

September 23, 2014

Appeals Process for Decisions of the State Athletic Commissioner

Issue

The passage of [LB 78 \(2013\)](#) eliminated the Athletic Advisory Committee and the statutory procedure for appealing decisions of the State Athletic Commissioner (Commissioner). This ruling establishes an interim appeals process until the State Athletic Commission regulations are revised.

Definitions

Commissioner. Commissioner means the person appointed by the Governor to enforce [Neb. Rev. Stat. §§ 81-8,128 through 81-8,142](#) and to adopt and enforce any rules or regulations.

Decision of the Commissioner. A decision of the Commissioner is any decision to: deny or revoke a license; fine a promoter or professional contestant; retire a contestant; suspend a licensee; or otherwise deny a licensee the ability to compete. A decision of the Commissioner also includes any declaration of a no decision or no contest resulting from a cause other than the assessment of a foul or accidental head-butt.

Decision of a Referee. A decision of a referee is any: declaration of a knockout or technical knockout; assessment of a foul; or disqualification or declaration of a no contest, no decision, technical decision, or technical draw resulting from a foul or accidental head-butt.

Licensee. Licensee means any person licensed by the Commissioner as a contestant, promoter, manager, matchmaker, or second. A licensee also includes any license applicant, if the decision appealed is a license denial.

Unified Rules of Boxing. Unified Rules of Boxing means the [rules adopted by ABC Boxing](#) governing the conduct of boxing bouts.

Unified Rules of Mixed Martial Arts. Unified Rules of Mixed Martial Arts means the [rules adopted by ABC Boxing](#) governing the conduct of mixed martial arts bouts.

Analysis

[Neb. Rev. Stat. § 81-8,129](#) grants the Commissioner sole direction, management, control, and jurisdiction over professional wrestling, professional boxing, and mixed martial arts. [Neb. Rev. Stat. § 81-81,139](#) grants the Commissioner authority to issue rules and regulations.

A licensee may appeal a decision of the Commissioner by filing a written request for a hearing with the Commissioner. The written request for a hearing must: (1) set forth all relevant facts; (2) specify what decision of the Commissioner is the basis for the appeal; and (3) indicate what final order is sought.

A licensee may not appeal a decision of a referee unless, in the written request for a hearing, the licensee alleges facts which, if true, would demonstrate: (1) collusion between the referee and any third party that has affected the result of the bout; (2) that as a result of an error in interpreting

Nebraska Athletic Commission regulations, the Unified Rules of Boxing, or the Unified Rules of Mixed Martial Arts, the referee has rendered an incorrect decision; or (3) that the referee has committed a plain error, that this error is not disputed by the referee, and that a failure to overturn the decision would result in a manifest injustice.

A decision of a ringside physician, judge, timekeeper, or inspector cannot be appealed to the Commissioner.

Any written request for a hearing must be received by the Commissioner no later than 10 business days after the decision that is the basis for the appeal is rendered. The Commissioner will deny any written request for a hearing that does not meet the requirements contained in this ruling, and this denial is final. Any decision that is appealed will remain in effect, pending the final order issued by the Commissioner.

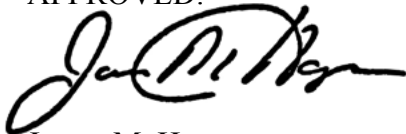
The time, date, and location of any hearing will be determined by the Commissioner or a hearing officer appointed by the Commissioner (hearing officer).

All testimony will be under oath and sworn affidavits may be presented to the hearing officer. The appealing party may have counsel, witnesses, or other observers present as permitted by the hearing officer. The hearing officer may examine any books, papers, or memoranda bearing upon the matter; and may question the complainant and any witness that is called. The hearing officer will not be bound by the rules of evidence, and no informality in the proceeding, including the manner of taking testimony, will invalidate any final order issued by the Commissioner.

Within 30 business days following the hearing, the Commissioner will issue a final order. The Commissioner will maintain an official record of each hearing. The official record must contain, at a minimum:

- The written request for a hearing filed by the licensee;
- All exhibits and evidence introduced;
- A statement of any matter officially noticed by the hearing officer during the proceeding;
- All offers of evidence, objections, and rulings regarding admissibility;
- A transcription or recording of the proceeding; and
- The Commissioner's final order.

APPROVED:



James M. Haynes
Acting Athletic Commissioner

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