names and weights shall be received at the board office by 10 o'clock a.m. on the day of the event is not required;~~

(h) through (r) remain as proposed, but are renumbered (g) through (q).

AUTH: 23-3-405, MCA

IMP: 23-3-404, 23-3-405, 23-3-501, 23-3-601, MCA

BOARD OF ATHLETICS  
KEVIN MCCARL, CHAIRPERSON

/s/ MARK CADWALLADER

Mark Cadwallader  
Alternate Rule Reviewer

/s/ KEITH KELLY

Keith Kelly, Commissioner  
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State April 24, 2006