

October 2, 2018

Dear Chairman Carvelli, Vice Chairwoman Lehman, Dr. Williams, and Dr. Wallace:

The exposure of boxing referee Marcos Rosales to an HIV-positive fighter is one of the gravest errors a regulatory body could commit. The gamesmanship displayed by both legal counsel and DCA in the aftermath has been counterproductive. The California State Athletic Commission has repeatedly expressed health and safety as the top priority. However, the actions on March 31st **and** the public cover-up afterwards are inconsistent with the commission's stated values.

Business and Professions Code 18712 establishes statutory authority for lead athletic inspectors to properly collect and review lab paperwork. California Code of Regulations 546 requires lead athletic inspectors to review an original or copy of the blood work. A decade ago, case law established liability for the Athletic Commission regarding 18712. Fighting is legally classified as ultrahazardous. The California Judicial Council details two causes of action: **Public Entity Liability for Failure to Perform Mandatory Duty** and **Strict Liability for Ultrahazardous Activities**.

The failure of lead athletic inspector Mark Relyea in properly handling a fighter's medicals resulted in a fighter, corner staff, and referee Marcos Rosales being exposed to an HIV-positive fighter. Since the March 31st, 2018 incident, there has been a push to get the State Personnel Board to re-establish the Chief Athletic Inspector position. The last time there was a rush to hire someone for CAI, Ernest Che Guevara was promoted under dubious circumstances after Antonio Margarito's illegal hand wraps. Mark Relyea's critical error, as addressed by Executive Officer Andy Foster internally 10 days after the HIV exposure, should result in mandatory public testimony under oath to the board about the procedures or lack of procedures that led to this HIV exposure. If Mr. Relyea will not publicly testify under oath, the board should consider disqualifying him from future promotion.

Our multi-month investigation has uncovered many facts that have not been disclosed publicly or fully in private to members of the Athletic Commission as a body. Consumer Affairs has pertinent case information available at any time for disclosure. For example, state agencies have a single Policy & Procedures Manual that all employees can reference. The Athletic Commission, however, produced 14 different manuals in a formal records request.

Just as with the discrimination claim filed by various boxing referees, legal counsel denied any sort of existence of a damages claim filed by Marcos Rosales **despite** admission on the meeting agenda of closed session to discuss pending litigation. What is being hidden from you? Faulty handling of medical records has been addressed in writing. (**Memo enclosed**).

III. Composition and Correspondence of Who's Who Document

- A. Commission staff enter athletes on a spread sheet referred to as who's who and populates the columns with athletes' names, records, the proposed rounds, valid federal or national ID numbers, current Commission state license, physical exam, opt homological exam, neurological exam, MRI, MRI summary, EKG, cardiovascular summary, lab work, and any needed suspension clearances.
Rule 216, B&B 18640, 18642.
- B. The who's who document is sent to the promoter and/or matchmaker, and the lead inspector on a daily basis as it will likely be updated daily leading up to the event.

Regrettably, legal counsel has censored public documents in records requests. Inspectors, promoters, and matchmakers receive detailed Who's Who sheets before weigh-ins showing which fighters need which records to be produced for clearance. It is a simple yes/no box with the word NEED. There is no detailed medical information about individual fighters. Since **both** matchmakers and promoters receive Who's Who sheets, there is no legal basis for an invasion of privacy claim to hide documentation from public viewing.

As a result of redactions in the Who's Who records request, I have 30 days to file for a writ of mandate in Sacramento Superior Court. Such a request would not only cost me money but would cost the Athletic Commission money in both attorney fees for the Commission and, upon a court victory, my attorney fees.

There are many lessons to be learned from what happened to Marcos Rosales. Censorship and gamesmanship are not the right lessons. Since intentional transmission of HIV is no longer a felony in California, it is vital that Consumer Affairs informs all members of the California State Athletic Commission the truth regarding what happened and what the plans are for future implementation of policy & procedures to prevent future HIV exposure.

You deserve all of the information in this matter. The public also has a right to know. It would be better for that information to come from you rather than the public seeing it in the media.

Sincerely,

Z. A.

Zach Arnold
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POLICY AND PROCEDURE

TITLE: Collecting Fighter Medicals	SUPERSEDES: None	POLICY #: 2018-01
POLICY OWNER: California State Athletic Commission	EFFECTIVE: Immediately	PAGE: 1 of 1
DISTRIBUTE TO: All CSAC Staff	ORIGINAL APPROVED BY: Executive Officer <i>Andy Jent</i>	
ISSUE DATE: April 9, 2018	<i>Original signature on file</i>	

POLICY:

Effective immediately, it is the Commission's policy to require all fighter medicals to be reviewed and approved by one of the Commission office staff. Lead Athletic Inspectors are no longer permitted to approve fighter medicals without additional review and approval from one of the Commission office staff.

PURPOSE:

The purpose of this Policy and Procedure is to clarify the process in which fighter medicals are to be collected and approved.

APPLICABILITY:

This policy applies to all Lead Athletic Inspectors currently working in the State of California, and all Commission office staff.

PROCEDURE:

Commission office staff must ensure that all fighter medical documentation is received at the headquarters office for review and approval. Medical documents must be complete and valid, which includes verification that all documents are dated and signed by authorized licensed medical personnel according to the Commission's requirements listed below. Any questionable medical documents should be brought to management for review and approval, or referral. Any medical documents submitted on a different form than an approved Commission form shall be reviewed and approved by management. If fighter medicals are submitted to the Lead Athletic Inspector in the field, the medical documentation must be sent to the headquarters office for review and approval. Lead Inspectors are no longer permitted to approve fighter medicals without additional review and approval from one of the Commission office staff.