

TITLE 15 GAMBLING AND LIQUOR CONTROL
CHAPTER 6 BOXING, WRESTLING, AND MARTIAL ARTS
PART 16 DISCIPLINARY ACTIONS

15.6.16.1 ISSUING AGENCY: New Mexico Athletic Commission
[15.6.16.1 NMAC - N, 03-23-2002]

15.6.16.2 SCOPE: The provisions in Part 16 apply to all licensees of the commission.
[15.6.16.2 NMAC - N, 03-23-2002]

15.6.16.3 STATUTORY AUTHORITY: Part 16 of Chapter 6 of Title 15 is promulgated pursuant to the Professional Athletic Competition Act, Sections 60-2A-1 through 60-2A-30, NMSA 1978 (1980 Repl. Pamp.); specifically Sections 60-2A-4, 60-2A-8, 60-2A-10, 60-2A-13, 60-2A-14, 60-2A-15, 60-2A-19, 60-2A-27, 60-2A-28, and 60-2A-31.
[15.6.16.3 NMAC - N, 03-23-2002]

15.6.16.4 DURATION: Permanent.
[15.6.16.4 NMAC - N, 03-23-2002]

15.6.16.5 EFFECTIVE DATE: March 31, 2002, unless a later date is cited at the end of a section.
[15.6.16.5 NMAC - N, 03-23-2002]

15.6.16.6 OBJECTIVE: Set forth the disciplinary authority of the commission over its licensees and disciplinary procedures and actions that the commission's licensees are subject to.
[15.6.16.6 NMAC - N, 03-23-2002; A, 01-15-2015]

15.6.16.7 DEFINITIONS:

- A.** **"Complaint"** means a complaint filed with the commission against a licensee or an applicant for licensure.
- B.** **"Complainant"** means a party who files a complaint against a licensee or against an applicant for licensure.
- C.** **"Respondent"** means the licensure applicant or the licensee who is the subject of the complaint filed with the commission.
- D.** **"Hearing"** means the formal process whereby the respondent is afforded the opportunity to be heard by the commission, or its designated hearing officer, before the commission takes action which might result in disciplinary action against the respondent's license or application for license.
- E.** **"Violation"** means a violation of the Professional Athletic Competition Act or the rules and regulations adopted by the commission
- F.** **"Notice of Contemplated Action" or "NCA"** means the process whereby the respondent is notified of the Commission's intent to take action against the respondent's license, and whereby the respondent is afforded the opportunity for a hearing.
- G.** **"Shall"** means mandatory; a requirement.
- H.** **"Should"** means a suggestion or recommendation; not a requirement.
- I.** **"License Revocation"** means to rescind a license, thus barring conduct authorized by the license.
- J.** **"License Suspension"** means to prohibit, for a limited and specified stated period of time, the conduct authorized by the license.

[15.6.16.7 NMAC - N, 03-23-2002; A, 01-15-2015]

15.6.16.8 AUTHORITY OF COMMISSIONER OR DEPUTY:

- A.** The commission may, in its discretion, take the following action or any combination of such actions deemed appropriate:
 - (1) Suspend the license for a period of time deemed appropriate.
 - (2) Revoke the license.
 - (3) Order future compliance and any remedial action as determined by the commission.
 - (4) Refer alleged violations of Sections 60-2A-27 through 32 NMSA 1978 to the office of the district attorney in the judicial district in which the alleged violation(s) occurred.

B. Each commissioner, shall have full power to act as an official on behalf of the commission at all contests and exhibitions to fully enforce all of the rules of the commission. Furthermore, each commissioner has the power and authority to immediately suspend a license, without prior notice, for any violation of this chapter of the laws of this state, if doing so is necessary in the interest of protection the health and safety of the unarmed combatant or any member of the public.

[15.6.16.8 NMAC - N, 03-23-2002; A, 01-15-2015]

15.6.16.9 VIOLATORS SUBJECT TO DISCIPLINARY ACTION: Any commission licensee or permit holder who violates the laws of the state of New Mexico or the rules and regulations of the commission, may have his license or permit revoked, suspended, fined or otherwise disciplined, in such a manner as the commission may direct.

[15.6.16.9 NMAC - N, 03-23-2002; A, 01-15-2015]

15.6.16.10 LICENSE OR PERMIT SUSPENSION: In addition to the power of any commissioner to immediately suspend a license under 15.6.16.8 NMAC, the commission may suspend any license or permit it has issued by issuing a dated notice to that effect, served by certified mail, return receipt requested to the licensee or permit holder.

A. Such suspension shall be without any advance hearing and shall take effect upon issuance of such notice of suspension by the commission, if such suspension is necessary in the interest of protecting the health and safety of the public.

B. The notice shall specify the effective date and term of the suspension.

C. The suspended licensee or permit holder shall be provided a hearing on the matter within 20 days of the date the notice of suspension is served. Such hearing shall be held to determine whether the suspended license or permit shall be revoked as specified in this section.

D. The notice of suspension must be in writing and must be served on the respondent(s) within three business days from the date the license or permit was suspended by the commission or from the date the license or permit was suspended by a commissioner.

[15.6.16.10 NMAC - N, 03-23-2002; A, 01-15-2015; A, 01-15-2017]

15.6.16.11 LICENSE OR PERMIT REVOCATION: Before the commission may revoke a license or permit, the subject licensee or permit holder shall be served, by certified mail, return receipt requested, a notice of contemplated action ("NCA") to revoke the license.

A. In the NCA, the respondent will be advised of their right to request a hearing on the revocation, in which they can appear before the commission or hearing officer appointed by the commission. Such request for a hearing must be made by the respondent within twenty (20) days from the date the NCA was served on the respondent. Respondents must be notified in the NCA of their right to be represented by counsel, to present relevant evidence, and to examine all opposing witnesses who may testify at their hearing.

B. The NCA shall state the alleged misconduct upon which the contemplated license or permit revocation is based.

C. The respondent may appear in person or be represented by his attorney to answer to the charges specified in the NCA and to show cause as why his license or permit should not be revoked.

D. At any stage of the hearing proceedings, the commission may require the respondent to take the stand and give sworn testimony.

E. All witnesses, and respondents must testify under oath at any disciplinary hearing convened and conducted by the commission. The oath may be administered by any commissioner present or by the court reporter, if one is available to record the proceedings.

F. The commission or designated hearing officer shall be the sole judge of the relevancy and competency of the testimony given, the credibility of the witnesses, and the sufficiency of the evidence presented.

G. In the event that the respondent does not appear at the scheduled hearing; or if having appeared, the facts and evidence presented at the hearing warrant, in the discretion of the commission, a revocation of the license or permit, the license or permit shall be revoked and a notice of revocation shall be promptly served on the licensee by certified mail, return receipt requested.

[15.6.16.11 NMAC - N, 03-23-2002; A, 01-15-2015]

15.6.16.12 FORFEITURE OF PURSE:

A. The commission shall have the power to declare forfeiture of any purse, or any part or share

thereof, belonging to both or either of the contestants or of any manager, if it has reason to believe such contestant or contestants, or manager of the contestant or contestants, has committed an act in violation of any rules or regulation of the commission.

B. The amount forfeited shall be paid to the commission within forty-eight (48) hours of the declaration of forfeiture. The commission shall hold the purse until there is a final determination whether a violation has been committed.

[15.6.16.12 NMAC - N, 03-23-2002]

15.6.16.13 IMPOSITION OF FINES: The commission may, in its discretion impose fines for violations of the laws of the state of New Mexico or of the commission's rules and regulations (15.6 NMAC). In the event that the licensee has a fine imposed upon his license by the commission, the commission may, in its discretion, suspend the license until the fine has been paid.

[15.6.16.13 NMAC - N, 03-23-2002]

15.6.16.14 SETTLEMENTS:

A. Settlements are encouraged. Settlements upon terms that are consistent with the provisions of this act are encouraged at any stage of disciplinary proceedings. Settlements are negotiated by the administrative prosecutor on behalf of the commission.

B. Content of settlement agreements. Every proposed settlement agreement shall:

- (1) state how each violation of the Professional Athletic Competition Act and the rules and regulations of this commission are affected by the settlement;
- (2) if the settlement is contingent upon certain action by the respondent, describe the contingency and the consequences of the respondents failure to meet the contingency;
- (3) if the settlement is not intended as a full and complete settlement of all issues in the case, list those issues not settled; and
- (4) bear the signature and date of signature of the commission's administrative prosecutor and the respondent(s).

C. Presentation to the commission. All settlement agreements must be presented to the commission whereupon the commission must either accept or reject the settlement. Without commission approval, the settlement will have no legal effect.

(1) Upon approval by the commission, the chairman shall sign and date the settlement agreement.

(2) The commission administrator shall file the authorized settlement agreement with the commission.

[15.6.16.14 NMAC - N, 03-23-2002; A, 01-15-2015]

15.6.16.15 WITHHOLDING OF PURSE: In accordance with Section 60-2A-19 of the Professional Athletic Competition Act, the commission delegates to the chairman or his designee, the authority to order a promoter to withhold any part of a purse or other funds belonging or payable to any contestant, manager or second, if in the judgment of the chairman or his designee, there has been a violation of the act or of the commission's rules and regulations (15.6 NMAC).

A. Upon the withholding of any part of a purse, the commission will inform the licensee in writing of the alleged violation(s), the rights of the licensee, and schedule a hearing at the next regularly scheduled commission meeting.

B. If the commission determines after a hearing that the licensee is not entitled to any part of the purse or other funds, the withheld purse or funds shall not be returned to the promoter, but shall be deposited in the commission's funds.

[15.6.16.15 NMAC - N, 03-23-2002]

15.6.16.16 SEVERABILITY REMEDIES: If anything designated herein shall be held contrary to the law or unconstitutional, the action taken shall be changed to suspension of less than one (1) month and not more than one (1) year for each offense, and the penalties for multiple violations are to run consecutively.

[15.6.16.16 NMAC - N, 03-23-2002]

15.6.16.17 COMMISSION BULLETINS: The commission shall, from time to time, issue bulletins regarding suspension, revocations, fines, penalties, and promulgation of rules and regulations. All licensed

corporations and matchmakers must keep the commission bulletin on file.
[15.6.16.17 NMAC - N, 03-23-2002]

15.6.16.18 SUSPENSIONS REPORTED NATIONALLY:

A. The commission shall report nationally all suspensions, except those imposed locally for minor infractions of local rules.

B. The commission shall report any suspensions to championship sponsoring organizations within ten (10) days of the suspension.

[15.6.16.18 NMAC - N, 03-23-2002]

15.6.16.19 COSTS OF DISCIPLINARY ACTIONS: Licensees shall bear **all costs** of disciplinary proceedings unless they are excused by the board from paying all or part of the costs, or if they prevail a the hearing and an action specified in Section 61-1-3 NMSA 1978 is not taken by the commission.

[15.6.16.19 NMAC - N, 03-23-2002]

HISTORY of 15.6.16 NMAC:

Pre-NMAC History:

Material in the part was derived from that previously filed with the commission of public records - state records center and archives:

NMAC 80-1, The Commission, Its Powers and Procedures, filed 9-24-80;

Those relevant portions of NMAC Rule 92-2, The Commission, Its Powers and Procedures, filed 8-17-92;

NMAC Rule 92-17, Disciplinary Actions, filed 8-17-92.

History of Repealed Material:

NMAC Rule 92-2 (aka 15 NMAC 6.1), The Commission, Its Powers and Procedures, filed 8-17-92; **repealed** effective 03-23-2002.

NMAC Rule 92-17 (aka 15 NMAC 6.16), Disciplinary Actions, filed 8-17-92; **repealed** effective 03-23-2002.

Other History:

NMAC Rule 92-2 was recompiled into the first version of the New Mexico Administrative Code as 15 NMAC 6.1 and named General Provisions;

NMAC Rule 92-17 was recompiled into the first version of the New Mexico Administrative Code as 15 NMAC 6.16 and renamed Disciplinary Actions;

15.6.16 NMAC, Disciplinary Actions, replaced 15 NMAC 6.16, Disciplinary Actions, effective 03-23-2002.