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Notice of Intended Regulatory Action (NOIRA) Agency Background Document

Agency name	Department of Professional and Occupational Regulation
Virginia Administrative Code (VAC) Chapter citation(s)	18 VAC120-40
VAC Chapter title(s)	Virginia Professional Boxing and Wrestling Events Regulations
Action title	General Review of Virginia Professional Boxing and Wrestling Events Regulations
Date this document prepared	February 28, 2024 (revised May 2, 2024)

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 19 (2022) (EO 19), any instructions or procedures issued by the Office of Regulatory Management (ORM) or the Department of Planning and Budget (DPB) pursuant to EO 19, the Regulations for Filing and Publishing Agency Regulations (1 VAC 7-10), and the *Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code*.

Brief Summary

Provide a brief summary (preferably no more than 2 or 3 paragraphs) of the subject matter, intent, and goals of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation).

The Department of Professional and Occupational Regulation ("DPOR") intends to undertake a general regulatory review of the Virginia Professional Boxing and Wrestling Event Regulations. The regulation provides for the licensure of boxing, martial arts, and wrestling events, including promoters, matchmakers, boxers, martial artists, wrestlers, managers, trainers, and corners.

DPOR intends to repeal the current regulation, 18VAC120-40, and divide the regulation into three new regulations consisting of the Boxing Event Regulations 18VAC120-41, Martial Arts Events Regulations 18VAC120-44, and Wrestling Events Regulations 18VAC120-47.

The goals of the action include:

1. Repeal of the existing regulation and creating a new regulation to govern each specific type of event (boxing, martial arts, and wrestling).
2. Review of discretionary requirements imposed on regulated parties to determine whether such requirements impose burdens that are not necessary to protect the public health, safety, and welfare; or are not necessary to effectively administer the licensure program, in accordance with the regulatory reduction goal of Executive Directive Number One (2022);
3. Review to ensure the regulation complements current Virginia law and meets applicable federal requirements, if any;
4. Review to ensure the regulation is organized, clear, and understandable; and
5. Review to ensure the regulation provides minimal burdens on regulants while still protecting the public.

In addition, the review will ensure the regulation reflects current DPOR procedures and policies, along with any other changes determined to be necessary and appropriate.

Acronyms and Definitions

Define all acronyms or technical definitions used in this form.

“BMAW Board” means Boxing, Martial Arts, and Professional Wrestling Advisory Board.

“DPOR” means Department of Professional and Occupational Regulation.

“MMA” Mixed Martial Artist.

“MRI” means magnetic resonance imaging test.

Mandate and Impetus

Identify the mandate for this regulatory change and any other impetus that specifically prompted its initiation, (e.g., new or modified mandate, petition for rulemaking, periodic review, or board decision). For purposes of executive branch review, “mandate” has the same meaning as defined in the ORM procedures, “a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part.”

The impetus for this regulatory action is Executive Directive Number One (2022), which directs Executive Branch entities under the authority of the Governor “...to initiate regulatory processes to reduce by at least 25 percent the number of regulations not mandated by federal or state statute, in consultation with the Office of the Attorney General, and in a manner consistent with the laws of the Commonwealth.”

This action is not the result of a mandate.

Legal Basis

Identify (1) the promulgating agency, and (2) the state and/or federal legal authority for the regulatory change, including the most relevant citations to the Code of Virginia and Acts of Assembly chapter number(s), if applicable. Your citation must include a specific provision, if any, authorizing the promulgating agency to regulate this specific subject or program, as well as a reference to the agency’s overall regulatory authority.

The promulgating agency is the Department of Professional and Occupational Regulation.

Section 54.1-831 of the Code of Virginia states, in part:

The Department shall administer and enforce the provisions of this chapter. In addition to the powers and duties otherwise conferred by law, the Director shall have the powers and duties of a regulatory board as contained in §§ 54.1-201 and 54.1-202, and shall have the power and duty to:

1. Promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) which implement the federal Professional Boxing Safety Act of 1996 (15 U.S.C. § 6301 et seq.) and protect the public against incompetent, unqualified, unscrupulous or unfit persons engaging in the activities regulated by this chapter.

The regulations shall include requirements for ... (ii) authorization and conduct of events; (iii) standards of practice for persons arranging, promoting, conducting, supervising, and participating in events; (iv) grounds for disciplinary actions against regulants; (v) records to be kept and maintained by regulants; (vi) the manner in which fees are to be accounted for and submitted to the Department...and (vii) minimum health coverage for injuries sustained in a boxing or martial arts match. The Department shall have direct oversight of professional events to assure the safety and well-being of boxers, martial artists, and professional wrestlers, except that those portions of an event containing amateur bouts shall be conducted under the oversight of a sanctioning organization.

Section 54.1-201 of the Code of Virginia provides, in part:

A. The powers and duties of regulatory boards shall be as follows:

1. To establish the qualifications of applicants for certification or licensure by any such board, provided that all qualifications shall be necessary to ensure either competence or integrity to engage in such profession or occupation.

5. To promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) necessary to assure continued competency, to prevent deceptive or misleading practices by practitioners and to effectively administer the regulatory system administered by the regulatory board. The regulations shall not be in conflict with the purposes and intent of this chapter or of Chapters 1 (§ 54.1-100 et seq.) and 3 (§ 54.1-300 et seq.) of this title.

Purpose

Describe the specific reasons why the agency has determined that this regulation is essential to protect the health, safety, or welfare of citizens. In addition, explain any potential issues that may need to be addressed as the regulation is developed.

DPOR and the Board are responsible for protecting the health and safety of athletes competing in combative sports.

The General Assembly has charged DPOR with the responsibility for regulating boxing, martial arts, and wrestling events by requiring that certain individuals obtain a license in order to participate these events in Virginia, and that such events are authorized by DPOR.

The General Assembly also established the Boxing, Martial Arts, and Professional Wrestling Advisory Board (“BMAW Board”) as an advisory board to advise the Director of DPOR on matters relating to boxing, martial arts, and professional wrestling events in Virginia.

As mandated by the General Assembly, DPOR protects the public welfare, in part, by establishing through regulation (i) the minimum qualifications of applicants for certification or licensure, provided that all qualifications are necessary to ensure either competence or integrity to engage in the profession or occupation; (ii) minimum standards to assure continued competency and to prevent deceptive or misleading practices by practitioners; and (iii) requirements to effectively administer the regulatory system administered by DPOR.

As the regulation is developed, DPOR and the BMAW Board, in accordance with Executive Directive Number One (2022), will review discretionary requirements imposed on regulated parties to determine whether such requirements impose burdens that are not necessary to protect the public health, safety, and welfare; or are not necessary to effectively administer the licensure program. To the extent any such current requirement may not be necessary to protect the public health, safety, and welfare, or not necessary to effectively administer the licensure program, DPOR will consider eliminating the requirement.

These issues are not inclusive of all potential issues that may be addressed during development of the regulation.

Substance

Briefly identify and explain the new substantive provisions that are being considered, the substantive changes to existing sections that are being considered, or both.

The BMAW Board conducted a review of this regulation. The BMAW Board’s membership consists of a neurologist; two former mixed martial artists; a former Muay Thai competitor and MMA gym owner; two citizens, one who is involved in the wrestling community; and two former boxers and referees.

The BMAW Board is expected make recommendations to the Director of DPOR. The BMAW Board is expected to recommend the substantive changes detailed below. However, the BMAW Board may recommend other changes prior to adoption of the proposed regulation by DPOR.

The current Virginia Professional Boxing and Wrestling Event Regulations will be divided into three new regulations – Boxing Event Regulations, Mixed Martial Arts Event Regulations, and Professional Wrestling Event Regulations. Each of the new regulations is expected to provide for (i) general provisions, including definitions of terms and phrases used in the regulation (ii) license and event application fees; (iii) licensing requirements for individuals; (iv) licensing requirements for events; (v) requirements for the conducting of events; and (vi) standards of conduct and performance.

Provisions in the current regulation relating to the qualification of event officials and assignment of these officials to events will not carry over into the new regulations. Event officials are not licensed by DPOR, but instead are contracted by DPOR to officiate events.

Provisions in the current regulation relating to gate fees will not carry over into the new regulations. The requirements for gate fees are provided for in statute (refer to § 54.1-833 of the Code of Virginia.)

For the new Boxing Event Regulations:

- Elimination of the limited boxer license.

- Adding a provision that boxers that have reached 37 years of age and have lost five consecutive fights will be required to have an MRI, and fighters 45 years of age and older will be required to have an MRI every two years. This is to help identify any neurological inconsistencies and to protect the boxer.
- Eliminating requirements that are duplicative of the Muhammad Ali Boxing Reform Act Professional Boxing Safety Act of 1996 (15 USC § 6301 et seq.)
- Revising requirements for the surety bond for an event. Currently, a surety bond must be equal to the sum of (i) the total gate fee if all seats to the event were to be sold; and (ii) total amount due to all boxers for their appearance at the event, with a maximum amount of \$100,000. The change under consideration would remove the maximum amount of the surety bond. The cap results in events being underinsured. The gate fee, which is all revenue received by the promoter for the boxing event, includes money received by the promoter for seats sold, but also includes money received from those who pay to see the fight on any viewing platform (i.e. TV, Internet, live streaming, and apps.) As a result of changing technology and ability for individuals to view on boxing events on these other platforms, there may be more people watching a fight virtually than in person at an event. In addition, the size of fighters' purses for some events can be considerably more than the \$100,000 cap. These changes will help protect fighters in the event of a promoter default.
- Revising requirements for boxer health insurance policy to reduce from \$50,000 to \$30,000 the minimum coverage for medical expenses for injuries incurred during a boxing event; and to provide that a covered boxer is responsible for no more than \$500 of the deductible. This is to allow the promoter to have a higher deductible to lower the promoter's premium, while protecting the boxer from an unreasonable deductible.
- Adding a provision to require a promoter, beginning three (3) weeks prior to an event, to provide DPOR with a weekly report on number of tickets sold to allow staff to estimate the gate fee that is to be received after the event. Currently, DPOR staff are unable to determine what the gate fee for an event may be.
- Adding a provision that a promoter must provide medicals, including current physical, lab results, and eye exam, for boxers at least seven (7) days prior to the event. Promoters are providing this information up to the day of weigh-ins (held typically the day before an event) which leads to confusion as to what medical documentation has or has not been received by DPOR.
- Increasing the ringside barrier from eight (8) to 10 feet to ensure the safety of fighters, officials and the public.
- Adding a provision that the location and phone number of the hospital nearest to the event are posted in locker rooms.
- Revising requirements for approval of bouts for boxers with consecutive losses to provide that a boxer with seven (7) or more consecutive knockout or technical knockout losses must obtain a special exception by a physician and approved by DPOR prior to approval of the bout. Currently, boxers with 10 or more consecutive losses, regardless of whether the losses were by knockout, must obtain a special exception in order to be approved for a bout.
- Revising requirements regarding the wrapping of a boxer's hands.
- Adding provisions regarding pre-bout instructions for boxers.
- A provision in the current regulation that a ringside physician may terminate a bout after consulting with the referee will not carry over into the new regulation, because only a referee may terminate a bout.

For the new Mixed Martial Arts Event Regulations:

- Provisions in the current regulation establishing weight classes (e.g. heavyweight, lightweight, featherweight) will not carry over into the new regulation, and will be replaced by provisions establishing weight divisions with variances (e.g. up to 135 lbs. with a five lb. variance; 185-206 lbs. with a 10 lb., variance.)
- Provisions in the current regulation establishing specific rules for (i) full contact kickboxing (ii) international (low kick) kickboxing; (iii) Muay Thai (Thai boxing); and (iv) San Shout (Sanda) contests will not carry over to the new regulation. Martial arts contests will be required to follow a

general set of rules established in the regulation, or other rules that are submitted with an event application and that are (i) approved by DPOR; and (ii) agreed to by all licensees participating in the martial arts event.

For the new Professional Wrestling Event Regulations:

- Provisions in the current regulation providing for licenses for (i) limited wrestlers; (ii) matchmakers; and (iii) managers will not carry over to the new regulation as these are not applicable to professional wrestling.
- The current regulation does not allow for visible blood flow or flow of any other fluids during the course of an event and require that such occurrence result in the immediate stoppage of a match. These provisions will be revised to provide more flexibility for the conduct of wrestling events.

Alternatives to Regulation

Describe any viable alternatives to the regulatory change that were considered, and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the regulatory change. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in § 2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulatory change.

A goal of this regulatory action is to review of discretionary requirements imposed on regulated parties to determine whether such requirements impose burdens that are not necessary to protect the public health, safety, and welfare; or are not necessary to effectively administer the licensure program, in accordance with the regulatory reduction goal of Executive Directive Number One (2022). As the regulation is developed, DPOR will consider potential alternatives to existing requirements that may be less burdensome or intrusive while still meeting the essential purpose of the regulation.

Periodic Review and Small Business Impact Review Announcement

If you wish to use this regulatory action to conduct, and this NOIRA to announce, a periodic review (pursuant to § 2.2-4017 of the Code of Virginia and the ORM procedures), and a small business impact review (§ 2.2-4007.1 of the Code of Virginia) of this regulation, keep the following text. Modify it as necessary for your agency. Otherwise, delete the paragraph below and insert “This NOIRA is not being used to announce a periodic review or a small business impact review.”

This NOIRA is not being used to announce a periodic review or a small business impact review.

Public Participation

Indicate how the public should contact the agency to submit comments on this regulation, and whether a public hearing will be held, by completing the text below. In addition, as required by § 2.2-4007.02 of the Code of Virginia, describe any other means that will be used to identify and notify interested parties and seek their input, such as regulatory advisory panels or general notices.

The BMAW Board conducted a review of this regulation. The BMAW Board has held multiple meetings between June 2022 and October 2023. All meetings have included opportunities for public comment.

The Department of Professional and Occupational Regulation is providing an opportunity for comments on this regulatory proposal, including but not limited to (i) the costs and benefits of the regulatory proposal, (ii) any alternative approaches, and (iii) the potential impacts of the regulation.

Anyone wishing to submit written comments for the public comment file may do so through the Public Comment Forums feature of the Virginia Regulatory Town Hall web site at: <https://townhall.virginia.gov>.

Comments may also be submitted by mail, email or fax to:

Kate Nosbisch
Executive Director
9960 Mayland Drive
Perimeter Center, Suite 400
Richmond, VA 23233
Boxing@dpor.virginia.gov
(866) 465-6206 (fax)

In order to be considered, comments must be received by 11:59 pm on the last day of the public comment period.

A public hearing will be held following the publication of the proposed stage and notice of the hearing will be posted on the Virginia Regulatory Town Hall website (<https://townhall.virginia.gov>) and on the Commonwealth Calendar website (<https://commonwealthcalendar.virginia.gov/>). Both oral and written comments may be submitted at that time.