

RULES AND REGULATIONS

Title 6—AGING

DEPARTMENT OF AGING

[6 PA. CODE CH. 15]

Protective Services For Older Adults

The Department of Aging (Department), to safeguard more effectively the rights and protection of incapacitated older adults, amends Chapter 15 (relating to protective services for older adults), to read as set forth in Annex A. The Department amends this chapter under the authority of the Older Adults Protective Services Act (OAPSA) (35 P. S. §§ 10225.101—10225.5102). Amendments clarify definitions and operational elements to reflect the experience of protective services agencies (area agencies on aging) over the past 13 years, and add sections to implement the requirements of legislation requiring applicants and specified employees at specified care-providing facilities to obtain criminal history record information reports and requiring administrators and employees at these facilities to report suspected abuse. The Department amended the existing chapter sections to update terms and practices, conform to recent legislation or respond to comments. The Department added §§ 15.141—15.147 and 15.151—15.159 (relating to criminal history record information reports; and employee reporting of suspected abuse).

The Department published a notice of proposed rule-making at 29 Pa.B. 6010 (November 27, 1999) and provided a 30-day public comment period. The Department received comments from seven area agencies on aging, the Office of the Auditor General, the Pennsylvania Health Law Project, Community Legal Services of Philadelphia, the Pennsylvania Association of Non-Profit Homes for the Aging, Greenwich Services, staff of the Senate and House Aging and Youth Committees, the Center for Advocacy for the Rights and Interests of the Elderly, the Pennsylvania Association of Home Health Agencies, the AFL/CIO, the Pennsylvania Association of Resources for People with Mental Retardation, the Philadelphia Coalition of Community MH/MR Centers, the Independent Regulatory Review Commission (IRRC), the Department's Office of the Long-Term Care Ombudsman and one individual.

Summary

These amendments will more effectively safeguard the rights and protections of incapacitated older adults, and recipients of any age in specified facilities, by enhancing the system of activities, resources and supports which prevent, reduce or eliminate abuse, neglect, exploitation, and abandonment, and by adding provisions for mandatory submission of criminal history record information and mandatory reporting of suspected abuse.

Comment and Response Document

The comment and response document is available by contacting Robert F. Hussar at (717) 783-6207 or the Department's website at www.state.pa.us: PA Keyword: aging.

Fiscal Impact

Costs to the Commonwealth mandated by the OAPSA, and associated with implementation of these final-form regulations, result from the need to process Criminal History Record Information (CHRI) reports. The Depart-

ment incurs the costs of processing the Federal Bureau of Investigation (FBI) reports. The Pennsylvania State Police (PSP) incur the costs of processing the PSP CHRI reports. The mandating of reports of suspected abuse in the OAPSA-specified facilities has increased the number of investigations and associated personnel requirements for area agencies on aging, which serve as the local protective services agency, 37 of which are under the auspice of county government. Applicants for employment at OAPSA-specified facilities, or, at their option, specified care-providing facilities (domiciliary care homes, home health care agencies, long-term care nursing facilities, older adult daily living centers and personal care facilities), and those at facilities defined as home health care agencies by the Department of Public Welfare (community residential rehabilitation services, community homes and family living homes for individuals with mental retardation, intermediate care facilities for individuals with mental retardation, including State and non-State operated facilities and homes, and State mental hospitals), must bear the costs of obtaining mandatory CHRI reports. The fee for the PSP CHRI report is \$10; the fee for the FBI CHRI report is \$24. No additional costs are imposed on members of the general public.

Paperwork Requirements

Applicants for employment will be required to obtain CHRI reports; the PSP and the Department will be required to process these reports; specified care-providing facilities will be required to retain copies of these reports. In addition, these facilities will be required to submit written reports of suspected abuse to area agencies on aging and, in some cases, to law enforcement officials; area agencies will be required in some cases to send these reports to the Department and county coroners; specified facilities will be required to send individual supervision or suspension plans to area agencies and licensing agencies and to retain these reports. Area agencies will be required to make reports of suspected abuse available to specified persons and agencies. Specified facilities are required to provide applicants with written explanation of CHRI report requirements and to retain such reports.

Effective Date/Sunset Date

The final-form regulations will take effect on the date of publication in the *Pennsylvania Bulletin*. No sunset date has been established. The effectiveness of these regulations will be evaluated as part of the Department's annual review of the protective services program.

Statutory Authority

The Department adopts these final-form regulations under the authority of the OAPSA.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on November 15, 1999, the Department submitted a copy of the notice of proposed rulemaking, published at 29 Pa.B. 6010, to IRRC and the Chairpersons of the House and Senate Committees on Aging and Youth for review and comment.

In compliance with section 5(c) of the Regulatory Review Act, the Department also provided IRRC and the Committees with copies of the comments received, as well as other documentation. In preparing these final-form regulations, the Department has considered the comments received from IRRC, the Committees and the public.

Under section 5.1(d) of the Regulatory Review Act (71 P. S. § 745.5a(d)), these final-form regulations were approved by the House Committee on January 15, 2002, and deemed approved by the Senate Committee on January 16, 2002. Under section 5.1(e) of the Regulatory Review Act, IRRC met on January 24, 2002, and approved the final-form regulations.

Contact Person

Questions regarding these final-form regulations may be submitted to Robert F. Hussar, Regulatory Coordinator, Office of Program Management, Department of Aging, 555 Walnut Street, 5th Floor, Harrisburg, PA 17101-1919, (717) 783-6207. Persons with disabilities may submit questions in alternative formats such as audio tape, Braille or by using V/TT (717) 783-6514 for speech and/or hearing impaired persons or the Pennsylvania AT&T Relay Service at (800) 654-5984 [TT].

Findings

The Department finds that:

(1) Public notice of intention to adopt the final-form regulations adopted by this order has been given under sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202), and the regulations thereunder, 1 Pa. Code §§ 7.1 and 7.2.

(2) A public comment period was provided as required by law and all comments were considered.

(3) The adoption of final-form regulations in the manner provided by this order is necessary and appropriate for the administration of the authorizing statute.

Order

The Department, acting under the authorizing statute, orders that:

(a) The regulations of the Department, 6 Pa. Code Chapter 15, are amended by amending §§ 15.1, 15.2, 15.11—15.13, 15.21—15.27, 15.41—15.46, 15.61, 15.62, 15.71, 15.81, 15.82, 15.91—15.96, 15.102, 15.103, 15.105, 15.111—15.113, 15.121—15.123 and 15.127; by deleting § 15.131; and by adding §§ 15.141—15.147, 15.151—15.159 and 15.161 to read as set forth in Annex A.

(b) The Secretary shall submit this order and Annex A to the Office of General Counsel and the Office of Attorney General for approval as required by law.

(c) The Secretary shall submit this order and Annex A to IRRC, the House Committee on Aging and Youth and the Senate Committee on Aging and Youth for their review and action as required by law.

(d) The Secretary shall certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.

(e) This order shall take effect upon publication in the *Pennsylvania Bulletin*.

RICHARD BROWDIE,
Secretary

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this order, see 32 Pa.B. 848 (February 9, 2002).)

Fiscal Note: 1-17. (1) General Fund;

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| | | <i>Department of Aging General Government Operations</i> |
| | <i>State Police—General Government Operations</i> | |
| (2) | Implementing Year 2001-02 is \$285,803 | \$99,117 |
| (3) | 1st Succeeding Year 2002-03 is \$293,495 | \$101,785 |
| | 2nd Succeeding Year 2003-04 is \$301,930 | \$104,710 |
| | 3rd Succeeding Year 2004-05 is \$310,662 | \$107,738 |
| | 4th Succeeding Year 2005-06 is \$319,640 | \$110,850 |
| | 5th Succeeding Year 2006-07 is \$328,875 | \$114,055 |
| | | <i>Department of Aging General Government Operations (Lottery Fund in 1998-99)</i> |
| (4) | 2000-01 Program—\$136,043,000 | \$16.389 million |
| | 1999-00 Program—\$129,433,000 | \$15.388 million |
| | 1998-99 Program—\$124,980,000 | \$4.764 million |
| (8) | recommends adoption. | |

Annex A

TITLE 6. AGING

PART I. DEPARTMENT OF AGING

CHAPTER 15. PROTECTIVE SERVICES FOR OLDER ADULTS

GENERAL PROVISIONS

§ 15.1. Scope and authority.

(a) This chapter governs the administration and provision of protective services for older adults under the act, the mandatory reporting of the abuse of recipients of care and required criminal history record information reports for applicants, employees and administrators of facilities.

(b) This chapter applies to the Department, area agencies on aging, providers of protective services for older adults, parties to the making and investigation of reports of a need for protective services by older adults, subjects of reports and investigations and the facilities defined in this chapter.

(c) The Department will enforce this chapter and maintain responsibility for future revisions as the continuing operation of the program requires.

§ 15.2. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

Abandonment—The desertion of an older adult by a caretaker.

Abuse—

(i) The occurrence of one or more of the following acts:

(A) The infliction of injury, unreasonable confinement, intimidation or punishment with resulting physical harm, pain or mental anguish.

(B) The willful deprivation by a caretaker of goods or services which are necessary to maintain physical or mental health.

(C) Sexual harassment, rape or abuse, as defined in 23 Pa.C.S. Chapter 61 (relating to Protection From Abuse Act).

(ii) No older adult will be found to be abused solely on the grounds of environmental factors which are beyond the control of the older adult or the caretaker, such as inadequate housing, furnishings, income, clothing or medical care.

Act—The Older Adults Protective Services Act (35 P. S. §§ 10225.101—10225.5102).

Administrator—The person responsible for the administration of a facility. The term includes a person responsible for employment decisions or an independent contractor.

Agency—The local provider of protective services, which is the area agency on aging or the agency designated by the area agency on aging to provide protective services in the area agency's planning and service area.

Applicant—An individual who submits an application, which is being considered for employment, to a facility.

Area agency on aging—The single local agency designated within a planning and service area by the Department to develop and administer the delivery of a comprehensive and coordinated plan of social services and activities for older adults.

Assessment—A determination based upon a comprehensive review of a client's social, physical and psychological status along with a description of the person's current resources and needs using the instruments and procedures established by the Department for this purpose.

Care—Services provided to meet a person's need for personal care or health care.

(i) Services may include homemaker services, assistance with activities of daily living, physical therapy, occupational therapy, speech therapy, social services, home-care aide services, companion-care services, private duty nursing services, respiratory therapy, intravenous therapy, in-home dialysis and durable medical equipment services, which are routinely provided unsupervised and which require interaction with the care-dependent person.

(ii) The term does not include durable medical equipment delivery.

Care-dependent individual—An adult who, due to physical or cognitive disability or impairment, requires assistance to meet needs for food, shelter, clothing, personal care or health care.

Caretaker—An individual or institution that has assumed the responsibility for the provision of care needed to maintain the physical or mental health of an older adult. This responsibility may arise voluntarily, by contract, by receipt of payment for care, as a result of family relationship or by order of a court of competent jurisdiction. It is not the intent of the act to impose responsibility on an individual if the responsibility would not otherwise exist in law.

Case file, case record or record—A complete record of the information received and the actions taken by the agency on each report of need received. When applicable, it shall include the following elements:

- (i) The report of need.
- (ii) Records of agency investigative activities including related evidence and testimony.
- (iii) Assessment.

(iv) Documentation of informed consent provided or agency efforts to obtain consent.

(v) Notifications of older adults, alleged perpetrators, police, agencies, organizations and individuals.

(vi) Records of court, intervention, petition or action.

(vii) Service plan.

Conflict of interest—The conflict which may exist when the investigator of a report of the need for protective services has a personal or financial interest in, is responsible for, or is employed by others responsible for, the delivery of services which may be needed by an older adult to reduce or eliminate the need for protective services. A conflict of interest may also exist if an investigator has a specific personal or financial motivation to recommend services delivered by a specific agency or to allow referrals or case dispositions to be inappropriately influenced by the investigator's knowledge of agency staff, resource limitations or by agency constraints which affect agency staff or resource allocations.

Consumer attendant—An individual who is recruited, hired, trained, directed and supervised by the consumer for whom personal care services and other support activities are being provided.

Court—A court of common pleas or a district magistrate, if applicable.

Criminal history report—

(i) For an applicant or employee who is a resident of this Commonwealth, a State Police criminal history record.

(ii) For a nonresident applicant or employee, a State Police criminal history record and a Federal criminal history record.

Department—The Department of Aging of the Commonwealth.

Desertion—The willful failure without just cause by the responsible caretaker to provide for the care and protection of an older adult who is in need of protective services.

Direct contact—Touching of a recipient by an employee consistent with the professional responsibilities of the employee.

Employee—Includes the following:

(i) An individual who is employed by a facility.

(ii) A facility contract employee who has direct contact with residents or unsupervised access to their living quarters.

(iii) An individual who is employed by, or who enters into a contractual relationship with, or who establishes any other agreement or arrangement with a home health care agency to provide care to a care-dependent person for a fee, stipend or monetary consideration of any kind in the person's place of residence.

(iv) A student doing an internship or clinical rotation, or any other individual, who has been granted access to the facility to perform a clinical service for a fee.

(v) An individual, employed by an entity which supplies, arranges for, or refers personnel to provide care to care-dependent persons, who is employed to provide care to care-dependent persons in facilities or their places of residence.

Exploitation—An act or course of conduct by a caretaker or other person against an older adult or an older

adult's resources, without the informed consent of the older adult or with consent obtained through misrepresentation, coercion or threats of force, that results in monetary, personal or other benefit, gain or profit for the perpetrator or monetary or personal loss to the older adult.

Facility—Any of the following:

(i) A domiciliary care home as defined in sections 2201-A—2212-A of The Administrative Code of 1929 (71 P. S. §§ 581-1—581-12).

(ii) A home health care agency.

(iii) A long-term care nursing facility as defined in the Health Care Facilities Act (35 P. S. §§ 448.101—448.904b).

(iv) An older adult daily living center as defined in the Older Adult Daily Living Centers Licensing Act (62 P. S. §§ 1511.1—1511.22).

(v) A personal care home as defined in section 1001 of the Public Welfare Code (62 P. S. § 1001).

Federal criminal history record—A report of Federal criminal history record information under the Federal Bureau of Investigation's appropriation under the Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriation Act, 1973 (28 U.S.C.A. § 534).

Home health care agency—

(i) Any of the following:

(A) A home health care organization or agency licensed by the Department of Health.

(B) A public or private agency or organization, or part of an agency or organization, which provides care to a care-dependent individual in the individual's place of residence.

(ii) The term includes private duty home care providers, homemaker/home health aide providers, companion care providers, registry services or intravenous therapy providers.

Incapacitated older adult—An older adult who, because of one or more functional limitations, needs the assistance of another person to perform or obtain services necessary to maintain physical or mental health. The definition of capacity or incapacity or competence or incompetence, as defined in 20 Pa.C.S. §§ 5501—5555 (relating to guardianship), does not apply to this definition.

Informed consent—Consent obtained for a proposed course of protective service provision. The consent shall be based on a reasonable attempt to provide information which conveys, at a minimum, the risks, alternatives and outcomes of the various modes of protective service provision available under the circumstances.

Intimidation—An act or omission by a person or entity toward another person which is intended to, or with knowledge that the act or omission will, obstruct, impede, impair, prevent or interfere with the administration of the act or any law intended to protect older adults from mistreatment.

Investigation—A systematic inquiry conducted by the agency to determine if allegations made in a report of need for protective services can be substantiated, or if the older adult referred to in the report of need is an older adult in need of protective services, or both.

Law enforcement official—One of the following:

(i) A police officer.

(ii) A district attorney.

(iii) The State Police.

Least restrictive alternative—The appropriate course of action on behalf of the older adult which least intrudes upon the personal autonomy, rights and liberties of the older adult in circumstances when an older adult lacks the capacity to decide on matters and take actions essential to maintaining physical and mental health.

Neglect—The failure to provide for oneself or the failure of a caretaker to provide goods or services essential to avoid a clear and serious threat to physical or mental health. An older adult who does not consent to the provision of protective services will not be found to be neglected solely on the grounds of environmental factors which are beyond the control of the older adult or the caretaker, such as inadequate housing, furnishings, income, clothing or medical care.

Older adult—A person within the jurisdiction of this Commonwealth who is 60 years of age or older.

Older adult in need of protective services—An incapacitated older adult who is unable to perform or obtain services that are necessary to maintain physical or mental health, for which there is no responsible caretaker and who is at imminent risk of danger to his person or property.

Operator—A person, society, corporation, governing authority or partnership legally responsible for the administration and operation of a facility. At licensed facilities, the licensee is the operator.

Planning and service area—The geographic unit within this Commonwealth, as designated by the Secretary, for the allocation of funds for the delivery of social services to older adults residing in that unit.

Police department—A public agency of the Commonwealth or of a political subdivision having general police powers and charged with making arrests in connection with the enforcement of the criminal or traffic laws, or both.

Police officer—A full-time or part-time employee of the Commonwealth, a city, borough, town, township or county police department assigned to criminal or traffic or criminal and traffic law enforcement duties. The term does not include persons employed to check parking meters or to perform only administrative duties, auxiliary and fire police.

Protective services—Activities, resources and supports provided to older adults under the act to detect, prevent, reduce or eliminate abuse, neglect, exploitation and abandonment.

Protective services caseworker—A protective services agency employee, regardless of staff title, who meets the minimum standards in §§ 15.121—15.127 (relating to staff training and experience standards) and is assigned by the agency under § 15.13(c) (relating to organization and structure of protective services functions) to perform the following protective services functions:

(i) To receive reports of a need for protective services when necessary.

(ii) To investigate reports received under this chapter.

(iii) To assess the needs of protective services clients under this chapter.

(iv) To develop and coordinate the implementation of service plans for protective services clients.

Protective setting—A setting chosen by the agency where services can be provided in the least restrictive environment to protect the physical and mental well-being of the older adult.

Public or private entitlement or resource—A publicly or privately funded health or human services program available either without charge or on a cost-sharing basis to persons who qualify on the basis of one or more criteria, such as age, need, income or condition.

(i) The term includes various established financial assistance programs under public or private sponsorship.

(ii) The term does not include individual personal income or financial assets.

Recipient—An individual of any age who receives care, services or treatment in or from a facility.

Report or report of need—The written report of an older adult in need of protective services received under § 15.23 (relating to receiving reports; general agency responsibility) and recorded on the standardized protective services report form.

Responsible caretaker—A caretaker who is able and willing to provide the basic care and protection necessary to maintain the physical or mental health of an older adult. A caretaker reported to have abused, neglected, exploited or abandoned an older adult is presumed, subject to an investigation under this chapter, to be unable or unwilling to provide the necessary care and protection.

Secretary—The Secretary of the Department.

Serious bodily injury—Injury which creates a substantial risk of death or which causes serious permanent disfigurement or protracted loss or impairment of the function of a body member or organ.

Serious physical injury—An injury that does one of the following:

- (i) Causes a person severe pain.
- (ii) Significantly impairs a person's physical functioning, either temporarily or permanently.

Service plan—A written plan developed by the agency on the basis of a comprehensive assessment of an older adult's need which describes identified needs, goals to be achieved and specific services to support goal attainment, with regular follow-up and predetermined reassessment of progress. Specific services to support goal attainment may include homemaker services, home-delivered meals, attendant care, other in-home services, emergency shelter or food, legal aid services, transportation and other services. Service plans are cooperatively developed by the agency staff, the older adult or the older adult's appointed guardian and other family members when appropriate. The plan shall also address, if applicable, special needs of other members of the household unit as they may affect the older adult's need for protective services.

Sexual abuse—Intentionally, knowingly or recklessly causing or attempting to cause rape, involuntary deviate sexual intercourse, sexual assault, statutory sexual assault, aggravated indecent assault, indecent assault or incest.

State-licensed facility—For all purposes involved in the determination of whether an individual is an older adult in need of protective services, a State licensed facility is defined as an institution licensed by the Commonwealth

to provide temporary or permanent residence to persons in need of personal care or medical care, including nursing homes, personal care homes, hospitals, State hospitals and mental retardation centers.

State Police—The Pennsylvania State Police.

State Police criminal history record—A report of criminal history record information from the State Police or a statement from the State Police that their central repository contains no information relating to that person.

Unsupervised access—Access to personal living quarters of residents when not accompanied by or within direct supervision of an employee of the facility.

PROGRAM ADMINISTRATION

§ 15.11. Administrative functions and responsibilities of the Department.

(a) *General responsibilities.* The Department will establish and maintain a Statewide system of protective services for older adults who need them. These services will be available and accessible through local protective services agencies. In maintaining this system of protective services, the Department's functions and responsibilities include the following:

(1) The review and approval of annual protective services plans submitted by area agencies under § 15.12(b) (relating to administrative functions and responsibilities of area agencies on aging).

(2) The allocation of funds appropriated for the implementation of the act to area agencies on aging to administer local protective services plans.

(3) The establishment of minimum standards of training and experience for protective services staff.

(4) The development and maintenance of a fiscal and service data collection system to collect information on local reports of a need for protective services, investigations, services provided and other relevant data on protective services activities.

(5) The monitoring of local protective services delivery for compliance with this chapter and approved area agency on aging protective services plans.

(6) The development and maintenance of an ongoing program of public information and education to promote general awareness of and informed responses to the needs of older adults for protective services available under this chapter.

(7) Ongoing coordination with State agencies.

(b) *Local protective services plans.* The Department will review the annual protective services plan submitted under § 15.12(b) by an area agency on aging and will notify the area agency of approval or disapproval within 60 days.

(c) *Staff training and experience.* The minimum standards of training and experience of protective services staff employed to carry out activities under this chapter are set forth in §§ 15.121—15.127 (relating to staff training and experience standards).

(d) *Public information and education.* The Department will develop and maintain a campaign of public information and education about the needs for and availability of protective services under this chapter. The target of this campaign will be older adults and the general public, as well as professionals and others employed in situations where they are likely to have frequent contact with older adults who need protective services. In designing and

implementing the ongoing public awareness campaign, the Department will consult with other Commonwealth agencies and consider the concerns of area agencies on aging and the local entities identified by area agencies as having substantial contact with potential victims or perpetrators of abuse, neglect, exploitation and abandonment.

§ 15.12. Administrative functions and responsibilities of area agencies on aging.

(a) *General responsibilities.* An area agency on aging shall administer the delivery of protective services under this chapter in its planning and service area. The functions and responsibilities of the area agency on aging in administering protective services include the following:

(1) The development and submission of a protective services plan under subsection (b).

(2) The oversight of the delivery of protective services for older adults, either directly or purchased under contract with another agency, in compliance with the area agency's approved protective services plan, this chapter and other applicable State and Federal regulations or statutes. The plan shall assure that the agency will provide for the receipt of reports of need for protective services, the conduct of investigations of reports, the assessment of need and the development of service plans throughout the period covered by the plan. The plan shall also describe sources for specific services that may be required by older adults who have been assessed as needing them, and policies pertaining to arranging for specific services if and when needs for specific services exceed supply.

(3) The coordination of the protective services related activities of local agencies and organizations having substantial contact with potential victims or perpetrators of abuse, neglect, exploitation and abandonment. These agencies and organizations include the following:

- (i) Local domestic violence agencies.
- (ii) County assistance offices.
- (iii) Local mental health/mental retardation programs.
- (iv) County offices of children and youth.
- (v) Law enforcement agencies.
- (vi) Legal services agencies.
- (vii) Emergency medical service agencies, hospital emergency rooms and social services staff.
- (viii) Home health agencies.
- (ix) Drug and alcohol prevention and treatment organizations.
- (x) Clergy associations and councils of churches.

(4) The local extension of the Department's ongoing campaign of public information and education about the need for, and availability of, protective services for older adults.

(5) The collection and submission to the Department of data on protective services activities. The data shall be recorded and reports submitted as required by the Department. At a minimum, the following information shall be included:

- (i) The number of substantiated and unsubstantiated reports.
- (ii) The number of reports made in various categories of need for protective services, such as physical abuse, financial exploitation, neglect, abandonment and the like.

(iii) The demographic information on persons reported to be in need of protective services and on alleged perpetrators of abuse, neglect, exploitation and abandonment.

(iv) The origins of reports.

(v) The remedies and referrals.

(b) *Protective services plan.* The area agency on aging shall submit, on an annual basis, its protective services plan to the Department. The protective services plan shall contain, at a minimum, the following information:

(1) An explanation of the organizational structure and staffing of the area agency's protective services functions, including provisions for purchasing these services if applicable. For the purpose of advising the agency on medically related issues encountered during assessment and the development of service plans, the organizational structure shall include the consultation services of a registered nurse or physician licensed to practice in this Commonwealth.

(2) An explanation of how the area agency's organizational structure and staffing of protective services will prevent a conflict of interest between the investigation of reports received under this chapter and the area agency's service delivery functions. The explanation shall include assurances that the minimum criteria required under § 15.13 (relating to organization and structure of protective services functions) will be met.

(3) A description of the local process for delivering protective services to older adults who need them, including the 24-hour capability to receive reports, the investigation of reports and the necessary actions arising from investigations. The description shall focus on the specific local methodology to be implemented in activities for which this chapter allows for local differences and flexibility. The description of the plan for investigating reports shall include an explanation of steps to be taken to assure the standby capability required under § 15.41(c) (relating to reports required to be investigated). The description of the plan for seeking emergency court orders shall include the agency's identification of the providers of legal assistance who may be notified under § 15.71(b) (relating to involuntary intervention by emergency court order) when the agency petitions the court for emergency involuntary intervention.

(4) A description of local funding for protective services which has, at the discretion of a county or local agency, been placed under the administrative control of the area agency on aging. There is no requirement by the Department that the area agency on aging obtain local funding for its protective services plan budget.

(5) Documentation of applicable interagency relations, interagency agreements, service referral mechanisms and the locus of responsibility for cases with multi-service needs. The documentation shall include assurances that the area agency on aging has taken steps to avoid unnecessary duplication of existing efforts by other agencies which may carry responsibilities for some protective services activities.

(6) A description of local methods to be used to assure the privacy and confidentiality of older adults receiving protective services as required under §§ 15.101—15.105 (relating to confidentiality).

(7) A list of the entities, public and private, identified by the area agency on aging as having substantial contact with potential victims or perpetrators of abuse, neglect, exploitation and abandonment.

(c) *Public awareness.* The area agency on aging shall conduct within its planning and service area an ongoing campaign designed to inform and educate older adults, professionals and the general public about the need for and availability of protective services under this chapter. This ongoing campaign shall utilize materials and methodology developed by the Department and supplemented by the area agency with relevant information on the local protective services system. Special emphasis shall be placed on informing the community on how to make reports and request services.

(d) *Department approval required.* An area agency on aging, which has not received the Department's approval for its protective services plan may not provide services under this chapter.

§ 15.13. Organization and structure of protective services functions.

(a) *General organization.* The area agency on aging may provide protective services directly or under a purchase of services contract with another provider agency. In either case, the area agency on aging is responsible for the compliance of protective services activities with this chapter. The area agency on aging shall assure that the agency meets the minimum standards of organization and structure set forth in this section.

(b) *Protective services caseworkers.*

(1) The agency shall designate as a protective services caseworker at least one caseworker who meets the minimum standards in §§ 15.121—15.127 (relating to staff training and experience standards).

(2) The agency shall assign protective services cases to designated protective services caseworkers by allocating the anticipated agency caseload in a manner consistent with the agency's plan for caseload distribution.

(3) The agency's plan for caseload distribution shall be described in the agency's protective services plan and shall include the following specific information:

(i) The rationale for the proposed caseload distribution.

(ii) How the subset of workers will be defined and selected, including an estimate of the anticipated caseload size to be assigned to each designated protective services caseworker.

(iii) How the cases within a designated protective services caseworker's caseload will be prioritized.

(iv) How that prioritization system will be maintained.

(v) How the agency will develop and maintain the necessary specialized expertise required to fulfill protective services responsibilities.

(4) A protective services caseworker may not serve as the area agency on aging ombudsman on the same case.

(5) The protective services caseload assigned to a protective services caseworker may not be planned to exceed 30 ongoing protective services cases.

(6) The case assignment system of the agency shall encourage the appropriate transfer of cases into and out of protective services caseloads as provided under § 15.96 (relating to termination of protective services).

(c) *Other staff.* The immediate supervisor of a protective services caseworker is required to be trained as set forth in §§ 15.121—15.127. An intake worker of the agency is permitted to discharge nonprotective service

duties. An intake worker who receives a report of the need for protective services shall receive training as set forth in §§ 15.121—15.127.

(d) *Conflict of interest.* The area agency on aging shall describe in its protective services plan the steps it will take to avoid or minimize the potential of a conflict of interest between the investigative and service delivery functions in the protective services caseload. The description shall identify points in the organization and structure of protective services delivery where a potential conflict of interest may exist and explain the specific organizational responses which the area agency on aging will make to avoid or minimize that potential. The responses may include provisions for assuring some separation between the investigative and service delivery functions. The description shall also include proposed steps for addressing an actual conflict of interest if one arises. Nothing in this chapter constitutes an absolute bar to an area agency from delivering protective services and other area agency on aging services itself or through the same provider solely because of the potential existence of a conflict of interest.

(e) *Depth of agency capacity.* The agency shall require sufficient staff of all categories to be trained under §§ 15.121—15.127 to insure that routine staff absences will not compromise the agency's ability to fulfill its responsibilities under the act. Trained standby staff members shall be available to provide protective services as required, but are not required to be regularly assigned to protective services duties.

REPORTING SUSPECTED ABUSE, NEGLECT, ABANDONMENT OR EXPLOITATION

§ 15.21. General reporting provisions.

(a) A person who has reasonable cause to believe that an older adult needs protective services may report this to the local provider of protective services. An area agency on aging shall publicize, on an ongoing basis, the name, address and phone number of the agency when reports are to be made.

(b) When applicable, reports shall comply with §§ 15.151—15.157 (relating to reporting suspected abuse).

§ 15.22. Safeguards for those who make or receive reports.

(a) *Protection from retaliation.* Under the act, a person or entity who takes discriminatory, retaliatory or disciplinary action against an employee or other person who makes a report, against a person who cooperates with the agency or the Department to provide testimony or other information about a report, or against a victim of abuse, commits a violation of the act. The person who takes the discriminatory, retaliatory or disciplinary action is subject to a civil lawsuit by the person who made the report, the victim of abuse named in the report, or the person who cooperated with the agency or the Department. If the court which hears the lawsuit decides in favor of the plaintiff, the plaintiff shall recover triple compensatory damages, compensatory and punitive damages or \$5,000, whichever is greater, from the person or entity which committed the violation.

(b) *Immunity from liability.* As provided under the act, a person who participates in the making of a report or completion of an investigation or who provides testimony in an administrative or judicial proceeding arising out of a report shall be immune from civil or criminal liability because of these actions unless the person acted in bad

faith or with malicious purpose. The act does not extend this immunity to liability for acts of abuse, neglect, exploitation or abandonment, even if the acts are the subject of the report or testimony.

(c) *Intimidation; penalty.* Any person, including the victim, with knowledge sufficient to justify making a report or cooperating with the agency, including possibly providing testimony in any administrative or judicial proceeding, shall be free from any intimidation by an employer or by any other person or entity. Any person who violates this subsection is subject to civil lawsuit by the person intimidated or the victim wherein the person intimidated or the victim shall recover treble compensatory damages, compensatory and punitive damages or \$5,000, whichever is greater.

(d) *Notification.* The administrator of a facility shall post notices in conspicuous and accessible locations and use other appropriate means to notify employees, residents and other individuals of protections and obligations under the act, and keep them informed of the protections and obligations.

§ 15.23. Receiving reports; general agency responsibility.

(a) *Twenty-four hour capability.* The agency shall be capable of receiving reports of older adults in need of protective services 24-hours-a-day, 7 days-a-week—including holidays. This capability may include the use of a local emergency response system or a crisis intervention agency.

(b) *Accessibility of professional staff.* Regardless of the arrangements made by the agency to receive reports outside the normal business hours of the agency, the agency shall provide 24-hours-a-day, 7 days-a-week—including holidays—accessibility to a protective services caseworker by a person receiving reports so that referrals required under § 15.26(b) (relating to screening and referral of reports received) may be made for immediate attention. If this accessibility is provided by means of telephone, telephone paging device or other alternatives to direct physical presence, the protective services caseworker shall be capable of returning the call within 30 minutes.

(c) *Toll-free public telephone access.* To facilitate reporting of older adults in need of protective services, the agency shall provide toll-free telephone access to persons residing in the planning and service area served by the agency. If possible, the agency shall utilize the same telephone number everywhere in the planning and service area at all times. This number shall be extensively publicized throughout the planning and service area with special emphasis on older adults and persons likely to be in contact with victims or perpetrators of abuse, neglect, exploitation and abandonment.

(d) *Reports from outside the planning and service area.* The agency shall receive all reports made regardless of their place of origin or the location in this Commonwealth of the older adult in need of protective services. If the older adult who is the subject of a report does not reside in the planning and service area of the agency or, at that time, is not in the planning and service area, the agency shall notify the agency which provides protective services in the planning and service area where the older adult is located and relay to that agency the information received in the report.

§ 15.24. Receiving reports; agency intake process.

(a) *Personnel who may receive reports.* A report shall be received only by persons who have received training on

the minimum requirements and procedures for receiving, recording, screening and referring reports under § 15.124 (relating to protective services intake training curriculum). When the agency uses an answering service to receive calls from persons reporting a need for protective services, the agency shall have one of the following options:

(1) To provide the training for intake workers required under § 15.124 to appropriate staff of the answering service organization.

(2) To provide that all calls are forwarded directly to designated protective services intake workers or caseworkers of the agency for completion of a report of need form.

(b) *Anonymity for reporters.* A person who reports an older adult in need of protective services may remain anonymous, if desired. In an attempt to secure the reporter's name if additional information or assistance is needed for investigation or service provision, a person who receives a report shall inform an anonymous reporter of the statutory protection from retaliation and liability.

§ 15.25. Report form and content.

(a) *Standardized reports.* An initial report received shall be committed to writing on the standardized report form required by the Department. Information subsequently obtained through investigations may be reported on other forms or sheets of paper for inclusion in the case record.

(b) *Handling oral reports.* A report may be received in writing or orally. A report received orally shall be committed immediately to writing on the standardized form.

(c) *Minimum contents.* The person receiving a report shall make every effort to obtain information necessary to complete the standardized report form. At a minimum, the completed report shall contain the following information:

- (1) The date and time of the report.
- (2) The name, address and phone number of the person making the report, unless withheld.
- (3) The name, address and, if available, age and phone number of the person reported to need protective services.
- (4) The nature of the incident which precipitated the report.
- (5) The nature and extent of the need for protective services. Indicate if the person is in a life threatening situation.
- (6) The physical and mental status of the person in need, to the extent obtainable.

§ 15.26. Screening and referral of reports received.

(a) *Screening.* A person meeting the qualifications in § 15.121(c)(3) (relating to protective services staff qualifications) who receives a report shall screen the report during and immediately following receipt of the report to assign it to one of the following referral categories:

- (1) Emergency.
- (2) Priority.
- (3) Nonpriority.
- (4) Another planning and service area.
- (5) No need for protective services.

(b) *Referral categories and actions.*

(1) *Emergency.* A report placed in this category requires immediate attention because specific details in the report indicate the possibility that the older adult reported to need protective services is at imminent risk of death or serious physical harm. The person receiving an emergency report shall immediately contact a protective services caseworker designated under § 15.23(b) (relating to receiving reports; general agency responsibility) and provide that caseworker with the information contained in the report.

(2) *Priority.* A report placed in this category contains details which clearly suggest that the need for protective services is serious enough to require early intervention. The person receiving a priority report shall immediately contact a protective services caseworker designated under § 15.23(b) and provide that caseworker with the information in the report.

(3) *Nonpriority.* A report shall be placed in this category when it does not appropriately fall within the emergency or priority categories and, therefore, does not require immediate attention by the agency. A report in this category shall be referred to a protective services caseworker of the agency within the normal business hours of the agency's current or next day of business under the agency's established procedures for referring these reports.

(4) *Another planning and service area.* A report which is covered under § 15.23(d) shall be placed in this category. It shall be referred to the agency which has the designated responsibility for protective services in the planning and service area in which the older adult reported to need protective services is located at the time of the report. A report in this category will also meet the criteria for placement in one of the other categories in this subsection. The provisions for referral for the other category shall apply to a referral to another planning and service area.

(5) *No need for protective services.*

(i) A report shall be placed in this category when the person reported to be in need of protective services meets one or more of the following criteria:

(A) Is under 60 years of age.

(B) Has the capacity to perform or obtain, without help, services necessary to maintain physical or mental health.

(C) Has a responsible caretaker at the time of the report.

(D) Is not at imminent risk of danger to his person or property.

(ii) A report in this category shall be referred to a protective services caseworker of the agency within the normal business hours of the agency's current or next day of business. The protective services caseworker shall review the details of the report and take whatever steps necessary to confirm or reject the categorization of no need for protective services. If the caseworker confirms the screening categorization, appropriate referrals shall be made to the area agency on aging care management system or, if concerning an adult under 60 years of age, to another community agency. If the caseworker rejects the categorization, the report shall be placed in the appropriate category and be handled accordingly.

(iii) A report may not be placed in this category if the older adult is temporarily relocated to a safe environment

and will return to the original abusive situation or to a new location which has not been determined to be safe.

§ 15.27. Handling of completed reports.

(a) *Reports to be signed.* Completed report forms shall be signed by the person who received the report.

(b) *Appropriate routing of reports.* A completed report form shall be promptly routed to appropriate staff of the agency under § 15.26(b) (relating to screening and referral of reports received), and shall be handled in a manner which safeguards the confidentiality of information contained in the report. Sections 15.103 and 15.104 (relating to responsibilities of staff with access to confidential information; and penalties for violation of confidentiality requirements) also apply to staff of an emergency response agency under contract with the agency to receive reports during times when the agency is not open for business.

(c) *State licensed facility.* A report involving a State-licensed facility, and containing sufficient information to begin an investigation, shall be provided to the appropriate State licensing agency.

INVESTIGATING REPORTS OF NEED FOR PROTECTIVE SERVICES

§ 15.41. Reports required to be investigated.

(a) *General.* The agency shall provide for an investigation of a report received under § 15.23 (relating to receiving reports; general agency responsibility) and referred under § 15.26 (relating to screening and referral of reports received) to determine if the report can be substantiated and, if so, immediate steps that are necessary to remove or reduce an imminent risk to person or property. The investigation shall be initiated within 72 hours following the receipt of a report or sooner as provided under § 15.42 (relating to standards for initiating and conducting investigations) and include sufficient collateral information provided by interviews, documents, reports or other methods to determine if the older adult is in need of protective services. When applicable, reports and investigations shall comply with §§ 15.141—15.147 (relating to criminal history record information reports).

(b) *Trained and identified investigators.* Only a person who has completed the minimum training required for protective services caseworkers by the Department under § 15.121—15.127 (relating to staff training and experience standards) may conduct investigations under this section. When, for reasons unexpected and beyond the agency's control, a trained staff person is not available to conduct investigations, the agency shall notify the Department and seek the Department's approval for its proposed plan for carrying out its investigation responsibilities under this section. The agency shall provide each investigator with official credentials which document the identity of the investigator and the legal authority to implement this chapter.

(c) *Agency responsibility.* The agency is responsible for assuring that an investigation under this section can be conducted whenever circumstances require it. This responsibility includes the provision of standby capability for use if the agency's regularly assigned staff is not available.

§ 15.42. Standards for initiating and conducting investigations.

(a) *Requirements by report category.*

(1) *Emergency report.*

(i) The investigation of a report categorized as emergency shall be initiated immediately following the referral of the report. The protective services caseworker shall make every attempt to ensure the immediate safety of the older adult and to conduct a face to face visit as soon as possible. The agency shall assure that reasonable attempts will be made to conduct a face to face visit within 24 hours after the report is received.

(ii) When, after reasonable efforts to gain access to the older adult, the protective services caseworker is denied access, the caseworker shall document the efforts made and take action, as appropriate, under § 15.61 or § 15.71 (relating to access to persons; and involuntary intervention by emergency court order).

(2) *Priority report.* The investigation of a report categorized as priority shall be initiated as soon as possible. The agency shall assure that reasonable attempts to initiate the investigation will be made within 24 hours after the report is received. The investigation of a priority report is initiated only by contact with the older adult reported to need protective services. The protective services caseworker shall make every attempt to visit with the older adult face to face within the 24 hours provided. When, after reasonable efforts to gain access to the older adult, the caseworker is denied access, the caseworker shall document the efforts made and take action, as appropriate, under § 15.61 or § 15.71.

(3) *Nonpriority report.*

(i) The investigation of a report categorized as nonpriority shall be initiated in a timely manner but never later than 72 hours after the report was received. At the discretion of the agency, the initiation of an investigation of a nonpriority report shall include a visit to the older adult reported to need protective services when details in the report indicate a need to see and talk with the older adult face to face to secure or verify facts essential to the ongoing investigation.

(ii) The investigation of a report categorized as nonpriority shall include at least one visit to the older adult reported to need protective services at an appropriate point in the course of the investigation. Every attempt shall be made to visit with the older adult face to face. When, after reasonable efforts to gain access to the older adult, the protective services caseworker is denied access, the caseworker shall document the efforts made and, when appropriate, take action under § 15.61 or § 15.71.

(4) *No need report.* The investigation of a report categorized as no need for protective services shall consist of the protective services caseworker's review of the report categorization. If the caseworker agrees with the initial categorization, appropriate referrals shall be made within 72 hours after the report was received, to the area agency on aging service management system or, if concerning an adult under 60 years of age to another community agency, if available. If the caseworker does not agree with the initial categorization, the report shall be placed in another category in this subsection and addressed under the applicable provisions for investigating a report in that category.

(b) *Reports involving county or area agency on aging employees.* If the agency is required to investigate a report which alleges that abuse, neglect, exploitation or abandonment has been perpetrated by an employee of the county, the area agency on aging or its subcontractor, the agency shall notify the Department as early as possible during the current or next day of normal business hours. The notification shall be made by phone to a person

designated by the Department and shall include the pertinent details of the report. A copy of the completed report of need shall be immediately forwarded by mail to the Department. Copies of written records of investigative activities shall also be forwarded to the Department for review. The Department reserves the right to intervene in the agency's investigation of a report under this subsection if it is determined appropriate to assure a fully objective investigation.

(c) *Written records of investigative activities.* The investigative activities, including home visits and other contacts with the older adult or other persons or organizations needed to facilitate the investigation, shall be documented in writing and placed in the case record. Documentation may include dated and signed photographs and statements related to suspected abuse.

(d) *Completing investigations of reports.* The agency shall make all reasonable efforts to complete an investigation of a report of need for protective services under this section as soon as possible and, in cases of abuse and neglect, at least within 20 days of the receipt of the report. The investigation of the report is completed only when the report has been determined to be substantiated or unsubstantiated and, if substantiated, after necessary steps have been taken to reduce an imminent risk to the older adult's person or property.

(e) *Department conducting its own investigation.* If the Department determines that an agency is unable to conduct, or has not conducted, what the Department considers an acceptable protective services investigation, the Department may intervene in the agency's investigation, or conduct its own investigation.

§ 15.43. Resolution of unsubstantiated reports.

(a) When, upon investigation of a report, it is determined that there is no need for protective services, the report shall be classified as unsubstantiated.

(b) A case opened by an unsubstantiated report shall be closed and information identifying the person who made the report and the alleged perpetrator of abuse, if applicable, shall be immediately deleted from the case record.

(c) For the purposes of substantiating a pattern of abuse, neglect, exploitation or abandonment, the name of the person reported to need protective services and other information relevant to the circumstances which led to the report may be maintained for 6 months in a separate locked file accessible only to limited authorized staff for review when it is necessary to establish that a previous report was made. At the end of 6 months, case records maintained under this subsection shall be destroyed unless additional reports lead to their being reopened.

(d) When an older adult who is the subject of an unsubstantiated report has needs for other services, the older adult shall be informed of the availability of services through the area agency on aging service management system or another appropriate community agency.

§ 15.44. Resolution of substantiated reports.

(a) When an investigation confirms the details of a report made under § 15.23 (relating to receiving reports; general agency responsibility) or determines that the subject of the report is an older adult in need of protective services, the report shall be classified as substantiated.

(b) The agency shall provide for a timely assessment of the need for protective services by the older adult who is

the subject of a substantiated report if the older adult gives informed consent to an assessment. If an older adult found to need protective services does not consent to an assessment, the agency may seek, when appropriate, a court order under § 15.61 (relating to access to persons).

(c) On the basis of the assessment, the agency shall provide for the development of a service plan of recommended actions which reflect the least restrictive alternatives for removing or reducing imminent risk to person or property and promote self-determination and continuity of care being provided at the time of the agency's intervention. The service plan may include, when appropriate, the pursuit of civil or criminal remedies.

(d) Developed service plans shall be put into effect under § 15.94 (relating to service delivery).

§ 15.45. Situations involving State-licensed facilities.

(a) *General.* The following apply to investigations of reports concerning older adults who reside in State-licensed facilities:

(1) The agency continues to maintain its general responsibility for protective services when a licensing agency assumes the role of investigating a report received by the agency.

(2) The response times provided in § 15.42(a) (relating to standards for initiating and conducting investigations) for initiating investigations of reports apply to initiating investigations of reports under this section. The initiation of the investigation under subsection (c) is accomplished by the referral of the report to the appropriate administrative office.

(3) The supervisor of a protective services caseworker who initiates an investigation under this section shall be informed during the current day or next day of normal agency operating hours concerning the report and shall consult frequently with the caseworker about the progress and findings of the investigation.

(4) The agency shall notify the area agency on aging ombudsman of reports and investigations concerning older adults residing in State licensed facilities for which the area agency on aging provides ombudsman services. In situations that ombudsman services, as established by section 712(g) of the Older Americans Act of 1965 (42 U.S.C.A. § 3058g) and section 2207-A of The Administrative Code of 1929 (71 P. S. § 581-7(d)), are determined to be appropriate, the agency shall request those services from the ombudsman.

(b) *Agency coordination with the licensing agency.*

(1) Except as provided under subsection (c), the agency shall notify the appropriate licensing agency under procedures developed by the Department, in consultation with the licensing agency

(i) Notification shall identify the facility, the older adult and the nature of the report.

(ii) Notification shall be made immediately by telephone or facsimile to the appropriate field office of the Department of Health that an investigation has been initiated in a facility licensed by the Department of Health.

(iii) Notification shall be made immediately by telephone or facsimile to the appropriate field office or central office of the Department of Public Welfare that an investigation has been initiated in a facility licensed by the Department of Public Welfare.

(2) During the course of the investigation, the agency shall coordinate its investigative activities and findings with the licensing agency to avoid duplication of effort and to foster jointly developed remedies to situations requiring protective services intervention.

(c) *State-operated mental health and mental retardation facilities.* If the agency receives a report concerning an older adult who resides in a facility operated by the Department of Public Welfare under its Office of Mental Health or its Office of Mental Retardation, the agency shall provide for an investigation of that report as follows:

(1) The protective services caseworker or investigator to whom the report is referred shall initiate the investigation by referring the report to the appropriate administrative office under procedures jointly developed by the Department and the Department of Public Welfare for investigation under their patient rights program. The jointly developed procedures provide for specific points of contact between the agency and the Department of Public Welfare and establish a system which assures that the agency will be kept fully informed of the activities, findings and results of investigations through written records of the investigative activities and remedial actions as they develop.

(2) The agency shall closely monitor an investigation referred under paragraph (1) to determine that the investigation is effectively implemented and that appropriate remedies have been effected to correct the situation which led to the making of the report. The referral of an investigation to the Office of Mental Health or Office of Mental Retardation does not relieve the agency of its mandated authority and responsibility to provide protective services. If the agency determines that an older adult's need for protective services is not adequately being met under paragraph (1), the agency shall intervene and conduct its own investigation.

§ 15.46. Law enforcement agencies as available resources.

(a) *General.* This chapter may not be interpreted to deny an older adult who needs protective services access to the normal protections available from the police and other law enforcement agencies as appropriate.

(b) *Interagency coordination.* To facilitate the cooperation of law enforcement officials with the provision of protective services when necessary, the agency shall fulfill the following minimum coordinating activities:

(1) Achieve specific coordination objectives with:

(i) Police departments in the planning and service area.

(ii) The district attorney's office.

(iii) State Police field installations for the planning and service area.

(iv) Officials of the court system.

(v) Legal assistance agencies.

(2) Establish designated points of contact with law enforcement agencies to facilitate access when necessary.

(3) Establish basic procedures to be followed when the agency makes reports of criminal conduct or requests for special assistance to law enforcement agencies and when the law enforcement agencies report the need for protective services to the agency.

(4) Provide for the necessary exchange of information about protective services for older adults and the role of law enforcement in the provision of those services.

(c) *The role of law enforcement in protective services.* The agency's protective services workers shall receive training as required under §§ 15.121—15.127 (relating to staff training and experience standards) in applicable sections of the criminal code and the role of law enforcement officials when criminal conduct is encountered or suspected.

(d) *Legal options information.* The agency shall take steps to inform older adults who need protective services of the various legal options, civil or criminal, available through appropriate agencies as possible remedies to situations of risk to person or property. If an older adult reported to need protective services requests the agency to contact a law enforcement agency, the agency shall respond to that request in an appropriate and timely manner.

(e) *Police assistance to protective services worker.* A protective services worker may, as appropriate, request the assistance of a police officer when investigating a report which indicates a possible danger to the worker. As provided under § 15.74 (relating to forcible entry), forcible entry may be made only by a police officer or State Trooper accompanied by a representative of the agency after obtaining a court order.

(f) *Simultaneous investigation.* When both a report of need for protective services and a police report have been filed, the protective services investigation shall continue simultaneously with the police investigation. The agency may take steps to coordinate its investigation with the police investigation and the investigation of the State licensing agency and shall make available as provided under § 15.105 (relating to limited access to records and disclosure of information) relevant information from the case record.

(g) *Report of death.* If the death of an older adult reported to need protective services occurs prior to the agency's investigation of the report, during the investigation or at any time prior to the closure of the protective services case, when there is some nexus between the death and the need for protective services, the agency shall immediately report that death to the police and the county coroner.

§ 15.47. Emergency medical services as available resources.

This chapter may not be interpreted to deny an older adult who needs protective services access to the normal protections of the emergency medical services that would be available to anyone, regardless of age, in similar circumstances.

AGENCY ACCESS TO OLDER ADULTS AND RECORDS

§ 15.61. Access to older adults.

(a) *Access assured by law.* The agency shall have access to older adults who have been reported to need protective services to:

- (1) Investigate reports received under this chapter.
- (2) Assess the older adult's need and develop a service plan for addressing determined needs.
- (3) Provide for the delivery of services by the agency or other service provider arranged for under the service plan developed by the agency.

(b) *Access to older adults.* Except in emergency or priority protective services cases, access to older adults shall be between the hours of 7 a.m. and 9 p.m.

(c) *When access is denied.* If the agency is denied access to an older adult reported to need protective services and access is necessary to complete the investigation or the assessment and service plan, or the delivery of needed services to prevent further abuse, neglect, exploitation or abandonment of the older adult reported to need protective services, the protective services caseworker shall make reasonable efforts to clearly inform the party denying access of the legal authority for access in section 304 of the act (35 P. S. § 10225.304) and the available recourse through a court order. If the party continues to deny the agency access to the older adult, the agency may petition the court for an order to require the appropriate access when one of the following conditions applies:

- (1) The caretaker or a third party has interfered with the completion of the investigation, the assessment and service plan or the delivery of services.
- (2) The agency can demonstrate that the older adult reported to need protective services is denying access because of coercion, extortion or justifiable fear of future abuse, neglect, or exploitation or abandonment.

§ 15.62. Access to records.

(a) *Access assured by law.* The agency shall have access to records relevant to:

- (1) Investigations of reports received under this chapter.
- (2) The assessment of need and the development of a service plan when an older adult's need for protective services has been or is being established.
- (3) The delivery of services arranged for under the service plan developed by the agency to respond to an older adult's assessed need for specific services.

(b) *Access to records.* Except in emergency or priority protective services cases, access to records shall be between the hours of 7 a.m. and 9 p.m.

(c) *When access to records is denied.* If the agency is denied access to records necessary for the completion of a proper investigation of a report or an assessment and service plan, or the delivery of needed services to prevent further abuse, neglect, exploitation or abandonment of the older adult reported to need protective services, the protective services caseworker shall clearly inform the party denying access to the records of the legal authority for access as set forth in section 304 of the act (35 P. S. § 10225.304) by the agency and the available recourse through a court order. If the party continues to deny access to relevant records, the agency may petition the court of common pleas for an order requiring the appropriate access when one of the following conditions applies:

- (1) The older adult has provided written consent for confidential records to be disclosed and the keeper of the records denies access.
- (2) The agency is able to demonstrate that the older adult is denying access to records because of incompetence, coercion, extortion or justifiable fear of future abuse, neglect, exploitation or abandonment.

§ 15.63. Access by consent.

The agency's access to confidential records held by other agencies or individuals and the agency's access to an older adult reported to need protective services shall require the consent of the older adult or a court-appointed guardian except as provided under § 15.61, § 15.62 or § 15.71 (relating to access to older adults; access to records; and involuntary intervention by emergency court order).

EMERGENCY INTERVENTION**§ 15.71. Involuntary intervention by emergency court order.**

(a) *General.* When there is clear and convincing evidence that, if protective services are not provided, the older adult to be protected is at imminent risk of death or serious physical harm, the agency may petition the court for an emergency order to provide the necessary services. The person to be protected shall be an older adult in need of protective services as defined in this chapter. The courts of common pleas of each judicial district shall ensure that a judge or district magistrate is available on a 24-hour-a-day, 365-day-a-year basis to accept and decide on petitions for an emergency court order under this section whenever the agency determines that delay until normal court hours would significantly increase the danger the older adult faces. Only the agency, through its official representative, may bring a petition for involuntary intervention by emergency court order.

(b) *Legal representation.* When the agency petitions the court for emergency involuntary intervention, the agency shall make sure the older adult has the opportunity to be represented by counsel at all stages of the proceedings. If the older adult has an attorney known to the agency, the agency shall attempt to notify that attorney before it files a petition for emergency involuntary intervention. If the agency has no knowledge of an attorney who represents the older adult, the agency shall attempt to notify the legal services provider identified by the area agency on aging in its protective services plan to provide legal assistance under this chapter. The notification shall contain enough information about the risk to the older adult and the proposed remedy to enable counsel to determine if representation is necessary at the emergency hearing. Notification to counsel shall include a copy of the petition with the affidavits attached as well as the time, date and place of presentation of the petition except when § 15.72(b) (relating to petition) applies.

§ 15.72. Petition.

(a) *Contents.* The petition which the agency files for an emergency court order of involuntary intervention shall state the following information:

- (1) The name, age and physical description of the older adult insofar as these facts have been ascertained.
- (2) The address or other location where the older adult can be found.
- (3) The name and relationship of a guardian, caregiver or other responsible party residing with the older adult, when applicable.
- (4) A description of how the older adult is at imminent risk of death or serious physical harm.
- (5) The physical and mental status of the older adult, to the extent known.
- (6) The attempts made by the agency to obtain the informed consent of the older adult, or the older adult's court appointed guardian, when applicable, to the provision of protective services by the agency.
- (7) The specific short-term, least restrictive, involuntary protective services which the agency is petitioning the court for an order to provide.
- (8) A description of how the proposed services would remedy the situation or condition which presents an imminent risk of death or serious physical harm.

(9) A statement showing why the proposed services are not overbroad in extent or duration and why less restrictive alternatives as to their extent or duration are not adequate.

(10) A statement that other voluntary protective services have been offered, attempted or have failed to remedy the situation.

(11) A statement that reasonable efforts have been made to communicate with the older adult in a language the older adult understands in the case of an older adult who is hearing impaired or who does not understand the English language.

(12) Other relevant information deemed appropriate by the agency.

(b) *Oral petitions.* Nothing in this chapter precludes or prohibits the oral presentation of a petition for emergency involuntary intervention. When oral presentation is warranted, the written petition shall be prepared, filed and served on the older adult and counsel within 24 hours of the entry of the emergency order or on the next business day, when the 24-hour period would fall on a weekend or legal holiday.

(c) *Affidavits.* Allegations which are not based upon personal knowledge shall be supported by affidavits provided by persons having that knowledge. The affidavits shall be attached to the petition.

(d) *Emergency order duration.* In the petition, the agency shall request an emergency order of a specific duration which may not exceed 72 hours from the time the order is granted. The agency shall request the court of common pleas to hold a hearing when the initial emergency order expires to review the need for an additional emergency court order or other continued court and protective services involvement, or both. The issuance of an emergency order is not evidence of the competency or incompetency of the older adult.

§ 15.73. Court appointed counsel.

The act requires that an emergency order under this section provides that the older adult has the right to legal counsel. If no representation for the older adult is present at the time the emergency order is requested, the agency shall inform the court of its efforts to notify counsel under § 15.71(b) (relating to involuntary intervention by emergency court order). If the older adult is unable to provide for counsel, the court will appoint counsel as authorized by the act at the time the emergency order is entered to ensure that legal representation will be provided at the time of the emergency protective services review hearing.

§ 15.74. Forcible entry.

When the agency requests a court order for forcible entry to the premises where an older adult at imminent risk of death or serious physical harm is located, the agency shall request the court to direct that a local or State police officer carry out the forcible entry accompanied by a representative of the agency.

§ 15.75. Health and safety requirements.

The agency shall take reasonable steps to assure protection of the older adult's dependents and property while the older adult is receiving services under an emergency court order. The agency is not responsible for the actual provision of all needed services but shall coordinate professional linkage referrals and follow-up to assure that the needed services and protections are being provided and maintained.

§ 15.76. Documentation.

The agency shall document in the case record emergency intervention actions it takes.

INDIVIDUAL RIGHTS OF PARTIES INVOLVED

§ 15.81. Rights of protective services clients.

The agency shall observe the following minimum requirements to safeguard the rights of an older adult who is reported to need protective services:

(1) The agency shall discreetly notify the older adult during the investigation that a report of need for protective services has been made and shall provide the older adult with a brief summary of the nature of the report. The protective services caseworker performing the investigation shall determine when and how this notification is accomplished.

(2) If the older adult requests additional information contained in the record, the agency shall provide the information subject to the requirements in § 15.105 (relating to limited access to records and disclosure of information).

(3) A denial of services by the Department or an authorized agency under this chapter may be appealed under Chapter 3 (relating to fair hearings and appeals).

(4) Nothing in this chapter limits the rights of an older adult to file a petition under 23 Pa.C.S. Chapter 61 (relating to the Protection from Abuse Act).

(5) An older adult determined to need protective services has the right to refuse protective services except as provided under a court order. The agency shall obtain, when possible, the older adult's signed statement refusing protective services or document unsuccessful efforts to obtain a signed statement.

(6) An older adult has the right to legal counsel when the agency petitions the court for emergency or other orders to provide protective services without the older adult's consent. The act provides that if an older adult is unable to provide for counsel, counsel shall be appointed by the court. Under § 15.71 (relating to involuntary intervention by emergency court order), the agency is required to take steps to involve counsel when emergency petitions are filed.

(7) As provided under §§ 15.101—15.105 (relating to confidentiality), an older adult has the right to the confidentiality of information received and maintained by the agency in reports, investigations, service plans and other elements of a case record.

§ 15.82. Rights of alleged abusers.

An individual who, as a result of a protective services investigation, is determined to be a perpetrator of the abuse, neglect, exploitation or abandonment of an older adult is entitled to the following if the report is substantiated by the agency:

(1) The agency shall notify the alleged perpetrator at the conclusion of the investigation of the report that allegations have been made and shall provide the alleged perpetrator with a brief summary of the allegations.

(2) As provided under § 15.105 (relating to limited access to records and disclosure of information), the alleged perpetrator may request, and the agency shall provide, additional information contained in the report.

(3) An alleged perpetrator is entitled to file an appeal with the Department under 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Proce-

dures) to challenge the agency's finding resulting from the investigation of a report made under this chapter. The agency's finding is that information, after an investigation is concluded, which substantiated the need for protective services. The appeal process applicable to older adults under Chapter 3 (relating to fair hearings and appeals) also applies to alleged perpetrators of abuse, neglect, exploitation or abandonment. This appeal shall be in writing to the Secretary and be postmarked within 30 days from the date of notification by the agency required under this section.

PROVISION OF SERVICES

§ 15.91. General.

(a) *Protective services.* Protective services are activities, resources and supports provided to older adults under the act after the initiation of an investigation to prevent, reduce or eliminate abuse, neglect, exploitation and abandonment. Protective services activities include the following:

- (1) Administering protective services plans.
- (2) Receiving and maintaining records of reports of abuse.
- (3) Conducting investigations of reported abuse.
- (4) Conducting assessments and developing service plans.
- (5) Petitioning the court.
- (6) Providing emergency involuntary intervention.

(7) Arranging for available services needed to fulfill service plans, which may include, as appropriate, arranging for services for other household members to reduce, correct or eliminate abuse, neglect, exploitation or abandonment of an older adult. A partial listing of the services which may be made available to reduce, correct or eliminate abuse, neglect, exploitation or abandonment of an older adult is found in § 15.93(c) (relating to service plan).

(8) Purchasing, on a temporary basis, as provided under § 15.112 (relating to uses of funding authorized by the act), services determined by a service plan to be necessary to reduce, correct or eliminate abuse, neglect, exploitation or abandonment of an older adult when the services are not available within the existing resources of the agency or other appropriate provider.

(b) *Availability of protective services.* The agency shall offer protective services under one or more of the following conditions:

- (1) An older adult requests the services.
- (2) Another interested person requests the services on behalf of an older adult.
- (3) If, after initiation of an investigation of a report, the agency determines the older adult needs the services.

(c) *Informed consent required.* The agency shall provide protective services only to older adults who give informed consent to the services. The consent shall be in writing when possible. If the older adult does not consent or, if after consenting, withdraws the consent, protective services may not be provided unless the provision of the services is allowable as a consent exemption.

(d) *Consent exemptions.* Protective services may be provided to older adults in need of protective services without consent only in the following situations:

(1) When ordered by a court under section 304 of the act (35 P. S. § 10225.304).

(2) When requested by an older adult's court-appointed guardian.

(3) When provided under § 15.71 (relating to involuntary intervention by emergency court order).

(e) *Interference with services.* If a person interferes with the provision of services or interferes with the right of an older adult to consent to the provision of services, the agency may petition the court for an order enjoining the interference.

§ 15.92. Assessment.

(a) When a report is substantiated by the agency, or if an assessment is necessary to determine whether or not the report is substantiated, the agency shall, with the consent of the older adult, provide for a timely assessment. If the older adult does not consent, the agency may apply § 15.61 or § 15.71 (relating to access to persons; and involuntary intervention by emergency court order).

(b) The protective services caseworker shall make face-to-face contact with the older adult to evaluate and document information including the following:

- (1) Personal appearance.
- (2) Physical environment.
- (3) Physical health.
- (4) Mental functioning.
- (5) Activities of daily living.
- (6) Social environment.
- (7) Economic status—including eligibility for public and private entitlements or resources as defined under § 15.2 (relating to definitions).
- (8) Nutrition.
- (9) Recent experiences—losses, separations, major changes in relationships or environments.
- (10) The need for a formal medical or psychiatric evaluation.

(c) The assessment shall be written and include, whenever possible, older adult-given information for each area of functioning.

(d) The assessment shall be written so that the reader can determine which information came from the older adult and which constitutes the worker's judgment.

(e) The assessment shall be written in a standard format as required by the Department. Data entries shall be based on commonly accepted and defined nomenclature to make the data more usable across and within agencies and to ensure that older adults are evaluated uniformly according to the standardized definitions.

§ 15.93. Service plan.

(a) Upon completion of the assessment and with the consent of the older adult, a service plan shall be prepared. The service plan shall be cooperatively developed by the agency staff, the older adult or his appointed guardian, and other family members, if appropriate. Protective services may not be provided under the act to an older adult who does not consent to the services or who, having consented, withdraws consent, unless the services are ordered by a court, requested by a court-appointed guardian of the older adult or provided under § 15.71 (relating to involuntary intervention by emergency court order).

(b) The service plan shall be in writing and shall include a recommended course of action which utilizes the least restrictive alternative, encourages self-determination and continuity of care. The recommended course of action may also include pursuit of civil or criminal remedies.

(c) The service plan shall describe the older adult's identified needs, the goals to be achieved, the specific services which will be used to support attainment of the goals and the procedures to be followed with regard to regular follow-up and assessment of progress. Specific services which may be used to implement the service plan include:

- (1) Medical evaluations.
- (2) Psychiatric or psychological evaluations.
- (3) Legal services.
- (4) Public or private entitlements or resources.
- (5) Financial management.
- (6) Personal or environmental safety.
- (7) Emergency shelter.
- (8) Transportation.
- (9) Home delivered meals.
- (10) Attendant care.
- (11) Homemaker services.

(d) The service plan shall also address, if applicable, special needs of other members of the household unit as they may affect the older adult's need for protective services. The identification in a service plan of service needs of other members of the older adult's household does not obligate the agency to pay the costs of the services.

§ 15.94. Service delivery.

(a) The agency shall, with the consent of the older adult, provide for implementation of the course of action recommended in the service plan. The implementation may be provided by direct provision of services by the agency, purchase of services from another agency, referral to another agency, provision of services by family and friends or a combination of these or other methods.

(b) Protective services may not be provided under the act to an older adult who does not consent to services or who, having consented, withdraws consent, unless the services are ordered by a court, requested by a guardian of the older adult or provided under § 15.71 (relating to involuntary intervention by emergency court order).

§ 15.95. Case management.

(a) *Coordination of services.* The protective services caseworker is responsible for coordination of sources of services being provided to the older adult who needs protective services. The caseworker shall also take reasonable steps to assure that services necessary to achieve the goals in the service plan are being provided.

(b) *Case records.* A separate record shall be established to contain information on protective services cases. The protective service case record on an older adult shall be separated from other records maintained by the agency on that older adult. Confidentiality of the protective services case record shall be maintained by the agency as set forth in §§ 15.101—15.105 (relating to confidentiality). The protective services case record includes the following:

- (1) The report of a need for protective services.

- (2) The record of investigation.
 - (3) The written findings of the assessment.
 - (4) The service plan.
 - (5) Notes of contact with the older adult and others involved with the case.
 - (6) Court documents—for example, petitions, orders and the like.
 - (7) Letters of notification—abused and abuser.
- (c) *Reassessment.* Reassessment shall be done for protective service clients.

(1) Reassessment shall be written in the standardized format established by the Department.

(2) Reassessment shall be done before a protective services case is terminated, transferred, it is the agency's judgment that a reassessment is appropriate or the older adult's condition has changed.

§ 15.96. Termination of protective services.

(a) The agency shall terminate protective services when the older adult is no longer "an older adult in need of protective services" under § 15.2 (relating to definitions).

(b) Except when the older adult withdraws consent to the delivery of protective services, the agency may terminate protective services in one of the following ways:

(1) By closing the case when no further service intervention is required by the older adult.

(2) By closing the case when a court order for services has terminated and the older adult does not consent to further service intervention.

(3) By transferring the older adult to the service management system of the area agency.

(4) By transferring the older adult to another appropriate agency.

(c) When the agency terminates protective services, the agency shall inform the older adult and, if applicable, responsible caretakers of this action and its rationale and shall attempt to secure a signed statement of understanding concerning the action. When the agency transfers a protective services case, the case record shall reflect the transfer of an older adult to another agency, the specific agency of referral and the acceptance of the referral by the other agency.

CONFIDENTIALITY

§ 15.101. General.

Information contained in the agency's protective services case files, as defined under § 15.2 (relating to definitions), shall be considered confidential and shall be maintained under this chapter.

§ 15.102. Maintenance of case records.

(a) Protective services case records shall be kept, when not in use by authorized persons, in a locked container and separate from other agency files. The report, the record of investigation, notes of contact with the older adult and others involved with the case, court documents and letters of notification may not be transferred to, or reprinted for, other agency files. The assessment and service plan may be transferred to other agency case files with assurance by the agency that an older adult's complete protective services case record can be immediately produced.

(b) When an individual case record is removed from its storage location for use by an authorized person, the person shall sign for the record according to sign-out procedures developed by the agency.

(c) Except as provided under § 15.105 (relating to limited access to records and disclosure of information), only staff with direct responsibility for protective services functions may be authorized by the agency to have access to the protective services case records. General access is restricted to protective services supervisors, protective services caseworkers and clerical staff assigned to type and maintain case records.

(d) As provided under § 15.43 (relating to resolution of unsubstantiated reports), when the agency cannot substantiate a report of a need for protective services, the case opened by the unsubstantiated report shall be closed and information identifying the person who made the report and the alleged perpetrator of abuse, if applicable, shall be immediately deleted from the case record.

(e) For the purposes of substantiating a pattern of abuse, neglect, exploitation or abandonment, the name of the older adult reported to be in need of protective services and other information relevant to the circumstances which led to the report may be maintained for 6 months in a separate locked file accessible only to authorized staff for review when necessary to establish that a previous report was made. At the end of 6 months, case records maintained under this subsection shall be destroyed unless additional reports lead to their being reopened.

(f) The agency shall develop written procedures for the deletion or expungement of information in case records and for the destruction of case records so that unauthorized persons are not able to gain access to information from case records. The procedures shall be submitted to the Department in the protective services plan required under § 15.12(b) (relating to administrative functions and responsibilities of area agencies on aging).

§ 15.103. Responsibilities of staff with access to confidential information.

(a) The agency shall assure that staff with access to information contained, or to be contained, in a case record are fully aware of the confidentiality provisions of this chapter and of the local agency.

(b) A staff person who is authorized to have access to information contained, or to be contained, in a case record is required to take every possible step to safeguard the confidentiality of that information. This requirement extends to known information related to a case but not recorded in writing.

(c) A staff person who is to be authorized to have access to confidential information related to protective services cases shall sign a statement provided by the Department, assuring knowledge of applicable confidentiality requirements and the penalties for violating them.

§ 15.104. Penalties for violation of confidentiality requirements.

(a) If a staff person who is authorized to have access to confidential information under this chapter is strongly suspected of violating the requirements in the signed confidentiality statement under § 15.103(c) (relating to responsibilities of staff with access to confidential information), that person shall be immediately suspended from protective services duties pending an investigation and determination of culpability.

(b) If a staff person who is authorized to have access to confidential information under this chapter is determined upon investigation to have violated the requirements in the signed confidentiality statement under § 15.103(c), that person shall be subject to the appropriate disciplinary action in the confidentiality statement.

§ 15.105. Limited access to records and disclosure of information.

Information in a protective services case record may not be disclosed, except as provided in this section.

(1) Information may be disclosed to a court of competent jurisdiction or under a court order. The protective service agency shall disclose case record information for the purpose of in camera review by the court.

(2) If an investigation by the agency results in a report of criminal conduct, law enforcement officials shall have access to relevant records maintained by the agency or the Department.

(3) In arranging specific services to effect service plans, the agency may disclose to appropriate service providers information necessary to initiate the delivery of services.

(4) A subject of a report, a court-appointed guardian or an attorney providing legal services to the subject of the report made under § 15.23 (relating to receiving reports; general agency responsibility) may receive, upon written request, information contained in the report except that prohibited from being disclosed by paragraph (5).

(5) The release of information that would identify the person who made a report of suspected abuse, neglect, exploitation or abandonment or a person who cooperated in a subsequent investigation, is prohibited unless the Secretary can determine that the release will not be detrimental to the safety of the person. Prior to releasing information under this paragraph, the Secretary will notify the person whose identity would be released that the person has 45 days to advise the Secretary why this anticipated release would be detrimental to the safety of that person.

(6) When the Department is involved in the hearing of an appeal by a subject of a report made under § 15.23, the appropriate Department staff shall have access to information in the case record relevant to the appeal.

(7) For the purposes of monitoring agency performance, appropriate staff of the Department may have access to agency protective services records.

(8) For the purposes of monitoring agency performance and carrying out other administrative responsibilities, individuals with local administrative authority over the protective services program may have access to agency protective services records.

FINANCIAL OBLIGATIONS

§ 15.111. Coordination of available resources.

(a) The agency shall insure that funding authorized under the act is not used to supplant public and private entitlements or resources as defined in § 15.2 (relating to definitions) for which older adults are, or may be, eligible.

(b) The agency shall attempt to establish the older adult's eligibility for appropriate public and private entitlements and resources and shall exhaust the eligibility for benefits prior to the utilization of funds authorized by the act for the provision of services.

(c) The agency is required to coordinate the utilization of public and private entitlements and resources. This chapter does not establish a means test for the provision

of protective services. A protective service client who receives a service may not be required to pay a fee not required of other older adults receiving the same service.

§ 15.112. Uses of funding authorized by the act.

The agency may utilize funding authorized by the act to pay for activities, including the following:

(1) Administering protective services plans as described in § 15.12(b) (relating to administrative functions and responsibilities of area agencies on aging).

(2) Receiving reports and maintaining records of reports as provided under §§ 15.23 and 15.101–15.105 (relating to receiving reports; general agency responsibility; and confidentiality).

(3) Conducting investigations under §§ 15.41–15.47 (relating to investigating reports of need for protective services).

(4) Conducting assessments and developing service plans under §§ 15.92 and 15.93 (relating to assessment; and service plan).

(5) Petitioning the court under §§ 15.61–15.63 and 15.71–15.75 (relating to agency access to older persons and records; and emergency intervention).

(6) Providing emergency involuntary intervention under §§ 15.71–15.75.

(7) Arranging for available services needed to carry out service plans, which may include, as appropriate, arranging for services for other household members to reduce, correct or eliminate abuse, neglect, exploitation or abandonment of an older adult. The inclusion of services needed by other household members in the service plan will allow the agency to arrange for the provision of those services through public and private entitlements or resources for which the individuals are or may be eligible. The inclusion does not obligate the agency to pay for the services or to provide services which are not available from another appropriate provider.

(8) Purchasing, on a temporary basis, services determined by the service plan to be necessary to reduce, correct or eliminate abuse, neglect, exploitation or abandonment of an older adult when the services are not available within the existing resources of the agency or another appropriate provider. Funding authorized by the act and expended under an area agency on aging protective services plan may not be used for the purchase of services which are already financed through other State-administered plans for local service delivery or through local public and private resources under those plans except with the specific prior approval of the Department. The protective services plan shall identify the agency's proposed expenditures for activities under this paragraph. The agency shall insure that every attempt has been made to provide the service through existing agency resources, appropriate utilization of other providers and the coordination of public and private entitlements and resources prior to entering into the purchase of services for a protective services client.

§ 15.113. Time limitation on service purchases.

(a) After exhausting available steps to provide necessary services through existing agency resources, utilization of other providers and the coordination of public and private entitlements and resources, the agency may purchase those services on a time-limited basis.

(b) The purchase of services under this section is limited to a 30-day period which may be renewed only with adequate justification. The agency shall consider the

30-day period to be a maximum time limit for the purchase of services and not a standard time allotment. After the decision to purchase services has been made, the agency shall continue the pursuit of alternate ways to provide the services and terminate the purchase of services as soon as possible.

(c) If at the end of 30 days of continuous service purchase on behalf of an individual protective services client, the services are still necessary and still available only through purchase, complete justification of the need for services and documentation of the unavailability of the services shall be made a part of the record as required by § 15.95(b) (relating to case management).

§ 15.114. Obligation of the Commonwealth and the counties.

The obligation of the Commonwealth and the counties to provide funds to the Department or an agency for services provided under this chapter shall be entirely discharged by the appropriations made to the Department or an agency. If the agency has met its responsibility under the law, no action at law or equity may be instituted in a court to require the Department, an agency, county or the Commonwealth to provide benefits or services under the act for which appropriations from the Commonwealth or counties are not available. The responsibility of the area agency on aging, the county and the Commonwealth to provide funding is met when resources authorized by the act and provided under approved area agency on aging plans have been expended.

STAFF TRAINING AND EXPERIENCE STANDARDS

§ 15.121. Protective services staff qualifications.

(a) *General.* The area agency on aging shall assure that staff directly involved with the protective services caseload meet the minimum standards of training and experience in this chapter. The minimum standards apply to staff assigned to protective services on a full-time basis, a part-time basis or as standby staff. The minimum standards apply to incumbent staff as well as those hired after November 26, 1988.

(b) *Criminal record.* The protective services agency shall require persons to be hired or to be assigned to carry out responsibilities for protective services investigations, assessments and service planning and arrangement to submit the following information:

(1) Under 18 Pa.C.S. §§ 9101—9183 (relating to the criminal history record information act), a report of criminal history record information from the State Police or a statement from the State Police that the State Police Central Repository contains no information relating to that person. The criminal history record information shall be limited to that which is disseminated under 18 Pa.C.S. § 9121(b)(2) (relating to general regulations).

(2) If the applicant or assignee is not a resident of this Commonwealth, a report of Federal criminal history record information under the Federal Bureau of Investigation appropriation of Title II of the Act of October 25, 1972 (Pub. L. No. 92-544, 86 Stat. 1109).

(c) *Staff training and experience requirements.* The minimum standards for protective services job functions are as follows:

(1) *Protective services supervisor.* A protective services supervisor shall:

(i) Have 3 years direct aging casework experience or an equivalent combination of education and experience.

(ii) Complete the curriculum described in § 15.122 (relating to protective services casework training curriculum).

(iii) Complete the curriculum described in § 15.123 (relating to protective services investigation training curriculum) if the protective services supervisor will be performing protective services investigations.

(iv) Complete written evaluations that assess competencies achieved by the learner.

(v) Undergo in-service training in protective services annually as required by the Department.

(2) *Protective services caseworker.* A protective services caseworker shall:

(i) Have 1 year direct aging casework experience.

(ii) Complete the curriculum described in § 15.122.

(iii) Complete the curriculum described in § 15.123.

(iv) Complete written evaluations that assess competencies achieved by the learner.

(v) Undergo in-service training in protective services annually as required by the Department.

(3) *Protective services intake workers.* Staff persons designated to receive reports of older adults who need protective services shall complete the curriculum under § 15.124 (relating to protective services intake training curriculum).

§ 15.122. Protective services casework training curriculum.

The protective services casework training curriculum shall consist of comprehensive training including the following topics:

(1) An overview of abuse, neglect, exploitation and abandonment.

(2) Laws and regulations of the Commonwealth relating to abuse, neglect, exploitation and abandonment of older adults.

(3) Detection of abuse, neglect, exploitation and abandonment.

(4) Protective services case assessments.

(5) Provision of protective services.

(6) Interviewing skills.

(7) The resistant older adult.

(8) Utilization of local resources.

(9) Incompetence or incapacity.

(10) Relationships with other agencies.

(11) Confidentiality.

(12) Institutional investigations.

(13) Service options for victims of abuse, neglect, exploitation and abandonment.

(14) Informed consent.

(15) Self-neglect.

(16) Retaliation.

§ 15.123. Protective services investigation training curriculum.

The protective services investigation training curriculum shall consist of comprehensive training including the following topics:

(1) Laws and regulations of the Commonwealth related to investigations and criminal procedures.

- (2) The criminal justice system.
- (3) Developing the investigative plan.
- (4) Investigative techniques.
- (5) Maintaining control of the interview.
- (6) Interviewing reporters.
- (7) Interviewing collateral sources.
- (8) Interviewing victims.
- (9) Observation techniques.
- (10) Techniques to obtain documentary evidence.
- (11) Techniques to gather and preserve physical evidence.
- (12) Closing the investigation.
- (13) Presenting testimony in court.
- (14) Coordination with other State agencies.

§ 15.124. Protective services intake training curriculum.

The protective services intake training curriculum shall consist of training including the following topics:

- (1) Interviewing the reporter.
- (2) Completion of the report form.
- (3) Preliminary case status assessment to determine report categories.
- (4) Requirements for referral of the report to the protective services staff.
- (5) Emergency procedures.
- (6) Confidentiality.

§ 15.125. Availability of training.

(a) The Department will provide for the development of training curricula described in this section and will require the training to be conducted on a timely and recurring basis. The Department will also provide for annual in-service training.

(b) The agency shall utilize staff meeting the requirements in § 15.121(c)(1) and (2) (relating to protective services staff qualifications) to conduct training for protective services intake workers. The training shall be in conformity with the curriculum for protective services intake workers established by the Department.

§ 15.126. Training evaluation.

A person who completes the training set forth for each job function in § 15.121 (relating to protective services staff qualifications) shall complete written evaluations that assess competencies achieved by the learner.

§ 15.127. In-service training.

(a) In addition to the required training set forth in §§ 15.122 and 15.123 (relating to protective services casework training curriculum; and protective services investigation training curriculum), protective services supervisors and protective services caseworkers shall participate in in-service training in protective services as required by the Department each year beginning with the calendar year following completion of the required basic protective services training set forth in § 15.122 (relating to protective services casework training curriculum).

(b) Annual in-service training shall consist of a minimum of 1 day of training and may include the following topics:

- (1) Update on laws and regulations relating to protective services.
- (2) Technical assistance for common problems.
- (3) Best practice presentations.

CRIMINAL HISTORY RECORD INFORMATION REPORTS

§ 15.131. (Reserved).

§ 15.141. Prospective facility personnel.

(a) *General rule.* A facility shall require applicants for employment to submit applications with a criminal history report, obtained within 1 year immediately preceding the date of application, or as in § 15.144 (relating to procedures), as follows:

(1) *State Police criminal history record.* Facilities shall require all applicants to submit a State Police criminal history record.

(2) *Federal criminal history record.* If the applicant is not and for the 2 years immediately preceding the date of application has not been a resident of this Commonwealth, the facility shall require the applicant to submit a Federal criminal history record and a full set of fingerprints to the Department which will be forwarded to the Federal Bureau of Investigation.

(b) *Proof of residency.* Facilities may require an applicant to furnish proof of residency, including, but not limited to, any one of the following documents:

- (1) Motor vehicle records, such as a valid driver's license.
- (2) Housing records, such as mortgage records, rent receipts or certification of residency in a nursing home.
- (3) Public utility records and receipts, such as electric bills.
- (4) Local tax records.
- (5) A completed and signed, Federal, State or local income tax return with the applicant's name and address preprinted on it.
- (6) Employment records, including records of unemployment compensation.

§ 15.142. Employee requirements.

(a) The following employees are required to submit a criminal history report:

(1) Administrators and operators who have direct contact with clients and who began serving as administrators and operators after July 1, 1998. Residents of this Commonwealth shall comply within 30 days of employment and nonresidents shall comply within 90 days.

(2) Employees of a facility who were employed after July 1, 1998. Residents of this Commonwealth shall comply within 30 days of employment and nonresidents shall comply within 90 days.

(3) Exceptions are as follows:

(i) Employees of the facility on July 1, 1998, who were employed by the facility for a continuous period of at least 1 year prior to July 1, 1998.

(ii) Employees who have complied with this section who transfer to another facility established or supervised, or both, by the same operator.

(iii) Employees who are employed by a new facility solely through a transfer of ownership of that facility.

(iv) A consumer attendant.

(v) An individual providing care to a care-dependent person, and employed by the care-dependent person, or by another person designated by the care-dependent person, and not by or through a home health care agency.

(vi) An individual, employed by an enterprise that operates facilities and nonfacilities in the same physical location, who has no employment responsibilities in the facility (Example: An individual employed by a hospital which also has within it a long-term care nursing unit. The individual is employed to work in the hospital).

(vii) A contract employee who has neither direct contact with residents in a facility nor unsupervised access.

(viii) An individual, employed by a home health agency or other entity that supplies, arranges for, or refers personnel to provide care to care-dependent persons, who is employed for purposes other than providing care in a facility or in a recipient's place of residence (example: an individual employed as a bookkeeper by an agency which supplies homemaker/home health aides).

(ix) An individual functioning in a facility as a volunteer.

(b) Employees at facilities that supply, arrange for, or refer their employees to provide care in other facilities shall provide a criminal history report to the facility that supplies, arranges for, or refers them and to the facility at which they provide care. The exemptions of this section are applicable to these employees. (Example: Employees of a home health care staffing agency assigned by the agency to provide care in a long-term care nursing facility must provide a criminal history report to the staffing agency and to the long-term care nursing facility.) The staffing agency shall be responsible for notifying the employee of criminal history report requirements.

(c) Criminal history reports provided by the Department of Education, under the Nurse Aide Resident Abuse Prevention Training Act (63 P.S. §§ 671-680), which meet the criteria established in this chapter may be accepted to satisfy the requirements of this chapter.

§ 15.143. Facility responsibilities.

(a) A facility may not hire an applicant nor retain an employee required to submit a criminal history report if the criminal history report reveals a felony conviction under The Controlled Substance, Drug, Device and Cosmetic Act (35 P.S. §§ 780-101-780-144).

(b) A facility may not hire an applicant nor retain any employee required to submit a criminal history report if the criminal history report reveals a conviction under one or more of the following provisions of 18 Pa.C.S. (relating to the Crimes Code):

- (1) Chapter 25 (relating to criminal homicide).
- (2) Section 2702 (relating to aggravated assault).
- (3) Section 2901 (relating to kidnapping).
- (4) Section 2902 (relating to unlawful restraint).
- (5) Section 3121 (relating to rape).
- (6) Section 3122.1 (relating to statutory sexual assault).
- (7) Section 3123 (relating to involuntary deviate sexual intercourse).
- (8) Section 3124.1 (relating to sexual assault).

(9) Section 3125 (relating to aggravated indecent assault).

(10) Section 3126 (relating to indecent assault).

(11) Section 3127 (relating to indecent exposure).

(12) Section 3301 (relating to arson and related offenses).

(13) Section 3502 (relating to burglary).

(14) Section 3701 (relating to robbery).

(15) A felony offense under Chapter 39 (relating to theft and related offenses), or two or more misdemeanors under Chapter 39.

(16) Section 4104 (relating to tampering with records or identification).

(17) Section 4114 (relating to securing execution of documents by deception).

(18) Section 4302 (relating to incest).

(19) Section 4303 (relating to concealing death of child).

(20) Section 4304 (relating to endangering welfare of children).

(21) Section 4305 (relating to dealing in infant children).

(22) Section 4952 (relating to intimidation of witnesses or victims).

(23) Section 4953 (relating to retaliation against witness, victim or party).

(24) A felony offense under section 5902(b) (relating to prostitution and related offenses).

(25) Section 5903(c) or (d) (relating to obscene and other sexual materials and performances).

(26) Section 6301 (relating to corruption of minors).

(27) Section 6312 (relating to sexual abuse of children).

(c) A facility may not hire an applicant nor retain an employee required to submit a report if the criminal history report reveals conviction of a Federal or out-of-State offense similar in nature, as determined by the Department, to those listed in subsections (a) and (b).

(d) A facility shall ensure that applicant or employee responsibility to obtain criminal history reports is explained to each applicant or employee orally and in writing in a language understood by the applicant or employee.

(e) Facilities shall maintain employment records which include copies of completed request forms for criminal history reports, State Police criminal history records and Department letters of determination regarding Federal criminal history records.

(f) An administrator shall assure that information obtained from State Police criminal history records and Department letters of determination regarding Federal criminal history records remain confidential and are used solely to determine an applicant's eligibility for employment or an employee's eligibility for retention.

(g) If the decision not to hire or to terminate employment is based in whole or in part on State Police criminal history records, Department letters of determination regarding Federal criminal history records, or both, facilities shall provide applicants and employees with information on how to appeal to the sources of criminal history records if they believe the records are in error.

§ 15.144. Procedure.

(a) Applicants and employees required to obtain a criminal history report from the State Police may obtain forms from a State Police facility.

(1) The State Police may charge a fee of not more than \$10. A facility's check, cashier's check, certified check or money order shall accompany the request unless other payment arrangements are made with the State Police.

(2) Facilities may at their option require applicants and employees to return the form to a designated individual for submission by the facility.

(b) Applicants and employees required to obtain a Federal criminal history report shall obtain the information packet from the facility or the Department.

(1) Applicants and employees shall return the Federal Bureau of Investigation fingerprint card and forms, and a cashier's check, certified check or money order payable to the Federal Bureau of Investigation in the exact amount established by the Federal Bureau of Investigation. Upon receipt, the Department will submit the request to the State Police for transfer to the Federal Bureau of Investigation.

(2) Upon receipt of the criminal history report from the Federal Bureau of Investigation, the Department will determine if the applicant is eligible for employment or if the employee may be retained. The Department will contact the applicant or employee with a written letter of determination.

(c) Applicants and employees shall complete all necessary forms. Facilities shall assist an applicant or employee to comply with this requirement if requested.

(d) Facility administrators may assume financial responsibility for the fees through a quarterly payment system.

(e) Applicants and employees are responsible for reviewing their own criminal history reports for accuracy.

§ 15.145. Applicant or employee rights of review.

(a) An applicant or employee may review, challenge and appeal the completeness or accuracy of the applicant's or employee's criminal history report under 18 Pa.C.S. §§ 9125 and 9152—9183 or 28 CFR 16.34 (relating to procedure to obtain change, correction or updating of identification records), or both.

(b) An applicant or employee may challenge the conviction comparison interpretation of the Department involving the Federal criminal history record by filing an appeal with the Department under 1 Pa. Code Chapter 35 (relating to formal proceedings in administrative practice and procedure) and Chapter 3 (relating to fair hearings and appeals). Appeals must be postmarked within 30 days from receipt of the Department's letter and be in writing to the attention of the Secretary of the Department.

§ 15.146. Provisional hiring.

(a) Facilities may employ applicants on a provisional basis for a single period not to exceed 30 days for applicants requesting a State Police criminal history record, and a single period not to exceed 90 days for applicants requesting a Federal criminal history record, if all of the following conditions are met:

(1) Applicants shall have applied for a criminal history report and provided the facility with a copy of the completed request forms.

(2) The facility shall have no knowledge about the applicant that would disqualify the applicant from employment under 18 Pa.C.S. § 4911 (relating to tampering with public record information).

(3) The applicant shall swear or affirm in writing that the applicant is not disqualified from employment under the act.

(4) The provisionally employed applicant shall receive an orientation which provides information on policies, procedures and laws which address standards of proper care and recognition and reporting of abuse or neglect, or both, of recipients.

(5) The facility shall regularly supervise the applicant carrying out assigned duties. The results of the observations shall be documented in the employee personnel file.

(6) A home health care agency shall supervise the applicant through random, direct observation and evaluation of the applicant and care recipient by an employee who has been employed by the home health agency for at least 1 year. The results of the observations shall be documented in the employee personnel file.

(7) A home health agency which has been in business for less than 1 year shall supervise the applicant through random, direct observation and evaluation of the applicant and care recipient by an employee with prior employment experience of at least 1 year with one or more other home health care agencies. The results of the observations shall be documented in the employee personnel file.

(b) If the information obtained from the criminal history report reveals that the applicant is disqualified from employment in accordance with § 15.143 (relating to facility responsibilities), the applicant shall be dismissed immediately.

(c) The administrator or designee shall review the contents of the applicant's personnel file on the 30th day of provisional employment of a Pennsylvania resident applicant or the 90th day of provisional employment of a nonresident applicant to insure that the copy of the State Police criminal history record, the letter of determination issued by the Department, or both is physically present in the folder along with correspondence from the State Police advising that the applicant's employment may be continued or must be terminated.

(d) Except as provided in subsection (e), if inspection of the file reveals that the State Police criminal history record, the letter of determination issued by the Department, or both has not been provided to the employer, the applicant's employment shall be immediately suspended or terminated.

(e) If the criminal history record report, the letter of determination issued by the Department, or both, has not been provided due to the inability of the State Police or the Federal Bureau of Investigation to provide them timely, the period of provisional employment shall be extended until the facility receives the required reports. During the extended provisional employment period, the supervision and documentation requirements of this section shall be continued.

§ 15.147. Violations.

(a) *Administrative.*

(1) An administrator or designee or facility owner-operator who intentionally or willfully fails to comply or

obstructs compliance with §§ 15.141—15.146 commits a violation of this chapter and shall be subject to an administrative penalty.

(2) Violations and penalties shall be determined by the Commonwealth agency that licenses the facility. The Commonwealth agency may issue an order assessing a civil penalty of not more than \$2,500. An order issued under this paragraph is subject to due process as set forth in 2 Pa.C.S. §§ 501—508 and 551—555 (relating to practice and procedure of Commonwealth agencies; and practice and procedure of local agencies) and judicial review in 2 Pa.C.S. §§ 701—704 and 751—754 (relating to judicial review of Commonwealth agency action; and judicial review of local agency action).

(3) Representatives of the Departments of Aging, Health and Public Welfare who suspect violations of this section shall report them to the appropriate Commonwealth licensing agency under procedures developed by the Department in consultation with the licensing agency. The report shall be made in writing and include, at a minimum, the facility, the administrator, owner, operator or designee suspected of committing the violation and a description of the suspected violation.

(b) *Criminal.* An administrator or designee or facility owner who intentionally or willfully fails to comply or obstructs compliance with §§ 15.141—15.146 commits a misdemeanor of the third degree and shall, upon conviction, be sentenced to pay a fine of \$2,500 or to imprisonment for not more than 1 year, or both.

REPORTING SUSPECTED ABUSE

§ 15.151. General requirements.

(a) Administrators or employees who have reasonable cause to suspect that a recipient is a victim of abuse shall:

- (1) Immediately make an oral report to the agency.
- (2) Make a written report to the agency within 48 hours.

(b) Employees making oral or written reports shall immediately notify the administrator or designee of these reports.

(c) Agencies shall notify administrators, or their designees, and State agencies with facility licensing responsibilities immediately when written reports of abuse are received.

(d) Employees required to report abuse may request administrators or their designees to make, or assist the employees to make, oral or written reports.

§ 15.152. Additional reporting requirements.

(a) Administrators or employees who have reasonable cause to suspect that a recipient is the victim of sexual abuse, serious physical injury or serious bodily injury, or that a recipient's death is suspicious, shall, in addition to the reporting requirements in § 15.151(a):

(1) Immediately make an oral report to law enforcement officials. An employee shall immediately notify the facility administrator or a designee following a report to law enforcement officials.

(2) Make an oral report to the Department during the current business day or, if the incident occurs after normal business hours, at the opening of the next business day.

(3) Make a written report within 48 hours of making the oral report, to law enforcement officials and the agency.

(b) Law enforcement officials shall promptly notify facility administrators or their designees that reports have been made with them.

(c) Administrators or employees shall, in addition to complying with these requirements, comply with reporting requirements of the Commonwealth licensing agency that licenses or funds the facility.

§ 15.153. Contents of reports.

(a) Written reports under §§ 15.151 and 15.152 (relating to general requirements; and additional reporting requirements) shall be made on forms supplied or approved by the Department.

(b) The report shall include, at a minimum, the following information:

- (1) Name, age and address of recipient.
- (2) Name, address of recipient's guardian or next-of-kin.
- (3) Facility name and address.
- (4) Description of the incident.
- (5) Specific comments or observations.

§ 15.154. Reports to Department and coroner by agencies.

(a) *Department.*

(1) Within 48 hours of receipt of a written report under § 15.152 (relating to additional reporting requirements) involving sexual abuse, serious physical injury, serious bodily injury or suspicious death, the agency shall transmit a written report to the Department.

(2) A report under this subsection shall be made in a manner and on forms prescribed by the Department. The report shall include, at a minimum, the following information:

- (i) The name and address of the alleged victim.
- (ii) Where the suspected abuse occurred.
- (iii) The age and sex of the alleged perpetrator and victim.
- (iv) The nature and extent of the suspected abuse, including evidence of prior abuse.

(v) The name and relationship of the individual responsible for causing the alleged abuse to the victim, if known, and evidence of prior abuse by that individual.

(vi) The source of the report.

(vii) The individual making the report and where that individual can be reached.

(viii) The actions taken by the reporting source, including taking of photographs and X-rays, removal of recipient and notification under subsection (b).

(b) *Coroner.* For a report under § 15.152 which concerns the death of a recipient, if there is reasonable cause to suspect that the recipient died as a result of abuse, the agency shall give the oral report and forward a copy of the written report to the county coroner of the county wherein the death occurred.

§ 15.155. Investigation.

(a) *Agency response.* Upon receipt of a report under §§ 15.151 and 15.152 (relating to general requirements; and additional reporting requirements), the agency shall respond as follows:

(1) If the victim or recipient is 60 years of age or older, the agency shall conduct an investigation to determine if the subject of the report is in need of protective services. The investigation by the agency shall be conducted as set forth at § 15.41—15.47 (relating to investigating reports of need for protective services).

(2) If the victim or recipient is under 60 years of age, the agency may not conduct an investigation. The investigation of the reports shall be conducted by the State agency, if any, that licensed the facility.

(3) If the victim or recipient is under 18 years of age, the agency shall notify and forward reports to the regional office of the Department of Public Welfare, Office of Children, Youth and Families or the State "ChildLine" and the county office of child protective services.

(4) If the victim or recipient resides in a nursing home or is receiving home health services, the agency shall notify and forward reports to the Department of Health office with facility licensing responsibilities and the regional office of the Department of Health.

(5) If the victim or recipient resides in a personal care home, the agency shall notify and forward reports to the Department of Public Welfare regional office with facility licensing responsibilities.

(6) If the victim or recipient resides in a domiciliary care home or receives services from an adult daily living center, the agency shall notify and forward reports to the Department.

(7) If the agency has knowledge or believes that the victim or recipient has mental retardation or a mental health condition, the agency shall notify the Department of Public Welfare office with facility licensing responsibilities and the county MH/MR office in addition to making other reports required by this subsection.

(b) *Cooperation.* To the fullest extent possible, law enforcement officials, the facility, the Commonwealth agency that licensed the facility and the agency shall coordinate their respective investigations, and shall advise each other and provide applicable additional information on an ongoing basis.

§ 15.156. Restrictions on employees.

(a) Upon notification that an employee is alleged to have committed abuse, the facility shall immediately develop and implement an individual plan of supervision or, when appropriate, suspension of the employee. The facility shall submit to the agency and the Commonwealth agency with regulatory authority over the facility a copy of the employee's individual plan of supervision for approval within the agencies' accepted time frames.

(b) Following approval of an individual plan of supervision by the agency and Commonwealth agency, the facility shall follow the plan. Changes to the plan must be approved by the agency and the Commonwealth agency with regulatory authority over the facility prior to their implementation.

(c) The individual plan of supervision established by a home health care agency shall, in addition to the requirements of this section, include periodic, random direct observation and evaluation of the employee and care recipient by an individual continuously employed by the home health care agency for at least 1 year. For a home health agency in business for less than 1 year, supervision shall include random, direct observation. An evaluation by an employee with prior employment experience of at least 1 year with one or more other home health care agencies.

(d) Upon being notified by law enforcement officials of a decision to file criminal charges against an employee, as a result of a report made in compliance with § 15.152 (relating to additional reporting requirements), the facility shall inform the Commonwealth agency that licenses the facility. The Commonwealth licensing agency shall order the facility to immediately deny the employee access to recipients at the facility. If the employee is a director, operator, administrator or supervisor, the employee shall be subject to restrictions by the Commonwealth licensing agency to assure the safety of recipients at the facility.

§ 15.157. Confidentiality of and access to confidential reports.

(a) *General rule.* Except as provided in subsection (b) and § 15.105 (relating to limited access to records and disclosure of information), all information concerning a report under this chapter shall be confidential.

(b) *Exceptions.* Relevant information concerning a report under this chapter shall be made available to the following:

(1) An employee of the Department or of an agency in the course of official duties in connection with responsibilities under this chapter, including the long term care ombudsman.

(2) An employee of the Department of Health or the Department of Public Welfare in the course of official duties.

(3) An employee of an agency of another state that performs protective services similar to those under this chapter.

(4) A practitioner of the healing arts who is examining or treating a recipient and who suspects that the recipient is in need of protection under this chapter.

(5) The director, or an individual specifically designated in writing by the director, of a hospital or other medical institution where the victim is being treated if the director or designee suspects the recipient is in need of protection under this chapter.

(6) The recipient or the guardian of the recipient.

(7) A court of competent jurisdiction under a court order.

(8) The Attorney General.

(9) Law enforcement officials of any jurisdiction as long as the information is relevant in the course of investigating cases of abuse.

(10) A mandated reporter who made a report of suspected abuse. Information released under this paragraph shall be limited to the following:

(i) The final status of the report following the investigation.

(ii) Services provided or to be provided by the agency.

(c) *Excision of certain names.* The name of the person suspected of committing the abuse shall be excised from a report made available under subsection (b)(4), (5) and (10).

(d) *Release of information to alleged perpetrator and victim.* Upon written request, the alleged perpetrator and victim may receive a copy of all information, except that prohibited from being disclosed by subsection (e).

(e) *Protecting identity of person making report.* Except for reports to law enforcement officials, the release of

data that would identify the individual who made a report under this chapter or an individual who cooperated in a subsequent investigation is prohibited. Law enforcement officials shall treat all reporting sources as confidential information.

§ 15.158. Penalties.

(a) *Administrative.*

(1) An administrator or a designee or facility owner who intentionally or willfully fails to comply or obstructs compliance with §§ 15.151—15.157 or who intimidates or commits a retaliatory act against an employee who complies in good faith with this chapter commits a violation of this chapter and shall be subject to an administrative penalty.

(2) Violations and penalties shall be determined by the Commonwealth agency that regulates the facility. The Commonwealth agency may issue an order assessing a civil penalty of not more than \$2,500. An order issued under this paragraph is subject to due process as set forth in 2 Pa.C.S. §§ 501—508 and 551—555 (relating to practice and procedure of Commonwealth agencies; and practice and procedure of local agencies) and judicial review in 2 Pa.C.S. §§ 701—704 and 751—754 (relating to judicial review of Commonwealth agency action; and judicial review of local agency action).

(3) Representatives of the Departments of Aging, Health and Welfare who suspect violations of this section will report them to the appropriate Commonwealth licensing agency under procedures developed by the Department in consultation with the licensing agency. The report shall be made in writing and include, at a minimum, the facility, the administrator, owner, operator or designee suspected of committing the violation and a description of the suspected violation.

(b) *Criminal.* An administrator or a designee or facility owner who intentionally or willfully fails to comply, or obstructs compliance, with §§ 15.151—15.157 commits a misdemeanor of the third degree and shall, upon conviction, be sentenced to pay a fine of \$2,500 or to imprisonment for not more than 1 year, or both.

(c) *Penalties for failure to report.* A person required to report a case of suspected abuse under §§ 15.151—15.157 and who willfully fails to do so commits a summary offense for the first violation and a misdemeanor of the third degree for a second or subsequent violation. If the agency learns of a refusal to complete all reporting requirements, the agency shall notify the police within 72 hours.

§ 15.159. Immunity.

An administrator or a facility will not be held civilly liable for any action directly related to good faith compliance with this chapter.

OTHER ADMINISTRATIVE PROVISIONS

§ 15.161. Waivers.

(a) The Department may, at its discretion and for justifiable reason, grant exceptions to and departures from this chapter to an area agency on aging when the area agency on aging can, by clear and convincing evidence, demonstrate that compliance would cause an unreasonable and undue hardship upon the area agency on aging and that an exception would not impair the health, safety or welfare of older adults or otherwise compromise the intent of this chapter. The Department cannot, however, waive statutory requirements in the act.

(b) A waiver request shall be made in writing to the Secretary. A request shall specifically identify and explain the burden created by the requirement for which the exception is being sought, the alternative method for fulfilling the basic intent of the requirement and evidence of the steps to be taken to assure that the health, safety and welfare of older adults will not be compromised.

(c) An exception granted under this chapter may be revoked by the Department at its discretion for a justifiable reason. Notice of revocation will be in writing and will include the reason for the action of the Department and a specific date upon which the exception will be terminated.

(d) In revoking an exception, the Department will provide for a reasonable time between the date of written notice of revocation and the date of termination of an exception for the agency to come into compliance with the applicable regulations.

(e) If an agency wishes to request a reconsideration of a denial or revocation of an exception, it shall do so in writing to the Secretary within 15 days of receipt of the adverse notification.

[Pa.B. Doc. No. 02-887. Filed for public inspection May 17, 2002, 9:00 a.m.]

Title 28—HEALTH AND SAFETY

DEPARTMENT OF HEALTH

[28 PA. CODE CHS. 27, 28 AND 501]

Newborn Disease Screening and Follow-Up Program

The Department of Health (Department), with the approval of the State Advisory Health Board (Board), adopts amendments to Chapter 28 (relating to screening and follow-up for diseases of the newborn). The Department also adopts amendments to specific sections of Chapters 27 and 501 (relating to communicable and noncommunicable diseases; and birth centers), as made necessary by the amendments to Chapter 28. The amendments are set forth in Annex A.

I. Purpose of the Final-Form Rulemaking

This final-form rulemaking incorporates changes to the Newborn Screening and Follow-Up Program (Program) required as a result of amendments to the Newborn Child Testing Act (act) (35 P. S. §§ 621—625), made by the act of July 9, 1992 (P. L. 398, No. 86). The amendments to the act add maple syrup urine disease (MSUD) and sickle-cell hemoglobinopathies (disease and trait) to the list of diseases for which routine screening of newborns is conducted, provide for the addition to the list by regulation of any other disease approved for inclusion by the Department and the Board, and require a screening and follow-up program to identify and treat newborn children with one of the diseases listed in the act or identified by regulation. See section 3 of the act (35 P. S. § 623). The Department is given the authority under the act to promulgate regulations, with the approval of the Board, to carry out these requirements. See section 5 of the act (35 P. S. § 625). The regulations require screening for galactosemia and congenital adrenal hyperplasia (CAH) under the Department's authority to add to the list of

diseases for which routine screening of newborns is to be conducted, by regulation, any other disease approved for inclusion by the Department and the Board. Further, the final-form rulemaking requires screening for hemoglobinopathies (hemoglobin diseases) other than sickle cell hemoglobinopathies because the detection of other hemoglobin diseases, some of which may be life threatening, is unavoidable with the testing methodology currently available.

This final-form rulemaking also makes minor changes to Chapters 27 and 501. Both sets of minor revisions are necessary to ensure that no inconsistencies exist between the updated requirements of the expanded Program and other Department regulations.

Notice of proposed rulemaking was published at 31 Pa.B. 2271 (April 28, 2001) and provided a 30-day public comment period. The Department received three public comments to the proposed rulemaking and additional comments from Independent Regulatory Review Commission (IRRC). The Department's responses to these comments appear in the summary of this Preamble.

II. Summary

One commentator, the Pennsylvania Chapter of the American Academy of Pediatrics, stated that it was pleased to endorse the proposed rulemaking and offered its support in providing any necessary education to pediatricians once the regulations were finalized.

Another commentator believed that the Department should clarify the definition of "hemoglobin diseases." The Department had used the term "V" in that definition to indicate a variant. However, as there is no hemoglobin named "V," the commentator believed that the use of this term could be confusing. IRRC also raised this issue. The Department agrees with the commentator and the definition in § 28.1 (relating to definitions) was changed to use the word "variant" instead of the letter "V."

The final public commentator, the Hospital and Healthsystem Association of Pennsylvania (HAP), raised two concerns. The first concern was that the proposed rulemaking did not clearly state the process by which additions to the list of newborn disease screening are made and how public and clinical input will be sought. HAP suggested that this information be included in the final-form rulemaking. Further, HAP suggested that the Department should clearly articulate the clinical rationale and societal benefits for adding the two particular conditions (presumably CAH and galactosemia) included in these regulations. The Department does not believe that it is necessary to include in the regulations the process by which conditions are selected for screening. The process of selecting conditions for newborn screening testing is consistent with recommendations from the August 2000 National Newborn Screening Task Force Report issued by the Health Resources Services Administration. Determinations are made based on recommendations by the Newborn Screening Technical Advisory Committee, a Department-organized committee which provides both public and clinical input. Committee members include medical professionals in the pediatric field who specialize in endocrinology and metabolic disorders, as well as parents of affected children. The Department's Board must then approve the selection of conditions for screening. Criteria used in selecting conditions for screening include: reliable, valid and accurate testing methodologies must be available; there must be effective treatment that will benefit the newborn; follow-up systems must be in place to ensure access to appropriate care; properly

trained professionals must be accessible; and the population demographics must support the cost effectiveness of testing.

The selection of CAH and galactosemia as conditions for which newborns are screened was the result of following the previously described procedure. The clinical rationale for and societal benefit derived from screening for these two conditions were set forth in the preamble to the proposed rulemaking. However, for clarification, the Department will elaborate further. CAH is a complex family of disorders arising from specific defects in the enzymes of the adrenal cortex necessary for the biosynthesis of steroids. Dehydration, shock and even death can occur, with high mortality from "adrenal crisis." As severe forms of CAH can be rapidly fatal, quick diagnosis and intervention in the newborn are critical. Proper early intervention and medical treatment resets the abnormal balance of hormones and permits near normal development. Incidence is one case per 12,000 births. Approximately 25 other states screen for CAH.

Galactosemia is a genetic metabolic condition, which affects the body's ability to utilize certain sugars. Babies born with this condition cannot break down lactose or galactose. These are simple sugars found in breast milk, many formulas and milk products. The most common forms of galactosemia may result in death from sepsis within the first weeks of life or mental retardation in those who survive. Prompt diagnosis and intervention can prevent further damage. Treatment consists of special galactose and lactose-free milk substitutes and foods. One newborn in 60,000 is identified with classical galactosemia. When other forms of galactosemia are included, such as Duarte and Los Angeles, the rate increases to one newborn in 16,000 identified with a form of galactosemia. Forty-seven other states screen for galactosemia.

The second concern voiced by HAP is that the regulations have shifted the responsibility for follow-up notification and counseling to health care providers. The responsibility for follow-up has not been shifted from the Department to health care providers through these regulations. The act mandates physicians, hospitals and other institutions to test infants for PKU and other metabolic diseases.

Section 3 of the act specifically addresses the establishment of the Program by the Department, to assist health care providers to determine whether treatment or other services are necessary to avert mental retardation, permanent disabilities or death. Section 4 of the act (35 P. S. § 624) addresses the procurement of specimens by health care providers and states that health care providers shall cause to be procured blood specimens of newborn children for required screening and confirmatory tests. If the initial specimen is an unacceptable specimen or as otherwise required by the Department by regulation, the act requires that the health care provider collect a repeat specimen for screening and confirmatory tests.

The act is clear in terms of assignment of responsibility. The Department's regulations follow the act and more clearly describe the responsibilities of health care providers and the Department.

IRRC also raised two concerns related to § 28.21 (relating to responsibility for collecting and testing initial and repeat specimens). First, IRRC commented that the section does not specify what qualifications the newborn screening coordinator must have. IRRC commented that paragraph (1) states that the newborn screening coordina-

tor must "ensure that a specimen collection form contains correct and complete information" and asks, "What level of medical training does the newborn screening coordinator need to ensure the information is "correct?"

It is not the Department's intent to regulate the level of training. The Department believes that no specific level of medical training is necessary to ensure that the information is correct. However, the newborn screening coordinator must have access to the medical record to verify that information on the specimen collection form is consistent with information on the medical record. Filling in the required information on the specimen collection form merely entails taking information from entries in the medical record and transcribing it on to the form. In some hospitals this may be performed by a nurse, medical technologist or medical secretary with access to the medical record.

IRRC's second concern regarding § 28.21 is that paragraph (7) is vague. IRRC asked what is the intent of the Department in requiring the newborn screening coordinator to assist the Department in follow-up of an abnormal or presumptive abnormal test result.

The intent of the Department is to minimize delays in notifying the parents of the test result due to inaccurate or missing demographic information on the newborn screening filter paper. A nurse who is a member of the Department's Program staff receives the test result from the Department's testing laboratory. If the result is abnormal, that nurse will contact the provider's newborn screening coordinator to verify the information from the filter paper. The nurse also informs the coordinator that the Department will contact the newborn's physician. The Department then contacts the physician (by phone and fax) and discusses the need for a referral of the newborn to a treatment center or recommends a consultation with a pediatric endocrinologist depending on the condition.

It is the responsibility of the health care providers to contact the parents of the newborn to inform them of the abnormal test result. This is not a new requirement. Under the regulations prior to these amendments, § 28.27 (relating to abnormal screening test results) stated that "[i]f the results of any filter paper are presumptive positive, the health care provider or practitioner to whom the results were reported shall promptly notify the parents or guardian and arrange for follow-up and shall enter the report of the result into the patient's medical record." The Department has amended this section merely to make the language consistent with the rest of the regulations and to clarify the procedure.

The proposed rulemaking proposed changes to Chapter 27. However, that chapter was in the process of being amended at that time and the amendments to Chapter 27 have now been published as final (see 32 Pa.B. 491 (January 26, 2002)). Consequently, the language no longer exists in some of the Chapter 27 regulations to which the Department had proposed amendments to correlate with the proposed Chapter 28 newborn screening programs amendments. The revisions proposed to Chapter 28 in 31 Pa.B. 2271 were reevaluated in light of the new language of Chapter 27 and necessary changes have been incorporated into this final-form rulemaking.

At 31 Pa.B. 2271, changes were proposed to § 27.2 (relating to specific identified reportable diseases, infections and conditions), as that section existed on April 28, 2001. As a result of changes published in 32 Pa.B. 491, the changes proposed in 31 Pa.B. 2271 are no longer necessary.

There were no changes to § 27.4 (relating to reporting cases) proposed at 31 Pa.B. 2271. However, organizational changes in the Department since that time have necessitated minor changes to reflect the correct name of the Division in which the Program is located.

The changes to Chapter 27 that were published at 32 Pa.B. 491 added § 27.21a (relating to reporting of cases by health care practitioners and health care facilities). Now, additional changes to this section are needed to ensure that all of the conditions for which newborns are screened under Chapter 28 are reportable by health care practitioners and health care facilities.

At 31 Pa.B. 2271, changes were proposed to § 27.22 (relating to reporting of cases by clinical laboratories) as that section existed on April 28, 2001. As a result of changes to this section that were published at 32 Pa.B. 491, additional changes are necessary to ensure that all of the conditions for which newborns are screened under Chapter 28 are reportable by clinical laboratories.

At 31 Pa.B. 2271, changes were proposed to § 27.30 (relating to reporting of certain diseases in the newborn child) as that section existed on April 28, 2001. As a result of changes to this section that were published at 32 Pa.B. 491, additional changes are necessary to ensure that all of the conditions for which newborns are screened under Chapter 28 are reported to the Division in which the Program is located.

The proposed rulemaking proposed minor changes to Chapter 501. The final-form rulemaking make only one additional change to § 501.49 (relating to newborn infant care policies and procedures) so that the terminology used is consistent with that used in Chapter 28.

III. *Affected Persons*

This final-form rulemaking affects all health care providers providing care to pregnant women and newborn children in this Commonwealth, as well as the treatment centers and any laboratory with which the Department contracts to provide the screening services. Health care providers are required to collect blood filter paper specimens in accordance with updated procedures, assist the Department with follow-up of certain test results and forward data on specimen collection semiannually to the Department. Sickle cell and MSUD treatment centers are required to provide services to an increased number of children identified through the expanded Program. Treatment centers for galactosemia have been identified and are in place for Statewide screening for that condition. CAH will be dealt with in a similar fashion as primary congenital hypothyroidism, through referral to an endocrinologist. The laboratory with which the Department contracts is required to perform testing for MSUD, hemoglobin disease, galactosemia and CAH, in addition to PKU and primary congenital hypothyroidism. These regulations also generally affect all infants born in this Commonwealth, and, in particular, children born in populations at greatest risk for certain diseases (such as, MSUD and hemoglobin diseases).

IV. *Cost And Paperwork Estimate*

A. *Cost*

Statutorily mandated expansion of the Program to include testing for MSUD and sickle cell hemoglobinopathies (hemoglobin disease) will result in increased cost to the Commonwealth and, on a lesser scale, to health care providers. Annual costs of the Program are expected to increase by approximately \$1.3 million to cover testing and follow-up for MSUD, hemoglobin dis-

ease, galactosemia and CAH. This amount will be funded entirely by State funds. The total annual budget for the expanded Program includes testing of 150,000 specimens for each of the six diseases (PKU, primary congenital hypothyroidism, MSUD, hemoglobin disease, galactosemia and CAH), additional personnel, new and replacement equipment for the Bureau of Laboratories and the testing laboratory and follow-up of children who are identified with one of the six diseases listed.

The cost to the private sector will be the cost incurred by health care providers in connection with providing the necessary follow-up to abnormal test results. The Department currently does not charge hospitals or parents for the costs of laboratory screening.

Expansion of the Program to include screening for MSUD, hemoglobin disease, galactosemia and CAH, however, will result in long-term savings as well. The total cost of screening all newborn children in this Commonwealth, including follow-up and some treatment for PKU, primary congenital hypothyroidism, MSUD, sickle cell disease, CAH and galactosemia is estimated at approximately \$32 per child.

B. *Additional Paperwork*

The testing laboratory and health care providers will have additional reporting responsibilities resulting from the addition of diseases to the list of diseases for which screening is required. The increase in paperwork requirements will be minimal, however, because the specimens necessary for screening for MSUD, hemoglobin disease, galactosemia and CAH will be collected on the same specimen collection form currently used solely for PKU and primary congenital hypothyroidism screening. Furthermore, the testing laboratory will report screening test results for the newly added diseases on the same report form currently used solely for PKU and primary congenital hypothyroidism. The regulations require health care providers to submit data regarding specimen collection to the Department semiannually. Paperwork requirements within the Department will not change significantly except to the extent that the addition of MSUD, hemoglobin disease, galactosemia and CAH will result in more instances in which follow-up of abnormal results will be required.

The expanded program for screening for sickle cell hemoglobinopathies (hemoglobin disease) and MSUD was mandated by statute in 1992, and has, in fact, been operating since that time. As has been stated, screening for sickle cell hemoglobinopathies (hemoglobin disease) began in September 1992, and for MSUD began in March 1993. Screening for galactosemia and CAH began on a voluntary basis in State fiscal year 2000/2001. The regulations will not add to the paperwork currently being done by providers of their own volition, nor will they, for the most part, increase costs currently incurred as screening mandated by the act is carried out.

V. *Effectiveness/Sunset Dates*

The regulations will become effective upon final publication in the *Pennsylvania Bulletin*. No sunset date has been established; the Department will continually review and monitor the effectiveness of the Program.

VI. *Statutory Authority*

The Department obtains its authority to promulgate these regulations from several sources. The Disease Prevention and Control Law of 1955 (35 P.S. §§ 521.1—521.21) provides the Board with the authority to issue rules and regulations on a variety of issues relating to

communicable and noncommunicable diseases, including the methods of reporting diseases, the contents of those reports and the health authorities to whom diseases are to be reported. See 35 P.S. § 521.16(a). Section 16(b) of the Disease Prevention and Control Law of 1955 (35 P.S. § 521.16(b)) gives the Secretary of Health (Secretary) the authority to review existing regulations and make recommendations to the Board for changes the Secretary considers to be desirable.

The Department also finds general authority for the promulgation of its regulations in section 2102(g) of The Administrative Code of 1929 (71 P.S. § 532(g)) which gives the Department the authority to promulgate its rules and regulations. Section 2111(b) of The Administrative Code of 1929 (71 P.S. § 541(b)) provides the Board with additional authority to promulgate regulations deemed by the Board to be necessary for the prevention of disease, and for the protection of the lives and the health of the people of this Commonwealth. That section further provides that the regulations of the Board shall become the regulations of the Department.

The Department's specific authority for promulgating the regulations relating to newborn screening and follow-up is found in the act. Section 5 of the act provides the Department, with the approval of the Board, the authority to promulgate regulations for the implementation and administration of the act. Section 3(b) of the act provides the Department, with the approval of the Board, the authority to establish by regulation those diseases for which newborn children shall be tested and the methods for testing and disseminating test results. Section 4(b) of the act provides the Department with the authority to establish by regulation the methods of procurement of blood specimens of newborn children by health care providers.

VII. *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on April 18, 2001, the Department submitted copies of the notice of proposed rulemaking published at 31 Pa.B. 2271 to IRRC and to the Chairpersons of the House Health and Human Services Committee and the Senate Public Health and Welfare Committee for review and comment.

In compliance with section 5(c) of the Regulatory Review Act, the Department also provided IRRC and the Committees with copies of all comments received. In addition, the Department provided IRRC and the Committees with information pertaining to commentators and a copy of the detailed regulatory analysis form prepared by the Department in compliance with Executive Order 1996-1, "Regulatory Review and Promulgation." A copy of this material is available to the public upon request. In preparing the final-form regulations, the Department has considered all comments received from IRRC and the public.

Under section 5.1(d) of the Regulatory Review Act (71 P.S. § 745.5a(d)), these final-form regulations were deemed approved by the House and Senate Committees on February 28, 2002. IRRC met on April 4, 2002, and approved the final-form regulations in accordance with section 5.1(e) of the Regulatory Review Act. The Attorney General approved the final-form regulations on April 29, 2002.

VIII. *Contact Person*

Questions regarding these final-form regulations may be submitted to: Joann Adair, Director, Division of Newborn Disease Prevention and Identification, Bureau of

Family Health, Department of Health, P. O. Box 90, Harrisburg, PA 17108, (717) 783-8143. Persons with disabilities may submit questions to Joann Adair in alternative formats, such as by audio tape, Braille or using ITT (717) 705-5494. Persons with disabilities who would like to obtain this document in an alternative format (such as, large print, audio tape, Braille) should contact Joann Adair so that she may make the necessary arrangements.

Findings

The Department, with the approval of the Board, finds that:

(1) Public notice of the intention to adopt the amendments adopted by this order has been given under sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202), and the regulations thereunder, 1 Pa. Code §§ 7.1 and 7.2.

(2) A public comment period was provided as required by law and all comments were considered.

(3) The adoption of this final-form rulemaking in the manner provided by this order is necessary and appropriate for the administration of the authorizing statutes.

Order

The Department, with the approval of the Board, acting under the authorizing statutes, orders that:

(a) The regulations of the Department, 28 Pa. Code Chapters 27, 28 and 501, are amended by adding § 28.5; by amending §§ 27.4, 27.21a, 27.22, 27.30, 28.1—28.2, 28.11, 28.12, 28.21—28.28, 28.41, 501.3 and 501.49; and by deleting §§ 28.3, 28.4 and 28.29—28.31 as set forth in Annex A, with ellipses referring to the existing text of the regulations.

(b) The Secretary shall submit this order and Annex A to the Office of General Counsel and the Office of Attorney General for approval as required by law.

(c) The Secretary shall submit this order, Annex A and a Regulatory Analysis Form to IRRC, the House Committee on Health and Human Services and the Senate Committee on Public Health and Welfare for their review and action as required by law.

(d) The Secretary shall certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.

(e) This order shall take effect upon publication in the Pennsylvania Bulletin.

ROBERT S. ZIMMERMAN, Jr.,
Chairperson

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 32 Pa.B. 2041 (April 20, 2002).)

Fiscal Note: Fiscal Note 10-137 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 28. HEALTH AND SAFETY

PART III. PREVENTION OF DISEASE

CHAPTER 27. COMMUNICABLE AND NONCOMMUNICABLE DISEASES

Subchapter A. GENERAL PROVISIONS

§ 27.4. Reporting cases.

(a) Except for reporting by a clinical laboratory, a case is to be reported to the LMRO serving the area in which

a case is diagnosed or identified unless another provision of this chapter directs that a particular type of case is to be reported elsewhere. A clinical laboratory shall make reports to the appropriate office of the Department.

(b) Upon the Department's implementation of its electronic disease surveillance system for certain types of case reports, persons who make those reports shall do so electronically using an application and reporting format provided by the Department. At least 6 months in advance of requiring a type of case report to be reported electronically, the Department will publish a notice in the Pennsylvania Bulletin announcing when electronic reporting is to begin.

(c) This section does not prohibit a reporter from making an initial report of a case to the Department or an LMRO by telephone. The reporter will be instructed on how to make a complete case report at the time of the telephone call.

(d) Department offices to which this chapter requires specified case reports to be filed are as follows:

(1) Cancer Registry, Division of Health Statistics, Bureau of Health Statistics and Research.

(2) Division of Infectious Disease Epidemiology, Bureau of Epidemiology.

(3) HIV/AIDS Epidemiology Section, Division of Infectious Disease Epidemiology, Bureau of Epidemiology.

(4) Division of Newborn Disease Prevention and Identification, Bureau of Family Health.

(e) A case shall be reported using the appropriate case report format. Information solicited by the case report form shall be provided by the reporter, irrespective of whether the report is made by submitting the form directly in hard copy or by telecommunication or electronic submission. An appropriate case report form or format may be procured from the office to which the type of case is reportable.

Subchapter B. REPORTING OF DISEASES, INFECTIONS AND CONDITIONS

GENERAL

§ 27.21a. Reporting of cases by health care practitioners and health care facilities.

* * * * *

(b) The following diseases, infections and conditions in humans are reportable by health care practitioners and health care facilities within the specified time periods and as otherwise required by this chapter:

* * * * *

(2) The following diseases, infections and conditions are reportable within 5 work days after being identified by symptoms, appearance or diagnosis:

* * * * *

Congenital adrenal hyperplasia (CAH) in children under 5 years of age.

* * * * *

Galactosemia in children under 5 years of age.

* * * * *

Sickle cell disease in children under 5 years of age.

* * * * *

§ 27.22. Reporting of cases by clinical laboratories.

* * * * *

(b) The diseases, infections and conditions to be reported include the following:

* * * * *

Congenital adrenal hyperplasia (CAH) in children under 5 years of age.

* * * * *

Galactosemia in children under 5 years of age.

* * * * *

Sickle cell disease in children under 5 years of age.

* * * * *

(e) Reports made on paper shall be made to the LMRO where the case is diagnosed or identified. Reports made electronically shall be submitted to the Division of Infectious Disease Epidemiology, Bureau of Epidemiology. Reports of CAH, galactosemia, maple syrup urine disease, phenylketonuria, primary congenital hypothyroidism, sickle cell disease, cancer and lead poisoning shall be reported to the location specifically designated in this subchapter. See §§ 27.30, 27.31 and 27.34 (relating to reporting cases of certain diseases in the newborn child; reporting cases of cancer; and reporting cases of lead poisoning).

* * * * *

DISEASES AND CONDITIONS REQUIRING SPECIAL REPORTING

§ 27.30. Reporting cases of certain diseases in the newborn child.

Reports of congenital adrenal hyperplasia (CAH), galactosemia, maple syrup urine disease, phenylketonuria, primary congenital hypothyroidism and sickle cell disease shall be made to the Division of Newborn Disease Prevention and Identification, Bureau of Family Health, as specified in Chapter 28 (relating to screening and follow-up for diseases of the newborn) and those provisions of § 27.4 (relating to reporting cases) consistent with Chapter 28 and this section.

CHAPTER 28. SCREENING AND FOLLOW-UP FOR DISEASES OF THE NEWBORN

GENERAL PROVISIONS

§ 28.1. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

Abnormal confirmatory test result—A test result obtained from a specimen of blood, serum or plasma which is diagnostic of the newborn disease under investigation.

Abnormal screening test result—A test result obtained from a specimen collected on a specimen collection form which is outside the parameters for a normal test result according to testing criteria applicable to the screening test result.

Admission—The formal acceptance of custody or care by a birth center or hospital of a newborn child who is provided with bassinet or incubator, nutrition and continuous nursing service.

Birth center—As defined in section 802a of the Health Care Facilities Act (35 P. S. § 448.802a).

Days of age—The measurement of age of the newborn child in 24-hour periods so that a newborn child is one day of age 24 hours after the hour of birth.

Department—The Department of Health of the Commonwealth.

Discharge—The release of the newborn child from care and custody within and by birth center or hospital to the care and custody of the parent or guardian.

Health care practitioner—A licensed physician or a practitioner licensed to deliver and care for pregnant women and newborn children.

Health care provider—A birth center, hospital or health care practitioner.

Hemoglobin diseases—Sickle cell (SS, SC, S + other variant, S β Thalassemia, S O Arab) disease or trait or other clinically significant hemoglobin (CC, EE, F, H) disease or trait.

Hospital—As defined in section 802a of the Health Care Facilities Act.

Inconclusive screening test result—A test result obtained from a specimen collected on a specimen collection form that is equivocal according to criteria applicable to the screening test result and which indicates the need for a repeat specimen and repeat testing.

Initial specimen—The first sample of blood collected from the newborn child and submitted for testing purposes on a specimen collection form.

Newborn child—An infant less than 28 days of age.

Newborn screening program—The association of the Department, the testing laboratory and the health care provider to ensure that every newborn child born in this Commonwealth has a blood specimen collected and screened for the newborn diseases in § 28.2 (relating to newborn diseases listed).

Presumptive abnormal test result—An abnormal screening test result which is sufficiently abnormal to indicate the probable presence of a newborn disease listed in § 28.2.

Repeat specimen—A specimen collected from a newborn child on a specimen collection form after the initial specimen.

Repeat test—The laboratory testing performed on a repeat specimen.

Specimen collection form—The official newborn screening program specimen form that includes both a multipart section for providing required information about the newborn child and a filter paper tab for application of blood.

Testing laboratory—The licensed clinical laboratory under contract with the Department to perform testing for the newborn diseases listed in § 28.2.

Transfer—The release of the newborn child from care and custody within and by a birth center or hospital and subsequent admission to another hospital.

Treatment center—A center under contract with the Department to provide expert consultation, diagnosis and treatment for children with a presumptive abnormal test result.

Unacceptable specimen—A blood specimen collected from a newborn child on a specimen collection form which is found to be unsuitable for testing in accordance with accepted laboratory testing standards as determined by the Department.

§ 28.2. Newborn diseases listed.

A newborn child born in this Commonwealth shall be screened for the following diseases which may cause mental retardation, physical defects or death if not detected and treated soon after birth:

- (1) Congenital adrenal hyperplasia (CAH).
- (2) Galactosemia.
- (3) Hemoglobin diseases.
- (4) Maple syrup urine disease (MSUD).
- (5) Phenylketonuria (PKU).
- (6) Primary congenital hypothyroidism.

§ 28.3. (Reserved).

§ 28.4. (Reserved).

§ 28.5. Confidentiality.

(a) A health care provider, testing laboratory, the Department or any other entity involved in the newborn screening program may not release any identifying information relating to any newborn child screened in the newborn screening program to anyone other than a parent or guardian of the newborn child or the health care provider for the newborn child designated by a parent or the guardian except as follows:

- (1) As may be necessary to provide services to the newborn child.
- (2) With the consent of the newborn child's parent or guardian.
- (3) With the child's consent when the child is 18 years of age or older, has graduated from high school, has married or has been pregnant.

(b) Only the Department will have the authority to release or authorize the release of nonidentifying information concerning the newborn screening program.

PURPOSE AND ADMINISTRATION OF TESTS

§ 28.11. Informing the parent or guardian.

Prior to specimen collection, the health care provider shall provide the pregnant woman, prior to the infant's birth, or the mother or guardian, after the infant's birth, with a pamphlet supplied by the Department to explain the nature of the newborn screening blood tests for the diseases in § 28.2 (relating to newborn diseases listed).

§ 28.12. Religious objections.

(a) A health care provider may not collect or cause to be collected, a specimen from a newborn child if the parent or guardian of the newborn child objects on the ground that the specimen collection conflicts with religious beliefs or practices held by the parent or guardian.

(b) If the parent or guardian of the newborn child objects to the collection of the specimen for screening on the ground that the specimen collection conflicts with religious beliefs or practices held by the parent or guardian, the health care provider shall ensure that the recorded objection of the parent or guardian is entered into the medical record of the newborn child. The entry shall include a written statement of the objection signed by the parent or guardian.

SPECIMEN COLLECTION AND FOLLOW-UP

§ 28.21. Responsibility for collecting and testing initial and repeat specimens.

(a) A birth center or hospital shall collect or cause to be collected from each newborn child delivered in that birth

center or hospital, in accordance with instructions for newborn screening specimen collection in subsection (d), the initial and repeat specimens necessary to conduct the tests necessary for the detection of the newborn diseases specified in § 28.2 (relating to newborn diseases listed).

(b) When a newborn child is delivered other than in a birth center or hospital, the health care practitioner who delivered the newborn child shall collect or cause to be collected from the newborn child, in accordance with instructions for newborn screening specimen collection in subsection (d), the initial and repeat specimens necessary to conduct the tests necessary for the detection of the newborn diseases specified in § 28.2.

(c) The health care provider shall designate a newborn screening coordinator to do the following:

- (1) Ensure that a specimen collection form contains correct and complete information.
- (2) Ensure that the individual who collected the specimen records that act in the newborn child's medical record.
- (3) Send all specimens collected by first class mail to the testing laboratory within 24 hours of collection.
- (4) Record the laboratory screening results in the newborn child's medical records.
- (5) Check each newborn child's record prior to discharge or release to ensure that a specimen has been collected.
- (6) Ensure, in the event of transfer of the newborn child prior to 48 hours of age, that the receiving health care provider has been notified that it has the responsibility to collect the initial specimen.
- (7) Assist the Department in follow-up of an abnormal or presumptive abnormal test result.
- (8) Follow-up inconclusive test results.
- (9) Receive notification from the testing laboratory or from the Department of the need for a repeat specimen.

(d) The health care provider shall ensure that the individual responsible for specimen collection shall collect the specimen necessary to conduct tests in accordance with consensus standards developed by the National Committee for Clinical Laboratory Standards (NCCLS) and accepted by the Department. The Department will publish these standards, and any revisions thereto, in a notice in the *Pennsylvania Bulletin*.

§ 28.22. Timing of initial specimen collection by birth centers or hospitals.

(a) A birth center or hospital shall collect the initial specimen from each newborn child regardless of feeding history or medical condition, as close to 48 hours of age as possible but not later than 72 hours of age unless the newborn child falls into one of the following categories:

(1) *Transfer*. If the newborn child is transferred to another hospital for continuing care prior to 48 hours of age, the hospital to which the newborn child has been transferred shall collect a specimen from the newborn child, regardless of feeding history or medical condition, as close to 48 hours of age as possible but not later than 72 hours of age.

(2) *Exchange transfusion*. If the newborn child is to undergo an exchange transfusion, the birth center or hospital shall collect the initial specimen for testing immediately prior to the exchange transfusion.

(3) *Early discharge.* If the newborn child is discharged from the birth center or hospital before 24 hours of age, the birth center or hospital shall collect the initial specimen from the newborn child as close to the time of discharge as is practicable, regardless of feeding history or medical condition. The birth center or hospital shall give the parent or guardian in whose care and custody the newborn child is discharged written notification of the need for a repeat specimen and shall also provide instructions to the parent or guardian for obtaining a repeat specimen from the newborn child as described in § 28.26 (relating to timing of repeat specimen collection).

(b) When a newborn child, who was delivered other than in a birth center or hospital, is admitted to a hospital within the first 27 days of age and the hospital has received no record of results of an approved screening test for the newborn diseases in § 28.2 (relating to newborn diseases listed), the hospital to which the newborn child is admitted shall collect the initial specimen within 48 hours of admission to the hospital and shall send the specimen to the testing laboratory specified by the Department within 24 hours of collection.

§ 28.23. Timing of initial specimen collection by health care practitioners.

A health care practitioner who delivers a newborn child other than in a birth center or hospital shall collect or cause to be collected the initial specimen from the newborn child, regardless of feeding history or medical condition, as close to 48 hours as possible but not later than 72 hours of age.

§ 28.24. Normal test results.

(a) Within 7-calendar days following the day when the testing laboratory obtains the normal test results, the testing laboratory shall send those results to the health care provider that collected the specimen from the newborn child.

(b) The health care provider to whom the normal test results are reported shall record the test results in the medical record of the newborn child.

§ 28.25. Circumstances requiring repeat specimens.

(a) The health care provider responsible for collecting the initial specimen shall collect or cause to be collected and submit for testing a repeat specimen if the initial specimen collected is either of the following:

- (1) Unacceptable for testing.
- (2) Yields an inconclusive screening test result.

(b) If a birth center or hospital collects the initial specimen from a newborn child prior to 24 hours of age because the newborn child is discharged from the birth center or hospital prior to 24 hours of age, the birth center or hospital shall collect or cause to be collected a repeat specimen.

(c) If the initial specimen collected yields an abnormal screening test result, the Department may require the health care provider responsible for collecting the initial specimen to collect a repeat specimen.

§ 28.26. Timing of repeat specimen collection.

(a) When the newborn child has been discharged from a birth center or hospital before 24 hours of age, the birth center or hospital shall collect or cause to be collected a repeat specimen from the newborn child, regardless of feeding history or medical condition, as close to 48 hours of age as possible but not later than 72 hours of age.

(b) When the initial specimen is unacceptable or when the initial specimen yields an inconclusive screening test result, the Department or testing laboratory will notify the health care provider that collected the initial specimen. Within 72 hours of receipt of notice from the Department or testing laboratory, the health care provider that collected the initial specimen shall collect or cause to be collected from the newborn child a repeat specimen.

(c) If the health care provider cannot locate a parent or guardian of the newborn child within 4 days of notification of need for a repeat specimen, the health care provider shall contact the Department for consultation regarding additional means for locating a parent or guardian.

§ 28.27. Abnormal screening test results.

(a) When testing of the initial or repeat specimen yields an abnormal screening test result, the Department will notify the health care provider that collected the specimen. The health care provider shall promptly notify a parent or guardian of the newborn child.

(b) If the health care provider cannot locate the newborn child's parent or guardian within 48 hours of receiving notice from the Department, the health care provider shall contact the Department for consultation regarding additional means for locating a parent or guardian.

(c) The Department will assist the health care provider with and make available confirmatory testing.

(d) If the result of the confirmatory test is abnormal, the Department will assist with referral for diagnosis, treatment, and other follow-up services for the newborn child through designated treatment centers or clinical specialists.

§ 28.28. Follow-up of symptoms consistent with newborn diseases.

When a sick child exhibits symptoms suggestive of a newborn disease listed in § 28.2 (relating to newborn diseases listed) and has not already been determined to have one of those newborn diseases, the health care provider to whom care of the sick child has been entrusted by the parent or guardian shall collect and submit a blood specimen for newborn disease testing in accordance with standard diagnostic procedures.

§§ 28.29—28.31. (Reserved).

RECORDS

§ 28.41. Recordkeeping requirements.

A health care provider offering maternity and newborn services shall collect and forward data semiannually to the Department on the number of patients for whom specimens for newborn disease testing have been collected and the number of patients for whom the specimens have not been collected, together with the reason in each instance for the failure to collect.

PART IV. HEALTH FACILITIES
CHAPTER 501. BIRTH CENTERS
GENERAL PROVISIONS

§ 501.3. Reports/contact person.

(a) The facility shall report regularly to the Department, on forms issued by the Department, statistical information that the Department may request and shall comply with the requirements for recordkeeping in § 28.41 (relating to recordkeeping requirements).

(b) Data that could lead to the disclosure of the identity of individuals involved will be considered confidential and may not be released without prior authorization of the legal parent, guardian or newborn infant upon obtaining the age of 18.

(c) Questions concerning reports required should be addressed to Director, Division of Primary Care and Home Health Services, Department of Health, Post Office Box 90, Harrisburg, Pennsylvania 17108.

§ 501.49. Newborn infant care policies and procedures.

The newborn infant care policies, protocols and procedures shall include the following:

(1) Resuscitation equipment for newborn infant care management of short-term assisted ventilation shall include bag and mask or bag and endotracheal tube, with oxygen supply available.

(2) Medication approved by the Department in § 27.98 (relating to prophylactic treatment of newborns), shall be instilled in the eyes of the newborn infant according to statute. If the parent or guardian of the newborn child objects on the ground that the prophylactic treatment conflicts with the parent's religious beliefs or practices, prophylactic treatment will be withheld, and an entry in the child's record indicating the reason for withholding treatment shall be made and signed by the Physician Director of Medical Affairs and the parent or guardian of the newborn infant.

(3) Before discharge from the center, the newborn infant shall be examined by a midwife or a physician, and the results shall be entered in the health record. An infant with identified abnormalities shall be referred for appropriate follow-up, in accordance with the birth center policies.

(4) The birth center shall explain to the mother the purpose and nature of the screening tests for diseases of the newborn, required by Chapter 28 (relating to screening and follow-up for diseases of the newborn), give her an informational pamphlet provided by the Department, inform her of her right to refuse the tests because of religious beliefs or practices, and see that the recorded written objection is entered into the medical record of the newborn child and signed by the parent or guardian, if screening is refused.

(5) The birth center shall comply with the requirements for specimen collection, testing and follow-up in §§ 28.21—21.28 (relating to specimen collection and followup).

(6) Policies and other criteria, which govern discharge of newborn infants, shall be in accordance with birth center policies.

(7) The birth center shall communicate with the pediatric care provider and transfer birth and newborn records to the pediatric care provider.

(8) The birth center shall provide a list of available counselors and counseling services, compiled under 23 Pa.C.S. § 2505 (relating to counseling), to mothers who are known to be considering relinquishing or termination of parental rights under 23 Pa.C.S. §§ 2101—2909 (relating to the Adoption Act).

[Pa.B. Doc. No. 02-888. Filed for public inspection May 17, 2002, 9:00 a.m.]

Title 58—RECREATION

STATE ATHLETIC COMMISSION

[58 PA. CODE CHS. 1, 3, 5, 9, 11, 13,
21, 23, 25, 27, 31 AND 33]

Boxing and Wrestling

The State Athletic Commission (SAC) amends all but two chapters of its regulations in Part I (relating to State Athletic Commission) to read as set forth in Annex A. The amendments are adopted as final-form under 5 Pa.C.S. §§ 101—2110 (relating to the Athletic Code) (code). The code was renumbered and revised under the act of May 13, 1992 (P.L. 180, No. 32) (Act 32). The statutory changes also require a comprehensive revision of most regulations.

I. Statutory Authority

SAC has the authority to promulgate regulations under section 103(b)(1) of the code (relating to duties of commission).

II. Responses to Comments

The notice of proposed rulemaking was published at 30 Pa.B. 2611 (May 27, 2000) and was subject to a 30-day public comment period. SAC received no public comments and no comments from the House and Senate State Government Committees. The Independent Regulatory Review Commission (IRRC) filed its comments with SAC on May 4, 2000. Because the preamble for the proposed rulemaking was previously printed in the *Pennsylvania Bulletin*, this preamble will address the amendments SAC made as a result of the comments that IRRC provided.

The comments made by IRRC related to clarity, consistency with the statute, statutory authority and implementation procedure. In addition to the specific revisions discussed in detail in Part III of this Preamble, IRRC made general comments on three issues regarding clarity that pertain to numerous sections throughout the proposed rulemaking.

First, IRRC commented that the proposed rulemaking used a general reference to the entire code and recommended that SAC refer to specific statutory sections or subsections that pertain to particular regulatory provisions. Second, IRRC asked that SAC clarify what it meant in the proposed rulemaking when it referred to "the Commission (SAC) or Executive Director" or to "the Commission." At times, a commissioner or the Executive Director will attend an event and act on behalf of SAC. When appropriate throughout the final-form rulemaking, SAC substituted the terms "a commissioner or the Executive Director" for the term "Commission," as suggested by IRRC. Finally, IRRC suggested that because reference is made in several places throughout the final-form regulations to forms, manuals and procedures published by SAC, the final-form regulations should include information on how copies of these forms, manuals and procedures may be obtained. SAC included this IRRC recommendation in final-form rulemaking as a new subsection (b) to § 1.2 (relating to Commission offices). Other comments are noted in specific final-form regulations, referenced as follows.

Purpose

The final-form regulations revise, with limited exceptions, all of the regulations administered by SAC to conform to the code found in 5 Pa.C.S. §§ 101—2110 and current SAC policies adopted thereunder. A description of the revisions and changes appears as follows.

III. Description of Revisions

Subpart A (relating to general provisions)

Subpart A sets forth eight chapters which include general provisions regarding appointed officials; tickets, postponements and cancellations; recognition of suspensions, disqualifications and retirements imposed by other authorities; relations with affiliates; safety of event premises; bonds and fees; and permitted drug testing. SAC made revisions and amendments to all chapters, except Chapters 7 and 15 (relating to recognition of suspensions, disqualifications and retirements imposed by other authorities; and prohibited drug testing).

Chapter 1 (relating to preliminary provisions)

Section 1.1 (relating to definitions)

Section 1.1(a) includes a definition of the term "commissioner" in accordance with IRRC's suggestion to refer to a commissioner rather than the entire SAC when SAC believes that only one member is required to take a specific action. In defining "commissioner," SAC added a reference to the specific section of the code, as IRRC had suggested in its first general recommendation. IRRC found that SAC had used the terms "bout" or "main bout" throughout the final-form amendments without defining those terms. In final-form rulemaking, SAC replaced the term "bout" with "contest," which is defined in section 302 of the code (relating to definitions). SAC then added a definition of "main contest." The term "event," as defined in the proposed rulemaking, includes one or more contests. Furthermore, SAC added definitions of the terms "licensee" and "second" to § 1.1 at the suggestion of IRRC. As IRRC suggested, SAC deleted a portion of the definition of "Commission credentials" to eliminate unnecessary language. Finally, SAC defined the term "licensee" for clarity, as the term appears in several places throughout the final-form amendments, in §§ 3.1(e), 3.2(e)(6), 3.3(g), 21.1(n) and 21.4(k).

SAC divided subsection (b) into subsections (b) and (c), which both include specific references to the appropriate sections of the code pertaining to boxing and wrestling as well as distinguish those sections from each other, as IRRC suggested.

Section 1.2

Section 1.2(b) was added informing any interested parties where they may obtain forms, manuals and additional information from SAC, as IRRC suggested in its third general comment.

Chapter 3 (relating to appointed officials)

Section 3.1 (relating to Executive Director)

To provide for increased clarity, § 3.1(a) includes the citation to the applicable statutory provision outlining the powers and duties of the Executive Director, as IRRC suggested in its first general comment.

The current § 3.1(b) requires the Executive Director to attend a representative number of events throughout this Commonwealth to monitor operations of inspectors and officials. On proposed rulemaking, IRRC suggested that SAC specify what constitutes a representative number of events that the Executive Director must attend. SAC considered the IRRC suggestion and decided to delete any reference that the Executive Director attend a representative number of events. Although the Executive Director now regularly attends most events, SAC and the Department found it difficult to specify a number or percentage of events that the Executive Director would be required, by regulation, to attend.

In reviewing the duties and responsibilities of the Executive Director, SAC added a provision in § 3.1(g) that allows the Secretary of the Commonwealth or the Executive Director to designate SAC or Department of State staff to act on the Executive Director's behalf. The Secretary of the Commonwealth is responsible for the actions and day-to-day activities of the Executive Director. Likewise, the Executive Director may designate SAC or Department of State staff to act on the Executive Director's behalf.

IRRC suggested that § 3.1(h) should clearly state the criteria of each boxer that the Executive Director uses in deciding whether to approve or prohibit a match and include references to the relevant statutory requirements. In final-form rulemaking, SAC added four criteria that the Executive Director uses and the specific statutory citations.

For clarity, § 3.1(i) and (j) have been reversed. At the suggestion of IRRC, SAC provided clarification at former § 3.1(i), now 3.1(j), that circumstances that are not addressed in the regulations or the code that relate to the duties of SAC shall be ruled on by the Executive Director.

At former § 3.1(j), now § 3.1(i), SAC made two changes to final-form rulemaking suggested by IRRC. First, to comply with IRRC's second general suggestion, SAC clarified that the Executive Director, a commissioner or SAC may use a videotape to review actions relating to a contest. Secondly, SAC replaced the word "bout" with the word "contest," as explained previously in § 1.1(a). The changes from "bout" to "contest" occur throughout this final-form rulemaking.

Finally, at the suggestion of IRRC, SAC clarified its appeal procedures in § 3.1(k) and included an explanation of the two-tier appeal process, which includes both an informal review and the right to a formal appeal.

Section 3.2 (relating to inspectors)

SAC amended § 3.2(a) to clarify that the inspectors are nominated by a commissioner or Executive Director and approved by the Secretary. The precise section of the code is also cited, as suggested by IRRC in its first general comment.

In § 3.2(d), SAC deleted the reference to the Department of Revenue as IRRC suggested because the Department of Revenue has the authority to appoint its own agents to collect taxes in section 210 of the Fiscal Code (72 P. S. § 210). In addition, SAC added the appropriate reference to the code that addresses the ability of inspectors appointed by SAC to collect revenue. Other clarifications occur in § 3.1(e)—(h) to refer to the authority of the Executive Director, to change "bout" to "contest," and to specify that an inspector may file a written report on any portion of the code.

Section 3.3 (relating to physicians)

Subsection (a) provides the citation to the code sections pertaining to the licensure of physicians, while subsection (b) provides a reference to the SAC *Medical/Safety Manual*. Subsection (c) changes "designee" to "inspector," as IRRC suggested for clarity and specificity. SAC added language suggested by IRRC to clarify that SAC would prescribe the form a physician uses for a post-fight check in subsection (h).

Section 3.4 (relating to announcers)

Subsection (i) clarifies that only the Executive Director or a commissioner may authorize another person, other than the announcer, to make announcements from the

ring, as IRRRC requested. The term "bout" is changed to "contest" in subsections (h) and (j) to comply with IRRRC's suggestion discussed previously under § 1.1(a). Finally, in subsection (j), SAC changed "designee" to "inspector," as suggested by IRRRC with respect to subsection (c).

Chapter 5 (relating to tickets, postponements and cancellations)

Section 5.1 (relating to tickets)

At the suggestion of IRRRC, SAC placed the responsibility to collect tickets upon the promoter, who is a licensee, at subsection (e). In this final-form rulemaking, the agents of the promoters may collect the tickets; however, the promoters themselves are required to make the ticket stubs available to the Executive Director or a commissioner. SAC also added a specific citation to the code, as IRRRC suggested in its first general request.

Section 5.2 (relating to postponements and cancellations)

SAC changed "bout" to "contest" in subsections (c) and (d), as IRRRC had suggested in § 1.1(a). In subsection (e), IRRRC suggested clarification of the procedures that SAC will use to handle ticket refunds. Because ticket refunds are specifically addressed at section 1113 of the code (relating to ticket refund), SAC made a reference to section 1113 of the code in § 5.2(e).

Chapter 11 (relating to safety of event premises)

Section 11.1 (relating to ventilation, fire exits and fire escapes)

SAC made changes to this section, including deleting some portions, to clarify language.

Chapter 13 (relating to bonds and fees)

Section 13.1 (relating to professional boxing bonds and bond filing fees)

Section 13.1(a) changes "bouts" to "contests" and provides clarification that the surety bond shall be filed on a form prescribed by SAC.

Section 13.3 (relating to additional license fees)

SAC changed the term "promotion" to "event" at the suggestion of IRRRC because the term "promotion" was not a defined term.

Subpart B (relating to professional boxing)

The four chapters comprising Subpart B govern professional boxing, amateur boxing, professional kickboxing and amateur kickboxing. SAC made revisions and amendments to all four chapters of Subpart B.

Chapter 21 (relating to boxing)

Section 21.1 (relating to contracts)

As suggested by IRRRC, § 21.1(d) substitutes the provision "commission member" to "commissioner or the Executive Director" for increased clarity. Also at IRRRC's suggestion, § 21.1(m) clarifies that a promoter may not attempt to enter a contract with a manager or boxer under suspension or disqualification by SAC without the written consent of the Executive Director or a commissioner. Likewise, at the suggestion of IRRRC, SAC clarified in § 21.1(n) that a promoter or other licensee may not advertise a contest or exhibition until the Executive Director has approved the contest or exhibition. As also suggested by IRRRC, in § 21.1(n), SAC added a cross reference to § 3.1(h).

Section 21.3 (relating to ring and ring equipment)

On proposed rulemaking, IRRRC questioned why the language describing the type of illumination was being

deleted. SAC reinstated the language in § 21.3(a)(7) describing the type of illumination required and provided that the determination on the lighting should be made by the Executive Director or a commissioner.

Section 21.4 (relating to conduct of contests)

At the suggestion of IRRRC, SAC changed "bouts" to "contests" in the heading of this section, as well as throughout the section.

Section 21.4(b)(1) and (3) provides that a boxer shall appear before a commissioner or the Executive Director for a preliminary physical examination, and, at the discretion of a commissioner or the Executive Director, remove all clothing at the weigh-in. Likewise, § 21.4(b)(4) allows a commissioner or the Executive Director to require an additional weigh-in and physical examination if an event is postponed for more than 24 hours. These final-form amendments afford increased flexibility in that the Executive Director need not be at every examination or weigh-in.

IRRC suggested that SAC move the clothing and glove requirements in § 21.4(c) and (e) to § 21.8 (relating to boxers). In the final-form rulemaking, § 21.4(c) and (e) appear in § 21.8(m)(4) and (5), respectively. As IRRRC had requested, SAC inserted the requirement in § 21.4(c) that only seconds, trainers and managers are authorized to be in the boxer's corner, as noted in § 21.10 (relating to seconds or trainers).

Section 21.5 (relating to scoring system)

To clarify the particular type of foul the subsections describe, § 21.5(d) and (e) adds the term "accidental" before the phrase "low-blow foul" throughout the provisions.

Section 21.7 (relating to matchmakers)

For clarity, SAC changed § 21.7(b) to require matchmakers to take notice of suspensions issued by any commission, including those in other jurisdictions.

Section 21.8

In § 21.8(e), SAC made a reference to forms available in SAC's *Medical/Safety Manual* regarding a general physical examination required for applicants for a boxing license who never competed in a professional contest, as IRRRC suggested. Section 21.8(f) contains a reference to those portions of the code that refer to a contract between a boxer and a promoter. At the suggestion of IRRRC, § 21.8(m)(4) and (5) contains the provisions relating to a boxer's clothing and gear previously contained in § 21.4(c) and (e).

On final-form rulemaking, the Commission made a technical change to § 21.8(d)(3) for clarity. On proposed rulemaking, the Commission divided § 21.8(d) into three subsections. Upon publication of the proposed rulemaking, however, the phrase "The Commission may suspend a" was inadvertently placed in § 21.8(d)(2), when it should have been placed in § 21.8(d)(3) and then removed from that subsection. Therefore, on final-form rulemaking, the Commission placed that phrase in § 21.8(d)(3).

Section 21.9 (relating to managers)

SAC clarified in § 21.9(h) that the Commission may impound the purse of a boxer, pending a final determination, not only at the request of managers who are licensed by SAC, but also for managers properly licensed in another jurisdiction that is recognized by SAC. This position is consistent with that adopted by the Association of Boxing Commissioners (ABC), of which the Common-

wealth is a member. These final-form amendments would provide SAC with flexibility in impounding purses for managers licensed by SAC or for managers licensed in another jurisdiction that is recognized by SAC.

Section 21.10

SAC changed the heading of this section to seconds or trainers to clarify that trainers are also subject to this section. This is consistent with the definition of the term "second" in § 1.1, which specifically includes a trainer. For consistency, SAC made the same change to the heading of § 23.5 (relating to seconds or trainers).

IRRC made four recommendations regarding this section. First, IRRC suggested that SAC clarify who "another person" would be who is allowed in a boxer's corner. Second, IRRC suggested that SAC address in other sections of the final-form amendments the possibility that a spectator or ticket holder may disrupt a contest. Third, IRRC suggested clarification of what constitutes "ample warnings" in § 21.10(j). Finally, IRRC suggested that SAC clarify what constitutes "offending conduct" in § 21.10(j).

To address IRRC's four suggestions, SAC moved the requirements in § 21.10(j) to other sections. In § 21.4(c), SAC inserted the requirement that only seconds, trainers and managers are authorized to be in the boxer's corner. In § 21.11(c)(4) (relating to referees), the referee has the authority to remove other persons from a boxer's corner, in addition to seconds, trainers and managers, who interfere with the conduct of the contest. In addition, § 21.11(c)(4) also allows the referee to deduct points from the boxer for conduct of any individual in the boxer's corner. Furthermore, SAC may suspend or fine the manager, second or trainer for conduct. In response to IRRC's third suggestion, SAC deleted the requirement for ample warnings, as found in former § 21.10(j), and added manager and trainer to the categories of individuals that the referee could remove from the ring in § 21.11(c)(4). SAC decided to leave the discretion to make these decisions with the referee and not bind the referee with issuing warnings when the behavior in question interferes with the conduct of the contest. In response to IRRC's final suggestion that SAC clarify what constitutes "offending conduct" as used in former § 21.10(j), SAC used the language in § 21.11(c)(4) that set the criteria as interfering with the conduct of the contest.

Section 21.11

Section 21.11(b)(1) substitutes the phrase "character and reputation" for "repute" in describing the requisite moral fitness of a referee to make this requirement consistent with the description in other sections. SAC also changed "Commission" to "Executive Director" because the Executive Director makes the initial determination regarding qualifications for referees. The decision of the Executive Director may be appealed to SAC.

In addition to the changes in § 21.10 regarding changes to § 21.11(c)(4), SAC removed the words "and shall" from this subsection and added the word "to" to provide for parallel structure grammatically.

As IRRC suggested, SAC provided a cross reference in § 21.11(c)(7) to the activities that constitute a foul, as described in § 21.16(b) (relating to safety code). In § 21.11(c)(8), SAC provided a citation to Subpart B of the code (relating to boxing) and a reference to the Referee's Manual. SAC changed "bout" to "contest" in § 21.11(c)(10) and (13) and clarified § 21.11(c)(11) that the Executive Director or an inspector could receive the official score cards from the referee after each round.

Section 21.12 (relating to judges)

In § 21.12(c), SAC replaced the phrase "the generally recognized rules of boxing" as IRRC suggested with a reference to the Judge's Manual. Also, SAC cited to Subpart B of the code to add greater specificity, as IRRC had suggested in its first general recommendation.

Section 21.16

SAC replaced "men" with "individuals" throughout § 21.16(a), making it gender neutral. In addition, SAC included references to the relevant section of the code in § 21.16(k) regarding suspension and revocation for injuries as well as a reference to 2 Pa.C.S. §§ 501—508 regarding requests for hearings to review SAC's actions.

Chapter 23 (relating to amateur boxing)

Section 23.1 (relating to relations with amateur athletic associations)

SAC made the phrase "amateur athletic association" lower case and plural so that it would reflect the existence of multiple associations throughout this Commonwealth. The change was made not only in this section, but also throughout the final-form rulemaking where appropriate.

Section 23.6 (relating to referees)

In § 23.6(a), SAC clarified that referees may be removed from their position by a commissioner, the Executive Director or an inspector if deemed incompetent. This subsection also tracks the language in § 23.7(a) (relating to judges).

Section 23.10 (relating to age of participation)

SAC changed the heading of this section to accurately reflect that the section now deals with the age of participation of boxers due to the elimination of former § 23.10(a).

Chapter 25 (relating to professional kickboxing)

Section 25.3 (relating to conduct of contests)

At the suggestion of IRRC, SAC changed "bouts" to "contests" in the heading of this section, as well as throughout this section. Section 25.3(h) includes a reference to § 21.16(e) that describes the manner in which a contestant's gloves should be wiped free of foreign substances.

Section 25.9 (relating to ringside officials)

Final-form § 25.9(c) substitutes the phrase "character and reputation" for "repute" in describing the requisite moral fitness of a referee or judge. SAC also changed "Commission" to "Executive Director" in this subsection because the Executive Director makes the initial determination regarding qualifications for referees and judges. The decision of the Executive Director may be appealed to SAC. These final-form amendments are consistent with those previously noted in § 21.11(b)(1).

III. Compliance with Executive Order 1996-1

In accordance with Executive Order 1996-1, "Regulatory Review and Promulgation," SAC invited comments from the regulated community and interested parties. In drafting the proposed rulemaking, SAC had extensive consultations with, and input from the ABC, the World Boxing Council, the International Female Boxing Association, the Women's International Boxing Federation, the World Wrestling Federation and the Nevada, New Jersey and New York State Athletic Commissions. When the rulemaking was proposed, SAC received no public comments.

V. Fiscal Impact

All individuals licensed by SAC will be impacted to some degree by the extensive revisions to the regulations administered by SAC. Other impacts are set forth in the costs and benefits section.

Costs and Benefits

All licensees will benefit when the regulations are updated to reflect current provisions of the code by reducing the potential for confusion as to their obligations. The safety of participants is increased by providing for heavier gloves, eliminating the standing eight-count and three-knockdown rule and requiring individually fitted mouthpieces. These provisions for each class of licensees are set forth in more detail as follows.

Promoters

Many provisions are streamlined to afford promoters greater flexibility in conducting events, resulting in indirect savings. Promoters will incur additional costs due to increased fees paid to referees, judges, announcers and timekeepers officiating at televised events. Referees are paid \$50 per event more while judges, announcers and timekeepers are paid \$10 more. These increases in fees may be offset because promoters' profits are generally higher for televised events.

Managers

Managers' costs will increase because the license fee for managers is raised from \$40 to \$60. The regulations also increase the minimum sum to be guaranteed annually to a boxer under contract with a manager from \$750 to \$1,000 and decrease the percentage of earnings that a boxer must pay the manager under a contract.

Referees

Under § 13.7 (relating to professional boxing officials fee), referees will be paid \$50 more for officiating at televised events. Other benefits to referees will accrue from changes in scoring and the elimination of barriers to entry as a referee.

Judges, Announcers and Timekeepers

Under § 13.7, judges, announcers and timekeepers will be paid \$10 more for officiating at televised events. Other benefits to judges, announcers and timekeepers will accrue from changes in scoring and the elimination of barriers to entry as a judge, announcer or timekeeper.

Boxers

Boxers will benefit from the final-form rulemaking directly because the minimum sum guaranteed to a boxer under contract with a manager will be increased from \$750 to \$1,000. Other benefits relate to clarifications of the procedures when a boxer has not made the contracted for-weight at weigh-in, requiring an individually fitted mouthpiece, resulting in safety improvements and other improvements in the safety code. They will also benefit through a clarification of the scoring of accidental and intentional fouls. The proposed changes also benefit boxers by expressly providing for expenses to a boxer when a contest has been canceled. The maximum percentage of earnings a boxer is obligated to pay managers under contract is reduced from 50% to 40%.

Matchmakers

Matchmakers will benefit from the revisions that would permit matchmakers to deal with unlicensed managers or boxers, allowing them to more effectively plan for future contests.

Kickboxing licensees

Similar changes, tracking those previously set forth, have been made in Chapter 25. These include: clarifying the scoring system; permitting greater flexibility in deducting points for fouls; requiring an individually fitted mouthpiece; and providing for heavier gloves. Judges will also benefit from the fees being increased. Other changes that benefit amateur kickboxers are set forth in Chapter 27 (relating to amateur kickboxing) and include: age requirements; the wearing of shin protectors; and a maximum of three 2-minute rounds.

VI. Paperwork Requirements

Paperwork requirements will not be substantially altered as a result of the amended regulations. Minor changes will have to be made to forms used by SAC.

VII. Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on May 12, 2000, SAC submitted a copy of the notice of proposed rulemaking published at 30 Pa.B. 2611, to IRRC and to the Chairpersons of the House State Government and the Senate State Government Committees for review and comment.

In addition to submitting the proposed amendments, SAC provided IRRC and the Committees with a copy of a detailed regulatory analysis form prepared by SAC in conformance with Executive Order 1996-1, (regulatory review and promulgation).

Under section 5.1(d) of the Regulatory Review Act (71 P. S. § 745.5a(d)), on March 25, 2002, this final-form rulemaking was deemed approved by the House and Senate Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on April 4, 2002, and approved the final-form rulemaking.

VIII. Contact Person

Further information may be obtained by contacting Gregory Sirb, Executive Director, State Athletic Commission, Department of State, 302 North Office Building, Harrisburg, PA 17120-0029. Information is also available at SAC's website <http://www.dos.state.pa.us/sac/sac.html>.

IX. Findings

SAC finds that:

(1) Public notice proposed rulemaking was given under sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202) and the regulations promulgated thereunder, 1 Pa. Code §§ 7.1 and 7.2.

(2) A public comment period was provided as required by law and all comments were considered.

(3) This rulemaking does not enlarge the purpose of proposed rulemaking published at 30 Pa.B. 2611.

(4) This rulemaking is necessary and appropriate for administering and enforcing the authorizing acts.

X. Order

SAC, acting under its authorizing statutes, orders that:

(a) The regulations of SAC, 58 Pa. Code Chapters 1, 3, 5, 9, 11, 13, 21, 23, 25, 27, 31 and 33, are amended by amending §§ 1.1—1.3, 3.1—3.4, 5.1, 5.2, 9.1, 9.2, 11.1, 13.1—13.8, 21.1—21.16, 23.1, 23.2, 23.4—23.10, 25.3—25.6, 25.8, 25.9, 27.2 and 27.3; adding §§ 31.21—31.24 and deleting §§ 11.2, 31.1—31.14 and 33.1—33.12 to read as set forth in Annex A.

(b) SAC shall submit this order and Annex A to the Office of General Counsel and the Office of Attorney General as required by law.

(c) SAC shall certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.

(d) This order shall take effect upon final-form publication in the *Pennsylvania Bulletin*.

CHARLES BEDNARIK,
Chairperson

(*Editor's Note:* For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 32 Pa.B. 2041 (April 20, 2002).)

Fiscal Note: Fiscal Note 16-17 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 58. RECREATION

PART I. STATE ATHLETIC COMMISSION

Subpart A. GENERAL PROVISIONS

CHAPTER 1. PRELIMINARY PROVISIONS

§ 1.1. Definitions.

(a) The following words and terms, when used in this part, have the following meanings, unless the context clearly indicates otherwise:

Athletic Code—5 Pa.C.S. §§ 101—2110.

Commission—The State Athletic Commission of the Commonwealth.

Commission credentials—Documents issued by the Commission to individuals approved by the Commission granting them the authority to attend a specific event, without payment of an entry fee, on behalf of the Commission.

Commissioner—A member of the Commission, as defined in section 101 of the code (relating to definitions).

Event—One or more contests, as defined in section 302 of the code (relating to definitions), conducted at the same location on the same day.

Knockdown—When any part of a boxer's body, except the feet, touch the ring canvass, at the hand of the opponent, as determined by the referee.

Licensee—A person licensed by the Commission to perform duties in relation to an event.

Main contest—The most important contest during an event for which the public interest is the greatest.

Second—An individual licensed by the Commission to work in a professional boxer's corner during an event, as provided in section 716 of the Athletic Code (relating to seconds). The term also includes a trainer.

(b) The definitions in section 302 of the Athletic Code (relating to definitions) are incorporated for the regulatory provisions relating to boxing which include this subpart and Subpart B (relating to boxing).

(c) The definitions in section 1902 of the Athletic Code (relating to definitions) are incorporated for the regulatory provisions relating to wrestling, which include this subpart and Subpart C (relating to wrestling).

§ 1.2. Commission offices.

(a) The offices of the Commission are located as follows:

(1) 116 Pine Street, Third Floor, Harrisburg, Pennsylvania 17101.

(2) 1103 State Office Building, Broad and Spring Garden Streets, Philadelphia, Pennsylvania 19030.

(3) 805A State Office Building, 300 Liberty Avenue, Pittsburgh, Pennsylvania 15222.

(4) Scranton State Office Building, Third Floor, Scranton, Pennsylvania 18503.

(b) All forms, manuals and additional information may be obtained by contacting the Harrisburg office at the address listed in subsection (a)(1) or calling the Harrisburg office at (717) 787-5720.

§ 1.3. Applicability of general rules.

Under 1 Pa. Code § 31.1 (relating to scope of part), 1 Pa. Code Part II (relating to general rules of administrative practice and procedure) applies to the activities of and proceedings before the Commission.

CHAPTER 3. APPOINTED OFFICIALS

§ 3.1. Executive Director.

(a) An Executive Director shall be appointed by the Secretary of the Commonwealth to act as the administrative officer to the Commission and have powers and duties provided in section 105 of the Athletic Code (relating to powers and duties of executive director).

(b) The Executive Director shall establish and maintain standard operating procedures for offices, ensure adherence to procedures and monitor operations of inspectors and officials.

(c) The Executive Director shall prepare, justify and administer the Commission budget.

(d) The Executive Director shall solicit items and prepare agendas for scheduled Commission meetings as well as attend the meetings, and shall also schedule and notify commissioners of the meetings.

(e) The Executive Director shall organize periodic training programs for judges, referees, inspectors and other licensees.

(f) The Executive Director shall disseminate to commissioners, inspectors and officials changes in the Commission's policies and procedures, personnel changes and other information pertinent to current operations.

(g) The Executive Director shall supervise and direct Commission staff, direct the issuance of Commission credentials and perform other duties as directed by the Commission. The Secretary of the Commonwealth or the Executive Director may designate Commission or Department staff to act on behalf of the Executive Director at events under the jurisdiction of the Commission.

(h) The Executive Director shall have the authority to approve or prohibit each proposed matching of boxers within this Commonwealth. Based upon the following criteria of each boxer:

(1) Win/loss record.

(2) Current boxing activity.

(3) Overall boxing experience.

(4) General health and safety, including, but not limited to, the following statutory provisions:

(i) Sections 708 of the Athletic Code (relating to suspension and revocation for injuries).

(ii) Section 711 of the Athletic Code (relating to limitation on difference in weights).

(i) The Executive Director, a commissioner or the Commission may use a videotape of a contest to review actions taken relating to a contest.

(j) The Executive Director shall rule on circumstances arising that are not addressed by this part and are not otherwise addressed in the Athletic Code that relate to the Commission's duties.

(k) The Executive Director will handle and decide initial complaints informally. If an individual is not satisfied with the remedy provided by the Executive Director, the individual may appeal the matter to the Commission. Appeals of decisions pertaining to a suspension of a permit or license shall be handled in accordance with sections 1301—1305 of the Athletic Code (relating to enforcement). Decisions of the Commission may be appealed in accordance with 2 Pa.C.S. §§ 501—508 (relating to practice and procedure of Commonwealth agencies) and 1 Pa. Code Chapter 35 (relating to formal proceedings).

§ 3.2. Inspectors.

(a) Inspectors shall be nominated by a commissioner or the Executive Director and approved by the Secretary. Inspectors shall be assigned by the Executive Director for the performance of duties under section 105(3) of the Athletic Code (relating to powers and duties of executive director).

(b) An inspector shall be empowered to act on behalf of the Commission only when specifically authorized by a commissioner or the Executive Director.

(c) The Executive Director will assign to each event under the Commission's jurisdiction as many inspectors as necessary for the proper regulation of the event and may designate a chief inspector.

(d) An inspector or the chief inspector in charge of an event shall be the official representative of the Commission and shall be responsible only to the Commission or the Executive Director. It is his duty and he shall have the authority to enforce the Athletic Code; and this part. It is his duty and he shall have the authority to enforce legislative and regulatory provisions pertaining to the collection of revenues that are due the Commonwealth, as outlined in section 916 of the Athletic Code (relating to gross receipts taxes).

(e) Subject only to the direction of a commissioner or the Executive Director, an inspector will have authority over the following:

- (1) All phases of the weigh-in.
- (2) Entrances to the site of the event, including the following:
 - (i) Press and pass entrances.
 - (ii) Entrances for participants, officials, Commission credential holders and employees.
- (3) The ring and ringside, including the following:
 - (i) Press accommodations.
 - (ii) Radio accommodations.
 - (iii) Television accommodations.
- (4) Dressing rooms of participants and officials.
- (5) The counting and accounting for tickets, passes and credentials issued to individuals to attend specified events including the following:
 - (i) Working press passes.
 - (ii) Complimentary tickets.

- (iii) Tickets of participants.
- (vi) Commission credentials.
- (vii) Promoter passes.

(6) The collection of insurance premiums due and payable on participants, and the documenting and reporting of accidents, injuries and illness of a licensee.

(7) The collection of fees, including the following:

- (i) License fees.
- (ii) Other moneys due the Commonwealth.

(8) The payment of purses and other moneys due participants and fees due officials.

(9) Matters generally under the jurisdiction of the Commission.

(f) Inspectors shall file with the Commission an official report of attendance, gross receipts, net receipts, fees and other moneys collected, names and pairings of participants, names of officials and results of contests as determined by official decision after each event under the jurisdiction of the Commission.

(g) An inspector shall file a detailed written report with the recommendations deemed appropriate, in the case of a violation or alleged violation of the Athletic Code.

(h) In case of the termination of a contest under the jurisdiction of the Commission by disqualification of one or more of the participants, and in other circumstances, upon recommendation and approval of the Commission or Executive Director, the inspector shall have the authority to impound moneys due the alleged offending parties pending action on the matter by the Commission.

(i) Inspectors may not remove, replace or interfere with the duties of a ringside official unless authorized to do so by the Executive Director.

(j) Inspectors shall report for duty promptly in accordance with their assignments and remain on duty until excused by the Executive Director. Only inspectors actually assigned or credentialed by the Executive Director to a given event shall by virtue of office be admitted, without charge, to that event.

§ 3.3. Physicians.

(a) A physician licensed to practice in this Commonwealth will be assigned by the Executive Director to every contest, weigh-in and exhibition. A physician so assigned in the case of professional events shall also be licensed by the Commission under sections 905(a) and 910 of the Athletic Code (relating to other licenses required; and standards for issuance of licenses and permits). In emergencies or unusual circumstances, the Commission may waive the requirement that the physician assigned be licensed under sections 905(a) and 910 of the Athletic Code. Physicians are not required to be licensed under the Athletic Code in the case of amateur events.

(b) The physician assigned to the weigh-in shall file a complete written report on each person examined upon a form prescribed by the Commission. Examinations shall be conducted in accordance with procedures prescribed by the Commission as approved by the Medical Advisory Board of the Commonwealth, which are set forth in the *Medical/Safety Manual* published by the Commission. Each boxer shall be so examined before the start of each event in which he is scheduled to participate, and may not participate if pronounced physically unfit by the examining physician.

(c) The physician assigned to an event shall be seated at the immediate ringside throughout the event and may not leave the ring untended while the event is in progress. An event may not commence or continue without an assigned physician in attendance. An assigned physician may not leave the premises of the event without notice to and approval of a commissioner, the Executive Director or an inspector. The physician shall remain on the premises after the event until satisfied that no further need of medical service remains.

(d) While on duty at an event, the assigned physician shall render emergency assistance inside and outside the ring to persons under the jurisdiction of the Commission and shall be especially prepared to minister to the injuries and illnesses that are to be anticipated under the circumstances of the event.

(e) The attending physician shall have full authority to determine and to pass upon the physical condition of participants and officials in the ring. For that purpose he shall have access to the ring at all times and shall be empowered to direct the referee to interrupt action pending determination of and decision upon the physical condition of a participant or official apparently in need of attention because of injury. The decision of the physician in attendance with respect to the ability of a participant or an official to continue in action shall be conclusive and shall be enforced by the referee in all cases. The attending physician shall be empowered to direct the referee to terminate action when a participant is evidently in jeopardy from exhaustion or punishment. In case of termination, there may be no resumption of action thereafter.

(f) In case of injury to a participant covered by insurance, the attending physician shall execute and file with the Commission the appropriate form of report for the injury to the insurance carrier on the form prescribed by the insurance carrier.

(g) When injury to or illness of a person occurs under the jurisdiction of the Commission, the attending physician shall have complete charge of the person while on the premises and shall be accorded the full cooperation of Commission personnel and licensees present.

(h) When a knockout or technical knockout of a boxer occurs, the attending physician shall follow up ministrations in the ring, at ringside or in the dressing room and shall take measures and give instructions that may be appropriate. After the event, the attending physician shall complete a post-fight check on each boxer who competed in the event on the form prescribed by the Commission in the *Medical/Safety Manual*.

(i) The attending physician is empowered to inspect and pass upon first aid and safety equipment provided for the event and to inspect and pass upon equipment intended to be used by seconds in ministering to boxers.

(j) When it appears to a ringside physician that a boxer or referee is no longer safely able to continue competitive or official activity, the physician shall immediately so report to the Commission and recommend the temporary or the permanent retirement of the person if appropriate.

§ 3.4. Announcers.

(a) The Commission will license announcers of events under its jurisdiction, except that in emergencies and in the case of amateur events, competent unlicensed announcers may be used. The promoter or sponsor of the event shall assign announcers to events.

(b) Announcers shall be responsible to the Commission in the discharge of their duties and shall accept directions only from a commissioner or the Executive Director.

(c) The Commission will set fees payable to announcers assigned to serve at events. The promoters of professional events and the sponsors of amateur events shall pay the fees.

(d) An announcer assigned to an event shall remain at ringside while the event is in progress, shall maintain close liaison with a commissioner or the Executive Director during the period, and shall carefully follow the directions of a commissioner or the Executive Director at all times.

(e) Announcers shall be neatly and appropriately dressed while discharging their duties.

(f) Announcers shall display strict impartiality in word and action while serving at events under Commission jurisdiction.

(g) Announcers shall make neither special announcements nor introductions of persons other than participants and officials without first obtaining the approval of a commissioner or the Executive Director.

(h) The announcer shall announce from the ring at each event under the jurisdiction of the Commission the fact of jurisdiction, the names of the officials assigned to the event, the name and official weight before each contest of each participant and other pertinent information as directed by a commissioner or the Executive Director.

(i) Only an assigned announcer may make an announcement from the ring unless another person is specifically authorized by a commissioner or the Executive Director.

(j) The announcer shall promptly collect the official score card from the Executive Director or an inspector at the conclusion of each contest. The announcer shall announce the scoring by each official and the final decision reached. The announcer shall announce whether the decision is unanimous, a split decision or a draw at the end of contests other than the main events. In the event of a knockout or a technical knockout, the announcer shall announce the result and the time and the round of the termination of the contest.

CHAPTER 5. TICKETS, POSTPONEMENTS AND CANCELLATIONS

§ 5.1. Tickets.

(a) Tickets of admission to each event under the jurisdiction of the Commission shall be of the stub type and consecutively numbered. Tickets shall have the following information:

- (1) The identity of the promoter or sponsor.
- (2) The nature, date, time and place of the event.
- (3) The established price of the ticket including taxes thereon.
- (4) The precise seat location if the ticket entitles the holder to a reserved seat.
- (5) The rain date, if any, of the event.

(b) A promoter or sponsor may not offer tickets for sale or distribution to an event under the jurisdiction of the Commission, which are not in compliance with subsection (a).

(c) Complimentary tickets shall be clearly marked complimentary. Complimentary tickets may not be sold by a promoter, sponsor or other person or agency.

(d) Distribution of tickets of employees and tickets of participants shall be limited strictly to persons in these classifications and the tickets may not be transferable by distributees.

(e) Ticket holders to events under the jurisdiction of the Commission shall surrender their tickets or the appropriate stubs, which will be collected by the agents of the promoter at the admission gates. The promoter shall make the tickets or stubs available to the Executive Director or a commissioner, and comply with section 916(d) of the Athletic Code (relating to gross receipts tax).

§ 5.2. Postponements and cancellations.

(a) An event under the jurisdiction of the Commission may not be postponed or canceled after it has been approved and scheduled without written notice to and approval by the Executive Director.

(b) If a scheduled event is postponed because of unfavorable weather, it shall be rescheduled upon its designated rain date, if it has been previously set. If no rain date has been previously set, the event shall be rescheduled as soon as may be fairly and reasonably done after consultation with and approval by the Executive Director.

(c) The Executive Director may rearrange the contest in case of threatened weather to assure, if possible, the presentation of the main contest.

(d) If, because of unfavorable weather or other emergency after the start of the program but before the beginning of the main contest, it is deemed necessary to declare a postponement, the event shall be rescheduled as provided in subsection (b). If unfavorable weather or other emergency occurs during the progress of the main contest, the contest shall be continued to its conclusion, except that if the existing condition presents actual danger to the participants or others present, a commissioner or the Executive Director will interrupt the contest until the danger is passed, and the contest shall be resumed from the point of interruption and continued to conclusion. If it is deemed impossible to resume the contest because of continued danger, a postponement shall be declared and the event shall be rescheduled as provided in subsection (b).

(e) Ticket holders shall be entitled to the refund of the entire purchase price of their tickets in cases of postponement or cancellation of the main event or the entire program of contests or exhibitions under the conditions of time, place and procedure that a commissioner or the Executive Director approves and announces in each instance, as specified in section 1113(a) of the Athletic Code (relating to ticket refunds) and § 21.4(h) (relating to conduct of contests).

(f) In case of postponement prior to the opening of the admission gates to the event, tickets for the original date shall be honored for admission on the date to which the event shall be postponed.

(g) The Commission will determine the rights of affected parties to payment for services and reimbursement for expenses in each case of postponement or cancellation if boxers have fulfilled their performance contracts prior to postponement or cancellation.

CHAPTER 9. RELATIONS WITH AFFILIATES

§ 9.1. No sovereignty compromise.

The Commission may enter into, maintain or withdraw from association with groups devoted to the interests of

any sport regulated by the Commission, but it may not compromise the sovereignty of the Commonwealth or the primary and immediate responsibility of the Commission.

§ 9.2. Fair cooperation.

The restrictions imposed by § 9.1 (relating to no sovereignty compromise) may not be construed to prevent the Commission from fair and reasonable collaboration and cooperation with the authorities of other governmental bodies or with organizations of private individuals dedicated to objectives similar to those of the Commission.

CHAPTER 11. SAFETY OF EVENT PREMISES

§ 11.1. Ventilation, fire exits and fire escapes.

Buildings or structures used, or intended to be used for contests, shall be properly ventilated and contain proper fire exits and fire escapes. In addition, buildings shall conform to the laws, ordinances and regulations pertaining to buildings in the municipality where situated.

§ 11.2. (Reserved).

CHAPTER 13. BONDS AND FEES

§ 13.1. Professional boxing bonds and bond filing fees.

(a) In the case of professional boxing promoters or foreign copromoters holding contests in a place where the seating capacity is less than 10,000, the professional boxing promoters or foreign copromoters are required to execute and file a surety bond with the Commission in the sum of \$7,500 on the form prescribed by the Commission. If the seating capacity is more than 10,000, the bond shall be in the sum of \$25,000.

(b) In lieu of the surety bond required by subsection (a), the promoter or foreign copromoter may deposit with the Commission cash, a certified check, a letter of credit or direct or indirect obligations of the United States or the Commonwealth acceptable to the Commission in an equivalent amount as set forth in subsection (a) and subject to the same conditions. The security will not be returned to the promoter until 1 year after the date on which it was deposited with the Commission, unless a surety bond is substituted for the security. Upon the expiration of 1 year from the date on which the security was deposited, it shall be returned to the depositor if no claim against the deposit is outstanding.

(c) A filing fee of \$25 shall accompany each bond filed or cash or security deposited in lieu of the bond.

§ 13.2. Ticket tally.

The authorized representative of a licensed promoter holding a contest or exhibition shall submit in writing to the Commission within 48 hours after the close of the contest or exhibition, a promoter's ticket report showing the number of each class of ticket sold, unsold or unused, and permit the Commission to examine sold, unsold or unused tickets, stub coupons, the financial records of the event and investigate other matters relating to the receipts and conduct of the box office and ticket takers. The ticket tally shall conform to the manifest issued by the printer on the printer's statement, and shall be signed by the promoter.

§ 13.3. Additional license fees.

Promoters shall submit a check or money order for the payment of license fees or taxes due the Commonwealth within a maximum of 48 hours after each event. Failure of a promoter to submit the required funds will result in forfeiture of all or a portion of the promoter's bond or funds on deposit with the Commission.

§ 13.4. Professional boxing license fees.

The following annual nonrefundable license fees shall accompany each application for a license or the renewal of a license:

| | |
|------------------------------------|-------|
| Promoter's license | \$100 |
| Matchmaker's license | \$ 50 |
| Physician's license | \$ 40 |
| Referee's license | \$ 35 |
| Manager's license | \$ 60 |
| Judge's license | \$ 35 |
| Timekeeper's license | \$ 25 |
| Announcer's license | \$ 20 |
| Professional boxer's license | \$ 22 |
| Trainer's license | \$ 20 |
| Second's License | \$ 20 |

§ 13.5. Professional boxing permit fees.

The following nonrefundable permit fees, based upon the seating capacity of the premises where the program is to be presented, shall accompany each application filed by a professional boxing promoter or foreign copromoter for a permit to present a program of professional contests or exhibitions:

| <i>Seating capacity</i> | <i>Fee</i> |
|-------------------------|------------|
| Less than 2,000 | \$ 25 |
| 2,001 to 5,000 | \$ 35 |
| 5,001 to 10,000 | \$ 75 |
| Over 10,001 | \$150 |

§ 13.6. Professional boxing physician fee.

A fee of \$200 shall be paid to the physician assigned to the weigh-in who conducts the precontest or preexhibition physicals and who also serves at ringside of the contest or exhibition. A fee of \$150 shall be paid to the physician assigned only to the contest or exhibition. A fee of \$100 shall be paid to the physician assigned only to conduct the precontest or preexhibition physicals. The fees shall be paid by the promoter.

§ 13.7. Professional boxing officials fee.

(a) Subject to the exception for televised events in subsection (b), the fees for professional contests or exhibition officials, paid by the promoter, are as follows:

| <i>Official</i> | <i>Fee</i> |
|-----------------|-------------|
| Referee | \$100, each |
| Judges | \$ 75, each |
| Announcer | \$ 75 |
| Timekeeper | \$ 75 |

(b) The fees for televised events, either broadcasted or by cable transmission, are as follows:

| <i>Official</i> | <i>Fee</i> |
|-----------------|-------------|
| Referee | \$150, each |
| Judges | \$ 85, each |
| Announcer | \$ 85, each |
| Timekeeper | \$ 85, each |

§ 13.8. Return check fee.

An additional \$50 processing fee will be charged for each dishonored check.

Subpart B. BOXING

CHAPTER 21. PROFESSIONAL BOXING

§ 21.1. Contracts.

(a) Contracts under the Commission's jurisdiction between managers and professional boxers; promoters and professional boxers; and foreign copromoters and profes-

sional boxers shall be signed on Commission-approved forms. Contracts shall contain a provision stating their subjection to the laws of the Commonwealth and this part. Contracts shall contain the provisions required by sections 1102 and 1103 of the Athletic Code (relating to notice clause; and provisions in contracts between managers and professional boxers). The contracts shall be signed by the parties under their true legal names. Contracts shall be void unless signed by parties to the contracts.

(b) Parties to the contracts shall be currently licensed by the Commission.

(c) Parties to the contracts shall completely fulfill their contractual obligations or be subject to disciplinary action by the Commission. Parties to the contracts shall be subject to, but not limited to, the disciplinary provisions in Chapter 13 of the Athletic Code (relating to enforcement).

(d) Each contract between a manager and boxer shall be subject to Commission approval, sworn to and affirmed by both parties, and signed in the presence of a commissioner or the Executive Director. A fully conformed and executed copy of the contract shall be filed with the Commission.

(e) It shall be the duty of the manager to assure the satisfactory performance of boxers with whom the manager has contractual agreements.

(f) A contract exceeding 3 years between a manager and A boxer will not be approved by the Commission except by unanimous vote of the commissioners.

(g) A manager may not enter into a contract purporting to bind a boxer under his management to perform services after the termination of the manager-boxer relationship between them. A boxer, while under contract to a manager, may not enter into a commitment, written or oral, to perform services without written consent of both parties involved and approval of the Executive Director.

(h) No assignment of an interest in a boxer's or manager's contract, filed and approved by the Commission, will be permitted without the approval of the Commission, and the consent to assign will not be granted unless a copy of the proposed assignment is submitted to the Commission for its approval.

(i) A manager may not enter into a contract that does not guarantee the boxer a minimum annual income for completion of contractual agreements of \$1,000.

(j) Contracts to which a minor is a party, shall be executed on behalf of the minor by the proper legal guardian of the minor.

(k) If a manager or boxer is to be prevented from acting or performing professionally within this Commonwealth due to the revocation of his license, the contract between the manager and boxer shall be terminated as provided by section 1103(b) of the Athletic Code. If the license of either party is suspended, the contract will not be binding upon the other party during the period of the suspension.

(l) A copy of a fully conformed and executed contract between a promoter and a manager or boxer, or both, shall be filed with the Commission by the promoter immediately after its execution

(m) A promoter licensed by the Commission may not attempt to contract, for a contest, with a manager or boxer under suspension or disqualification by the Commission, except with the written consent of the Executive Director or a commissioner.

(n) A promoter or other licensee of the Commission may not publicly advertise or announce that a contest or exhibition will take place until the contest or exhibition has been approved by the Executive Director under § 3.1(h) (relating to executive director) and binding agreements have been entered into by all parties.

§ 21.2. Weight classes.

(a) The weight classes of professional boxers and the maximum weight in each class shall be as follows:

- (1) Flyweight—112 pounds.
- (2) Bantamweight—118 pounds.
- (3) Featherweight—126 pounds.
- (4) Junior lightweight—130 pounds.
- (5) Lightweight—135 pounds.
- (6) Junior welterweight—140 pounds.
- (7) Welterweight—147 pounds.
- (8) Junior middleweight—154 pounds.
- (9) Middleweight—160 pounds.
- (10) Super middleweight—168 pounds.
- (11) Light heavyweight—175 pounds.
- (12) Cruiserweight—190 pounds.
- (13) Heavyweight—over 190 pounds.

(b) Sections 710 and 711 of the Athletic Code (relating to weights and classes; and limitation on difference in weights) are incorporated by reference.

§ 21.3. Ring and ring equipment.

(a) The boxing ring may not be less than 16 feet square nor more than 24 feet square within the ring ropes except with the written consent of the Commission. The ring floor or apron shall extend beyond the ring ropes on all sides for at least 2 feet, unless alternative satisfactory safety precautions are taken and approved by the Commission.

(1) The ring floor shall be elevated no more than 4 feet, be completely padded both inside and outside the ropes to the thickness of at least 2 inches with soft felt, foam rubber, felt matting or other soft material approved by the Commission and shall be covered over the padding with canvas stretched taut and laced tightly to the ring platform.

(2) The ring posts shall be four in number, shall extend above the ring floor no more than 5 feet, and shall be at least 18 inches distant from the ring ropes, which shall be attached to the posts by means of adjustable turnbuckles.

(3) Post tops and turnbuckles shall be suitably padded.

(4) Steps shall lead to the ring floor at two diagonally opposite corners of the ring platform.

(5) The ring ropes shall be four in number, may not be less than 1 inch in diameter, and shall be either covered with smooth plastic or wrapped with soft material.

(6) The ropes shall be readily adjustable and shall be kept at a proper and safe degree of tautness.

(7) The ring shall be amply illuminated by overhead lights, which shall be arranged so that shadow is eliminated and discomfort from heat and glare minimized for persons in and near the ring, if needed, as determined by a commissioner or the Executive Director.

(b) It is the responsibility of the promoter to have an attendant available at all times during the event capable

of making any type of emergency repairs, corrections and adjustments to the ring, the lights and other necessary fixtures. The promoter shall supply the following items, which shall be available on the premises for use as needed:

(1) A public address system in good working order.

(2) Chairs for Commission personnel, officials and Commission credential holders. Chairs for judges shall be elevated sufficiently to assure an unobstructed view of the ring and the ring floor.

(3) A gong or bell of size and resonance sufficient to be clearly audible by participants, officials and spectators when struck by the hammer of the timekeeper.

(4) A stool or chair, a clean water bucket and clean water bottle for the corner of each boxer.

(5) A complete set of numbered round cards clearly legible from all parts of the arena containing no advertising or other printed matter unless approved by the Commission.

(6) An ambulance, together with emergency equipment.

(7) A portable resuscitator with oxygen and appropriate endotracheal tubes and a qualified operator.

§ 21.4. Conduct of contests.

(a) At each professional contest or exhibition, except an exhibition held solely for training purposes, there shall be two referees, one physician, three judges, an announcer and a timekeeper in attendance, all of whom will be licensed by the Commission. The Executive Director will assign all officials except the announcer. The Executive Director may also appoint a knockdown timekeeper. A promoter or an employee of a promoter or an officer, director or stockholder of a corporation holding the license of a promoter may not be appointed or permitted to officiate in any capacity at a professional contest under the jurisdiction of the Commission.

(b) The Executive Director will determine the time and place of the weigh-in for each professional event under the Commission's jurisdiction, and boxers under contract to participate in the event shall appear promptly at the appointed place to be officially weighed by a representative of the Commission on Commission approved scales and examined by the attending physician.

(1) A boxer being weighed shall remove all clothing at the discretion of a commissioner or the Executive Director.

(2) A boxer shall weigh-in no more than 24 hours prior to the contracted time of the contests. Under extenuating circumstances and with the permission of the Executive Director, the boxer may be allowed to weigh-in no more than 30 hours prior to the contracted time of the contest. If a boxer is deemed overweight by the Executive Director, another weigh-in shall be scheduled for no more than 3 hours from the time that he first stepped onto the scale to determine that the boxer weighs no more than the weight for which he has contracted. Boxers may lose no more than 3 pounds in this 3-hour period. If after 3 hours the boxer cannot achieve the weight, the boxer shall be disqualified and may be subject to disciplinary action as the Commission may determine.

(3) The Commission will require a boxer under contract for a contest under its jurisdiction to appear before a commissioner or the Executive Director for a preliminary physical examination within 2 hours prior to the contest, as required by section 709(a) of the Athletic Code (relating to medical examination). The weight of the boxer

shall be one of several factors included in this physical examination by the attending physician to determine whether the boxer is physically or mentally fit to proceed. Physically unfit shall include, but not be limited to, a determination by the attending physician that a boxer has gained or lost so much weight since the time of the weigh-in that the boxer could harm himself or the opponent. Except as provided by section 711 of the Athletic Code (relating to limitation on difference in weights), the weight of one boxer may not exceed the weight of that boxer's opponent by 10 pounds.

(4) If an event is postponed for more than 24 hours, a commissioner or the Executive Director may require an additional weigh-in and physical examination of the participating boxers on the day to which the event is postponed.

(5) Each boxer in a contest under the jurisdiction of the Commission shall submit to the Executive Director the names of the boxer's seconds for approval, and no person other than the boxer's approved seconds may be permitted to assist in the boxer's corner during the contest.

(6) A boxer under contract to participate in an event under jurisdiction of the Commission shall report in the dressing room at a time set by the Executive Director and shall remain in that area until ordered to the ring by an authorized representative of the Commission.

(c) The referee shall call the participants and their chief seconds to the center of the ring for final instructions before each contest. During an event, only licensed seconds, trainers and managers are authorized to be in the boxer's corner. After the announcement of the decision at the end of a contest, the participants and their seconds shall leave the ring without undue delay and retire to the dressing quarters. Participants, seconds and managers may not manifest to officials or to spectators an opinion as to the outcome of the contest nor may they be disrespectful or exhibit improper conduct toward a Commission official or toward the spectators before or after the announcement of the decision.

(d) The promoter shall have immediately available for use adequate medical emergency first aid supplies and equipment during each event under his promotion, which will be subject to examination and approval by the Commission. An individual will not be permitted to examine or treat a participant during an event unless the individual is wearing disposable latex hygienic gloves. The gloves shall be paid for and provided by the promoter. Exceptions will be permitted when an emergency treatment or examination makes the wearing of the gloves impractical. The promoter shall also have available for each event under his promotion an ample supply of conventional boxing gloves including at least one new set of gloves for use in the main contest. Gloves for use in the event shall be in good condition and will be subject to inspection and approval by the referee, a commissioner, the Executive Director and an inspector before and during use. If a glove bursts or is otherwise seriously damaged during the progress of a contest, the referee shall interrupt the contest and require that the glove be replaced before the resumption of the contest.

(e) Persons other than boxers, managers, seconds and Commission representatives may not have access to the dressing quarters at an event under the jurisdiction of the Commission except by special permission of the Commission. The Commission may issue nontransferable written passes to the dressing quarters if circumstances warrant, and then only holders of the passes shall be

admitted except by special permission of the Commission. An inspector shall be on duty in the dressing quarters from the opening until the closing and shall be responsible for the maintenance of order and the enforcement of the Athletic Code and this part.

(f) The ring platform shall be kept clean and clear of obstructions throughout each contest. Buckets, stools, bottles and other corner equipment shall be removed before the start of each contest and again between rounds immediately upon the sounding of the 10-second warning signal of the timekeeper. Care shall be exerted by boxers and their seconds to keep corners dry. Excessive spraying or throwing of water on boxers is forbidden.

(g) Unless otherwise authorized by the Executive Director, a professional event may not be scheduled for a total of less than 28 or more than 40 rounds, each of which shall be of the maximum duration of 3 minutes for male boxers and 2 minutes for female boxers with a rest period of 1 minute between the end of each round and the start of the next. Professional contests under the jurisdiction of the Commission shall be scheduled for four, six, eight or ten rounds unless otherwise specifically authorized by the Executive Director in the case of a world championship, State championship or other especially significant contests when contests may be scheduled for 12 or 15 rounds for male boxers as the Commission deems appropriate. The maximum number of rounds for female boxers is ten rounds. A contest of the scheduled duration of more than 15 rounds may not be permitted in this Commonwealth. The Executive Director may permit, and will have the discretion to place on the program, and to determine the length of, one scheduled intermission between contests of a professional event.

(h) A promoter shall notify the Executive Director of a proposed change in the composition of any contest under his promotion immediately upon the arising of need or decision for change. An announcement or advertisement of the proposed change may not be made by the promoter or a person connected with the promotion unless approval of a commissioner or the Executive Director has been granted. If the change is made and approved, immediate widespread public announcement shall be made through available communications media and written notice shall be posted conspicuously at ticket agencies and at entrances and ticket windows at the site of the event. Upon postponement or cancellation of the main event or the entire program of contests or exhibitions, the promoter shall refund the full price of each ticket to any person who presents the entire ticket for a refund within 10 days after the event. The promoter shall announce the postponement or cancellation at the beginning of the program and at other times during the event as the Commission may prescribe and shall notify the ticket holders in each announcement that they may present their ticket stubs for a refund of the purchase price during the program.

(i) The promoter of a professional event under the jurisdiction of the Commission shall make payment of the purse and other money due a participating boxer to the boxer personally unless a prior arrangement has been made and approved by the Commission. A promoter may not make payment to a boxer, to a manager or to an agent of either of them except in the presence of a commissioner or the Executive Director. There may be no variance from the procedure in this subsection except by explicit written direction by the Commission to the promoter.

(j) Each professional contest under the jurisdiction of the Commission shall be designated a contest or an

exhibition according to its true and correct character and having been so designated, it shall be announced and advertised explicitly as such. An exhibition may not be announced or advertised either directly or by inference as a championship match.

(k) A boxer or a licensee may not strike, molest or abuse physically or verbally a spectator, ring official or representative of the Commission under penalty of summary disqualification, suspension or fine, or any combination of these penalties.

(l) A professional event or individual match may not be publicly announced or advertised until approved by the Commission.

(m) If a boxer refuses to continue a contest while physically able to do so, the referee shall rule the contest a technical knockout (TKO) and award the contest to the opposing boxer. The purse of the losing boxer, or any part thereof, may be impounded by the Commission.

§ 21.5. Scoring system.

(a) The scoring in professional contests shall be on the basis of the ten points must system.

(1) Each judge in reaching a finding on each round of a contest shall award to the winning boxer ten points and to the losing boxer nine points or less and shall so inscribe the official score card immediately upon conclusion of the round.

(2) In the case of an even round, the judge shall award ten points to each boxer.

(3) At the conclusion of each round which has not been terminated by a knockout, a technical knockout or the disqualification of either boxer, the Executive Director or an inspector shall tally the points for each boxer and mark these scores on the official score card.

(4) If each boxer has been awarded the same total number of points, the vote of the judge shall be recorded as a draw.

(5) Each judge shall sign his name to his score cards.

(6) A boxer shall be declared the winner of a contest if he has received the winning votes of two or all of the judges.

(7) A contest shall be declared a draw if the votes of two or all of the judges shall so state, or if each boxer receives the winning vote of one judge and the vote of the third judge shall be for a draw.

(b) Examples of ten point scoring are as follows:

(1) 10-10. Indicates an even round. Neither boxer distinguished himself as being more effective than the other. In addition, the boxers appeared equal in the areas that may be used to break an even round, such as opponent control, ring strategy and overall conditioning and abilities as a complete boxer, with emphasis on overall ability.

(2) 10-9. Indicates one boxer distinguished himself as more effective during the round, as described in paragraph (1). This score is the most often used, and allows for a slight to considerable margin between the boxers. One boxer may have been only slightly better than the other or the boxer may have dominated the round without really stunning the other boxer, with no knockdowns.

(3) 10-8. Indicates a round in which one boxer was in constant control, and unquestionably outclassed his opponent. The boxer may also have obviously stunned his opponent, usually including at least one knockdown. If

there were no knockdowns, there shall still have been enough contact done to indicate that at least one of these occurrences was imminent.

(c) Subject to the foul rule in subsection (d), if in a round a boxer is adjudged guilty by the referee of a foul or of a technical violation of the Athletic Code, the referee may penalize the offending boxer one point for each foul or technical violation. The referee shall immediately stop the contest and notify the judges of the number of points being deducted and provide for the innocent boxer to be examined by the ringside physician, if warranted. In each round when points are being deducted, judges shall score the round in a normal manner and mark next to the score the number of points being deducted for that boxer for the foul as indicated by the referee. If a boxer persists in the employment of foul tactics or in technical violations of the Athletic Code or if the boxer inflicts, by foul means, a crippling injury upon his opponent so that the latter is adjudged incapable of continuing the contest, the referee shall disqualify the offending boxer and shall award the contest to the innocent boxer. In determining the scoring of a round, a judge shall consider the following:

- (1) Aggressiveness.
- (2) Clean hitting.
- (3) Cleverness.
- (4) Defensive skill.
- (5) Effectiveness of blows.
- (6) Fouls and technical violations.
- (7) Knockdowns.

(d) If a boxer in a contest scheduled for more than four rounds receives an accidental foul that renders the boxer immediately unable to continue and less than four rounds have been completed, the referee shall rule the decision a "no contest." This rule does not apply in the case of accidental low-blow fouls as referenced in subsection (l). If at least four rounds have been completed, the boxer ahead on the scorecards shall be awarded the decision. If neither boxer is ahead on points, the contest shall be ruled a draw. The round shall be considered complete when the bell is sounded ending the round. Partial rounds shall be scored when at least four rounds have been completed.

(e) If a boxer in a contest scheduled for four rounds receives an accidental foul that renders the boxer immediately unable to continue and less than three rounds have been completed, the referee shall rule the decision a "no-contest." This rule does not apply in the case of accidental low-blow fouls as referenced in subsection (l). If at least three rounds have been completed, the boxer ahead on the scorecards shall be awarded the decision. If neither boxer is ahead on points, the contest shall be ruled a draw. The partial fourth round shall be scored.

(f) If a boxer receives an intentional foul, the referee shall stop the contest and shall deduct one or more points from the offender. Point deductions shall be at the discretion of the referee based upon the severity of the foul. If the boxer who received the intentional foul is unable to continue the round in which the foul occurred, as determined by the referee or ringside physician, the referee shall stop the contest and the injured boxer shall have up to 5 minutes of recovery time. If after these 5 minutes the injured boxer cannot continue, the referee shall disqualify the offender. Point deductions and disqualifications are at the discretion of the referee.

(g) The referee shall have the authority to determine whether the foul is accidental or intentional and shall make his ruling known immediately after the foul has been committed. The referee shall notify the judges, Commission personnel and both boxers of his ruling.

(h) If an injury inflicted by an accidental foul later becomes aggravated by fair blows and the contest must be stopped in a round other than the one in which the foul occurred, the outcome will be determined by the scoring of all partial and completed rounds if at least four rounds have been completed. If less than four rounds have been completed, the outcome shall be ruled a "no-contest."

(i) If an injury inflicted by an intentional foul later becomes aggravated by fair blows and the contest must be stopped in a round other than the one in which the foul occurred (See subsection (e)), the injured boxer will win by a technical decision if he is ahead in the scoring.

(1) The contest shall be ruled a technical draw if the injured boxer is behind or even in the scoring.

(2) If a boxer injures himself while attempting to intentionally foul his opponent, the referee shall take no action in his favor, and this injury shall be treated the same as one produced by a fair blow.

(j) In a round when a boxer has been knocked down and that boxer has not risen at the end of the round, the count of the timekeeper shall be continued and, if the fallen contestant shall fail to rise before the count of ten, he shall be considered to have lost the contest by a knockout in the round just concluded. If the boxer does rise and the round has already ended, the timekeeper shall immediately ring the bell signifying the end of the round.

(k) The referee shall signal for a time-out when a boxer is knocked down as a result of an accidental foul or accident, as ruled by the referee. The boxer shall have up to 5 minutes of recovery time. If the boxer cannot continue after 5 minutes and four rounds or more have been completed, the winner of the contest shall be determined by the scores indicated for completed rounds on the scorecards. Partial rounds shall be scored when at least four rounds have been completed. If less than four rounds have been completed, the contest shall be ruled a technical draw.

(l) In the case of an accidental low-blow foul, the same procedures in subsection (k) shall be followed, except that if the boxer who is unable to continue is ahead on points, the contest shall be ruled a technical draw. If his opponent is ahead on points, he shall be awarded the decision.

(m) If a boxer is disqualified by the referee and that boxer is behind on points at the time of his disqualification, regardless of the round, that boxer shall lose by technical knockout (TKO).

§ 21.6. Promoters.

(a) Promoters of professional events under the jurisdiction of the Commission shall be licensed by the Commission and shall be responsible for the observance of the Athletic Code and this part, as far as the Athletic Code and this part apply to them and their activities during and after events under their promotion.

(b) Each promoter shall file with the Commission fully conformed and executed copies of contracts between the promoter and managers and boxers committed to participation in events under his promotion. Each contract filed shall set forth the exact and complete agreement between

the parties. Undisclosed additional or collateral written or oral agreements or understandings pertaining to the subject matter of the original contract or the event are prohibited and void. Promoters may not contract or negotiate with a matchmaker, manager or boxer who is under suspension by the Commission, except with the written permission of the Executive Director.

(c) The promoter is responsible for the maintenance of order and the safety of persons present at each event under his promotion, and he shall provide ample security.

(d) A promoter who shall be adjudged guilty of an offense of violence or of conduct reflecting discreditably upon boxing shall be liable to suspension or revocation of license or both, by the Commission.

(e) Unless otherwise directed by a commissioner or the Executive Director, each promoter shall pay out all boxing purses immediately after the contest but no later than 24 hours after an event.

(f) A promoter may distribute passes to his staff or other individuals helping in the promotion of an event to permit them to enter the event. The number of passes may not exceed 50 or more than 1% of the total seating capacity of the facility, whichever is less, unless otherwise approved by a commissioner or the Executive Director. Passes shall be visibly displayed and are not subject to the Commission's gross receipts tax.

(g) The promoters of a contest between female boxers shall provide them with adequate and separate dressing rooms from male boxers.

§ 21.7. Matchmakers.

(a) Matchmakers shall be licensed by the Commission and shall be employed only by licensed promoters. Matchmakers shall be familiar and comply with the Athletic Code and this part with special reference to contracts, the giving of advance notice, the advertising of events and the due observance of legal weight differentials between opponents.

(b) Matchmakers shall be familiar with the records, the abilities and the physical condition of boxers for whose services they negotiate. Matchmakers shall take notice of suspensions issued by any commission, including those in other jurisdictions, and may neither contract nor negotiate with unlicensed managers or boxers or those who are under suspension, except by written permission of a commissioner or the Executive Director.

(c) The matchmaker for each event for which he has been engaged shall submit to the Commission at least 5 days prior to the event the true legal names, the ring names and the correct legal addresses of boxers under contract to participate unless this has been done by the promoter. This requirement will be waived by a commissioner or the Executive Director only for sufficient reason. The matchmaker shall advise managers and boxers under contract for an event of the time and place of the official weigh-in and of the time and place of their appearance for the actual event.

§ 21.8. Boxers.

(a) Professional boxers shall be licensed by the Commission. The Commission will not license or renew the license of a professional boxer unless the license application is accompanied by a report from a Department of Health facility, a laboratory possessing a permit from the Department of Health under 28 Pa. Code § 5.11 (relating to permit, requirements, application and conditions) or a report from a laboratory licensed in another jurisdiction

that meets the requirements to be issued a permit under 28 Pa. Code § 5.11 and is acceptable to the Commission, which indicates that the applicant has been tested for any virus, antibody, antigen or etiologic agent determined to cause or indicate the presence of human immunodeficiency virus, and the results of those tests were negative. The tests shall have been initiated no more than 60 days prior to the date of filing the application. A boxer whose application for license has been denied has the right to a hearing before the Commission under 2 Pa.C.S. §§ 501—508 (relating to practice and procedure of Commonwealth agencies). The applicant shall apply, in writing, to the Commission requesting a hearing. The Commission will conduct a hearing within 10 business days from the receipt of the written request.

(b) The Commission will require each professional boxer under contract to appear in a contest under its jurisdiction to be properly licensed and to be examined and certified by a physician appointed by the Executive Director to be physically sound before being permitted to engage in the contest. A commissioner, the Executive Director or the ringside physician, upon the individual's own initiative as a safety precaution, may require a professional boxer under the jurisdiction of the Commission to undergo a general or an ad hoc physical or mental examination, or both, for the purpose of determining whether or not the boxer is fit to continue actively in the profession of boxing.

(c) Whenever a professional boxer considers himself unable by reason of illness or injury to participate in a contest for which he is under contract within the jurisdiction of the Commission, he, or his manager in his behalf, shall promptly notify both the Executive Director and the promoter of the event of the alleged condition of the boxer. The boxer shall immediately submit written medical verification to the Executive Director who may, if he deems fit, require the boxer at his own expense to undergo examination by a physician selected by the Executive Director for further substantiation of the averment of disability. If a contest to which a professional boxer is under contract has been canceled and no suitable opponent, as determined by the Executive Director, can be located, the boxer shall be entitled to reasonable expenses as determined by the Executive Director.

(d) A boxer shall be considered to have been knocked out in a contest if he is counted out and he may incur a suspension of up to 90 days. A suspension under this section shall be mandatory if the boxer has been knocked unconscious or has received a concussion. This mandatory suspension shall be removed only after the boxer has been pronounced fit after undergoing medical examination by a physician.

(1) A boxer may incur a suspension of up to 30 days if he experiences a technical knockout without head injuries.

(2) A boxer may incur additional suspension time upon recommendation of the ringside physician or the Commission's Medical Advisory Board.

(3) A professional boxer who is defeated in six consecutive contests, either within or outside the jurisdiction of the Commission shall be required to undergo a medical examination by a physician approved by the Commission, pending inquiry by the Commission to determine the physical and mental ability of the boxer to continue safely in the boxing profession.

(e) The Commission will not license as a professional boxer an applicant under 18 years of age and the

Commission will require conclusive proof of age of a boxer applying for the first time to be so licensed with the Commonwealth. An applicant for a boxing license who has never competed in a professional contest shall attach to his license application the results of a complete general physical on a form supplied by the Commission in the *Medical/Safety Manual*. The Commission will not license as a professional boxer an applicant over 36 years of age except by special action by the Commission. An applicant for a boxing license over 36 years of age shall attach to his license application the results of the following:

(1) A complete general physical on a form supplied by the Commission.

(2) An electrocardiogram (EKG).

(3) A stress echo test.

(4) An eye exam.

(f) The Commission will not permit a professional boxer to participate in a contest under its jurisdiction without first having signed with a licensed promoter a contract covering the participation that meets the requirements of sections 1101—1104 of the Athletic Code (relating to contracts) and this part. If the boxer is under contract to a manager, the manager is also required to sign the contract unless excused by the Commission. This does not mean that a boxer is not contractually bound by a commitment made in his behalf by his legally constituted manager even though the boxer may not have personally executed the instrument purporting to commit him.

(g) A boxer under the jurisdiction of the Commission may not be under contract to more than one manager at the same time without express approval of the Commission. A boxer under the jurisdiction of the Commission may not enter into a contract with a manager or combination of managers in which the boxer is obligated to the payment of more than the total of 40% of his earnings under the manager or combination of managers.

(h) A boxer whose manager has been suspended by the Commission or whose suspension in another jurisdiction is recognized by the Commission may box in this Commonwealth, independently of his managerial contract at the discretion of the Commission and will be permitted to contract individually under the circumstances and to collect the full amount of a purse or other moneys due to him; no part of the sum may be held or reserved for the suspended manager.

(i) Professional contests between boxers under contract to the same manager are prohibited without exception.

(j) The Commission may require either or both of the participants in a professional contest to guarantee appearance or the making of agreed weight, or both, by stipulated monetary forfeit to be posted with the Commission in cash or by certified check by a stated time prior to the contest under appropriate circumstances. The Commission may declare the sum posted by him forfeited in whole or in part if a boxer fails to appear or make the agreed weight, and the forfeited amount shall be distributed, as the Commission, in its discretion, will decide.

(k) A professional boxer who fails to appear promptly at the time and place set by the Executive Director for the official weigh-in for a contest in which he is under contract to participate shall be subject to a disciplinary action the Commission sees fit to impose. A professional boxer who fails to appear for a contest in which he is under contract to participate or having appeared, refuses to participate in a contest may be subject to a fine,

suspension, revocation of license or one or all of these penalties at the discretion of the Commission.

(l) If either or both of the participants in a professional contest fail to satisfactorily put forth serious effort during the contest or persist in foul tactics in the judgment of the referee, the referee shall stop the contest after reasonable warning, disqualify the offending boxer and award the decision to the boxer making the serious effort. The Commission may impound moneys due to the offending boxer pending the outcome of a hearing, which the Commission will arrange.

(m) Participants in professional contests under the jurisdiction of the Commission shall:

(1) Be shaven clean except that the Commission may sanction the wearing of closely cropped mustaches or beards, or both, at its discretion.

(2) Wear their hair secured so that it does not interfere with the vision or safety of either contestant.

(3) Use no facial cosmetics.

(4) Wear conventional boxing trunks, smoothsole shoes, a foolproof abdominal guard or cup and an individually fitted mouthpiece, which shall be subject to examination and approval by the Commission. Female boxers shall also wear a chest protector, body shirt and blouse and comply with § 21.8(n) (relating to boxers). Female boxers are also required to follow all other general requirements applicable to male boxers.

(5) Adhere to the following requirements for gloves. Each glove used in a professional boxing contest under the jurisdiction of the Commission shall weigh at least 8 ounces of which no more than 1 ounce shall be in the wrist padding of the glove. At all times, boxers competing against each other shall wear gloves of the same weight. For boxers weighing 160 pounds or less, the boxing gloves cannot weigh less than 8 ounces each. For boxers weighing over 160 pounds, the boxing gloves shall weigh at least 10 ounces each.

(i) The gloves of each boxer shall be adjusted in the dressing quarters of the event under the supervision of a Commission representative and in the presence of a second of the opposing boxer, if the latter so desires. Gloves of the participants in the main contest may also be adjusted in the ring by the referee.

(ii) The ends of the lace of each glove shall be tied and knotted on the back of the wrist of the glove and a single strip of adhesive tape 1 inch in width shall be carefully and smoothly placed around the wrist of the glove over the lace and the knot.

(iii) The bandage for use on each hand and wrist shall be soft bandage or gauze not more than 2 inches in width and 10 yards in length, except that the bandage for the hand of a light heavyweight or heavyweight boxer may be 12 yards in length. The bandage shall be wrapped smoothly and evenly on each hand and shall be held in place by adhesive tape 1 inch in width around the wrist with overlap of not more than 1 inch to clinch the ends. Tape, cotton or a substance other than the approved bandage may not be used between the fingers or over the knuckles of the hand. Bandaging of the hands of a boxer shall be done in the dressing quarters under the supervision and subject to the inspection and approval of a Commission representative and in the presence of a second of the opposing boxer, if the latter so desires.

(n) A female boxer:

(1) May not engage in a contest with a male boxer.

(2) Shall provide the Commission with a negative pregnancy test result taken not more than 24 hours prior to the scheduled contest.

(o) A male boxer may not engage in a contest with a female boxer.

§ 21.9. Managers.

(a) The Commission will license managers of professional boxers after being satisfied as to their good character, reputation and qualifications.

(b) A contract or negotiation entered into by a manager not licensed by the Commission may be upheld as valid by the Commission if the manager is licensed in another jurisdiction.

(c) A person may not be permitted to enter into a contract to manage a professional boxer without first being so licensed. If his license is revoked or allowed to expire, a contractual relationship, which he has with a boxer, will become void as required by section 1103(b) of the Athletic Code (relating to provisions in contracts between managers and professional boxers).

(d) A manager of a professional boxer may not sell, assign, transfer or encumber, or attempt to sell, assign, transfer or encumber an interest, in whole or in part, which he may hold in a contract for the services of the boxer without notice to and written consent of the boxer and of the Commission.

(e) A licensed manager of a professional boxer may act as second to the boxer in a contest under the jurisdiction of the Commission.

(f) A manager of boxers who is adjudged responsible for an offense of violence or conduct reflecting discreditably upon boxing may be subject to suspension or revocation of license, or both, by the Commission.

(g) A manager of boxers who has been suspended by the Commission or whose suspension in another jurisdiction is recognized in this Commonwealth will be prohibited from carrying on managerial activity and from acting as a second within the jurisdiction of the Commission.

(h) When a contest occurs in this Commonwealth, and a dispute arises between a manager and his boxer, the Commission may impound for a manager who is licensed in this Commonwealth or in another jurisdiction recognized by the Commission, upon the request of the manager, the proper portion of the purse of a boxer under contract to him pending final determination of the merits of the matter. If a boxer engages in a contest without the consent of his manager, the Commission may, at the request of a manager licensed in this Commonwealth or in another jurisdiction recognized by the Commission, impound the proper portion of the purse of a boxer under contract pending final determination of the merits of the matter.

§ 21.10. Seconds or trainers.

(a) The Commission will license professional boxing seconds after being satisfied of their good character, reputation and qualifications.

(b) Unless he is licensed also as a manager of professional boxers, a second may not act or attempt to act in a managerial capacity.

(c) The number of seconds attending a professional boxer in his ring corner shall be limited to a maximum of four.

(d) Seconds attending a professional boxer shall be neatly and cleanly attired in a manner subject to the approval of the Commission.

(e) First aid and other ring equipment of a second shall before, during and after use be subject to inspection by the attending physician and Commission personnel whose decision as to the propriety of its use is final.

(f) Seconds may not enter the ring during a round, and they shall leave the ring promptly, with stools, buckets and other obstructive equipment upon the sounding 10-second warning signal of the timekeeper for the start of the next round.

(g) Seconds shall remain seated at ringside and may not rise or lean upon the ring platform during rounds nor may they heckle the participants or the officials during the event.

(h) Seconds may not attempt to render aid to a fallen or otherwise injured boxer in the ring until the attending physician has examined the boxer and indicated that his seconds may minister to him. However, a second may remove the protective mouthpiece of the boxer without awaiting direction.

(i) The designated chief second shall be the only spokesman of a boxer to the referee and other officials while the boxer is in the ring.

(j) A second who is under suspension by the Commission or whose suspension in another jurisdiction is recognized in this Commonwealth will be prohibited from acting as a second within the jurisdiction of the Commission.

(k) A second will not be permitted to act as such during an event unless the second is wearing disposable latex hygienic gloves. Gloves shall be paid for and provided by the promoter.

§ 21.11. Referees.

(a) Professional boxing referees shall be licensed by the Commission and will be appointed by the Executive Director to officiate in each professional contest and exhibition under the jurisdiction of the Commission except exhibitions conducted solely for training or instructional purposes.

(b) To qualify as a professional boxing referee and to obtain a license in that capacity, an applicant shall conform to the following requirements:

(1) Be at least 21 years of age, of good moral character and reputation, of sound physical health and of a level of intelligence and degree of attainment as a student of boxing satisfactory to the Executive Director.

(2) Serve an apprenticeship of at least 3 months during which he shall diligently study the Athletic Code and this part, especially the portions that pertain to boxing and to the duties of boxing referees, and shall work with and undergo instruction under the direction of licensed officials under conditions and occasions the Commission designates.

(c) The powers and duties of a professional boxing referee shall be as follows:

(1) To exercise immediate authority, direction and control over each contest and exhibition to which he is appointed.

(2) To submit to physical examination at the discretion of the Executive Director.

(3) To wear in the ring apparel of a type, style and color approved by the Commission.

(4) To determine the identity of the chief seconds of the respective boxers and to give final instructions to the boxers and to their seconds as he deems appropriate before the start of each contest and exhibition under his direction; to hold the chief seconds responsible for their own conduct and for the conduct of their respective assistant seconds in all matters pertaining to the contest; and to remove or cause to be removed from the ring or the vicinity a manager, second, trainer or other person who interferes with the conduct of the contest. In addition to ejecting the individual, a referee may also deduct points from a boxer during a contest. Furthermore, the Commission may suspend or fine the manager, second or trainer or impose both a suspension and a fine.

(5) To check the gloves, equipment and persons of the boxers before the start of each contest and exhibition and as he sees fit throughout to assure that no unsafe or improper condition exists.

(6) To observe carefully and continually the physical condition of the participants and have full and final responsibility either at his own discretion, or upon direction from the attending physician, for the immediate halting of a contest when the safety of a boxer would be, for any reason, jeopardized by continuance.

(7) To exercise his full authority to interrupt the progress of a round in the event of injury to a participant by directing the timekeeper to stop the clock and calling the attending physician into the ring to examine and rule upon the condition of the injured boxer. If the physician determines that the boxer is fit to continue, the referee shall direct the timekeeper to start the clock and resume the round from the point of interruption. When an injury has resulted from an accidental or intentional foul by the opposing boxer, as listed in § 21.16(b) (relating to Safety Code), the referee upon advice of the attending physician may order a rest period not to exceed 5 minutes.

(8) To enforce the rules of professional boxing in Subpart B of the Athletic Code (relating to boxing), the referee's manual and this part.

(9) To take away points from the score of the boxer in the event of foul tactics by the boxer at any time during a round in which the foul tactics have occurred. When he has taken action, he shall inform the judges, a Commissioner or the Executive Director and the chief seconds of the participants.

(10) To disqualify either or both participants in a contest for failure to perform according to due standards of effort, ability or conduct and to recommend the withholding of compensation otherwise payable to the disqualified boxer or the imposition of a fine, suspension or other penalties, or one or all of these penalties, as he deems appropriate.

(11) To collect and deliver the completed, signed, official scorecard of each judge to the Executive Director or an inspector after each round.

(12) To decide whether or not a boxer has been knocked down during the course of a round and indicate that decision to the timekeeper, whose count shall be accordingly continued or discontinued. If the count is to be continued, the referee shall pick it up verbally and by gesture after first making sure that the opponent of the fallen boxer has retreated to the neutral corner of the ring.

(13) To confirm the official result and whether it has been reached by decision on points, by knockout, by technical knockout or by disqualification to the Commission at the conclusion of each contest under his direction.

(d) A referee while officiating shall wear disposable latex hygienic gloves to be paid for and provided by the promoter.

§ 21.12. Judges.

(a) Professional boxing judges shall be licensed by the Commission. Three licensed judges shall be appointed by the Executive Director to officiate in each professional contest under the jurisdiction of the Commission. A licensed boxing referee may be appointed at any time to officiate in the capacity of boxing judge.

(b) To qualify as a professional boxing judge and to obtain a license in that capacity, an applicant shall conform to the following requirements:

(1) Be at least 21 years of age, of good moral character and reputation and of a level of intelligence and degree of attainment as a student of boxing satisfactory to the Executive Director.

(2) Serve an apprenticeship of at least 3 months, during which the applicant shall diligently study the Athletic Code and this part, especially the portions that pertain to boxing and to the duties of boxing judges, and shall work with and undergo instruction under the direction of the Executive Director.

(3) Have the intention to be qualified for duty as a professional boxing judge after undergoing observation and written or oral examination, or both, on the techniques and requirements of the position at the discretion of the Commission.

(4) Attend at least one seminar per year as directed by the Commission.

(c) It shall be the duty of a professional boxing judge to observe carefully and expertly the performance of the boxers in each contest to which he is appointed; to appraise the performances fairly and accurately in the light of Subpart B of the Athletic Code (relating to boxing), the judge's manual and this part; to inscribe the results of the appraisal after each round on the official scorecard according to the scoring system adopted by the Commission; and at the conclusion of each round to complete and sign each official scorecard and deliver the completed, signed scorecard to the referee.

§ 21.13. Timekeepers.

(a) Timekeepers shall be licensed by the Commission and shall be appointed by the Executive Director to serve at professional contests and exhibitions.

(b) The timekeeper shall keep time by means of an accurate stop clock or stopwatch, and it shall be his responsibility to assure that the instrument is in good working order when it is to be used. The timekeeper shall sound the gong to begin and to end each round, and shall count for knockdowns by striking the floor of the ring or a suitable strikingboard with a hammer or wooden mallet. The timekeeper shall give warning to seconds of boxers to leave the ring between rounds by sounding a whistle signal 10 seconds before the end of the rest period, and shall give warning of the end of a round by striking a hammer on a strikingboard 10 seconds before striking the gong. The timekeeper may give no other signal or other information on the progress of a round.

(c) If a boxer falls to the floor of the ring or leaves the ring during the progress of a round, the timekeeper shall

immediately begin the official count as set forth in subsection (a) and shall continue to the count of ten at the rate of one stroke per second unless the referee rules no knockdown and direct that the count be suspended.

(d) If a boxing bout terminates before completion of the final scheduled round, the timekeeper shall record the exact time of termination and shall inform the announcer and shall report to the Commission the exact duration of the bout.

(e) If a boxing bout terminates between rounds by direction of the referee or at the request of the chief second of one of the boxers, the timekeeper shall strike the gong to begin the succeeding round and the bout shall be ruled to have ended in the succeeding round by any decision the referee made.

§ 21.14. Insurance.

(a) Boxers engaged in professional contests and exhibitions under the jurisdiction of the Commission shall for their financial protection be covered by the most advantageous life and accident insurance contract available through negotiation and agreement by the Commission with a private insurance company approved by the Insurance Department to do business within this Commonwealth.

(b) The promoter of each professional event under the jurisdiction of the Commission shall deduct from the purse paid to the manager of the boxer the cost of the insurance for the boxer and shall pay to the Commission the full amount due in accordance with the current premium schedule. Failure to make immediate payment of insurance premiums as provided shall render the defaulting promoter eligible for suspension and license revocation.

(c) It shall be the responsibility of a boxer who suffers injury covered by insurance to report the injury promptly to the examining physician assigned to the event. The responsibility shall extend to the chief second of the injured boxer, as well as to other persons officially attached to the boxer. Failure to report to the examining physician or, if for any reason he is not readily available, to the constitute grounds for suspension and license revocation.

(d) Upon receipt of notice of injury to a boxer, the examining physician shall make examination and investigation and shall promptly report pertinent findings to the Commission upon the official form provided for that purpose in the *Medical/Safety Manual*.

§ 21.15. State championships.

(a) The Commission will establish State boxing championships in the recognized weight classes.

(b) Contenders for championships shall have been bona fide residents of this Commonwealth for at least 6 months prior to engaging in competition for State championships.

(c) The Commission may fill a vacancy in the championships by designating the best available match between leading contenders in the weight class, as determined by the Commission's ranking of boxers, and recognizing the winner as champion.

(d) A boxer who is recognized as a State champion shall defend his title against a Commission-approved challenger at least once each year or the Commission may declare the title to be vacated.

(e) If a boxer, having contracted to engage in a championship contest, fails or refuses the Commission's drug test or violates a section of the Athletic Code in the course of

the championship event, as determined by the Commission, the opponent in the contest will be declared the winner by default.

(f) A contest may not be advertised as a State championship without the written approval of the Commission, and a boxer may not be advertised as State champion unless so designated by the Commission.

(g) State championship contests shall be of 12 rounds scheduled duration unless otherwise determined by the Commission.

(h) Subject to § 21.4(b) (relating to conduct of contests), if the champion makes weight and the challenger does not, the fight may go on, subject to the approval of a commissioner or the Executive Director. The champion will retain the belt, regardless of the outcome of the contest. If the champion is overweight and the challenger makes weight, the contest may go on, subject to the approval of a commissioner or the Executive Director. The champion shall vacate the title regardless of the outcome, and the challenger will win the title only if he wins the contest. If both boxers are overweight the contest may go on as a nontitle contest, subject to the approval of a commissioner or the Executive Director, unless approval is given by both boxers and a commissioner or the Executive Director to box for the title.

§ 21.16. Safety Code.

(a) The Commission, referees, all other ring officials and participating athletes, managers and seconds shall be aware of the safety provisions in the Athletic Code, its amendments and this part. In addition, they shall be constantly alert to every reasonable consideration of humanity and common sense which indicate and govern the actions of prudent individuals to minimize the risks inherent in boxing. The primary, inescapable responsibility of the Commission will be the protection of the athletes under its jurisdiction, and under no circumstances will this concern be subordinated to an interest of gain, sentiment or convenience. Parties involved in implementing this basic program shall be dedicated not only to the letter of the Athletic Code, its amendments and this part but at least equally to the exercise of initiative, resource, decision and unstinted effort in those unprecedented, unpredictable and unprovided emergencies which challenge the best in individuals at the brink of safety or tragedy, life or death.

(b) The following fouls and other unsportsmanlike practices are prohibited in boxing contests in this Commonwealth:

- (1) Hitting below the belt.
- (2) Tripping.
- (3) Kicking.
- (4) Butting.
- (5) Kneeing.
- (6) Throttling.
- (7) Elbowing.
- (8) Striking with the head, shoulder or forearm.
- (9) Hitting with open glove, or the inside, side or wrist of the glove.
- (10) Hitting on the back, especially the kidneys or back of the neck.
- (11) Pivot blows.

(12) Pressing the face of an opponent with arm or elbow.

(13) Attacking while holding the ropes and making use of the ropes in any other unfair way for attack purposes.

(14) Pressing the head of an opponent over the ropes or against the turnbuckles or ring posts.

(15) Wrestling, lying on and throwing while in a clinch.

(16) Attacking a fallen opponent.

(17) Clinching, holding or locking the arms or head of an opponent, pushing a stiff arm underneath an arm of the opponent, holding and hitting.

(18) Pulling and hitting.

(19) Hitting on the break after a clinch.

(20) Ducking low to up-end an incoming opponent.

(21) Thumbing and gouging the eyes of an opponent, rubbing the face of an opponent with laces, adhesive tape or abrasive area of or substance on the gloves.

(22) Use of an ointment, powder or other substance intended or likely to cause danger or discomfort to an opponent.

(23) Biting.

(c) A commissioner or the Executive Director will strictly enforce the requirements with respect to the bandaging of hands of boxers, the purpose of the bandaging being at all times confined to the protection of the hands and never the enhancement of the effect of blows. A boxing glove in which the padding has been displaced or broken may not be used in a contest under the jurisdiction of the Commission.

(d) A boxer may not engage in a contest without wearing an abdominal guard or cup. A female boxer shall also wear a chest protector approved by the Commission. A boxer may not wear shoes with hard soles, hard or sharp edged heels, spikes, cleats or abrasive surfaces.

(e) If the gloves of a boxer touch the floor of the ring during a contest, the referee shall cleanse them of resin, grit and dirt by wiping them on his shirt or, if necessary, with a towel before allowing the action to continue.

(f) A commissioner or the Executive Director has authority to enter and inspect training quarters of boxers under the jurisdiction of the Commission to observe the conduct, facilities and cleanliness of the quarters and to appraise the activities and the physical condition of boxers during training.

(g) Every boxer under the jurisdiction of the Commission in undertaking to engage in a contest within this Commonwealth shall certify to the Commission that he is in sound physical condition and is not concealing an illness, injury or disability. This certification shall be set forth in a contract entered into with a promoter for a contest whether by the boxer in his own behalf or by a manager acting for him. If the boxer incurs an illness, injury or disability prior to the contest, he and his manager, if any, shall be strictly responsible for prompt and complete disclosure to the Commission.

(h) The mandatory eight-count rule shall be in effect in boxing contests within this Commonwealth. If the referee rules that a boxer has been knocked down, action may not be resumed until the referee has counted to eight even though the fallen boxer meanwhile has regained his feet. During this eight-count, the referee or ringside physician may terminate the contest if a boxer appears to be in physical danger.

(i) The three knockdown rule will not be in effect in boxing contests within this Commonwealth.

(j) If a boxer is knocked out, his consequent suspension prohibits him not only from boxing in actual competition, but also from sparring as a part of his training exercises. If a boxer is knocked unconscious during a contest, his seconds may not minister to him, except to remove his mouth protector, until the attending physician has examined him and given appropriate instructions for his further care. If a boxer receives a concussion, the boxer may not be permitted to box, even after the expiration of the medical suspension, until the boxer has been thoroughly examined and approved by a physician, who may be designated by the Commission.

(k) If a boxer has been a victim of repeated knockouts or the recipient of sustained severe punishment, or both, the Commission may revoke, suspend or refuse to renew his license after the boxer undergoes a medical examination by a physician under section 708 of the Athletic Code (relating to suspension and revocation for injuries). The Commission will notify a boxer in writing of its action. A boxer may request a hearing before the Commission to review the Commission's action, under 2 Pa.C.S. §§ 501—508 (relating to practice and procedure of Commonwealth agencies). The Commission will give full force and recognition within this Commonwealth to medical suspensions and retirements imposed upon boxers in other jurisdictions subject to the right of appeal of affected boxers to the Commission which shall seek and, if possible, obtain a complete record of the matter from the authority which imposed the original suspension or retirement before rendering a decision in any given case.

(l) If a boxer is legally knocked or falls from the ring during a contest, the boxer shall be allowed a maximum of 20 seconds to return within the ropes unassisted.

(m) If a boxer rises within the count of ten after being knocked down and then falls without being struck again, the referee shall resume the count at the point where it was stopped when the boxer rose.

(n) A protective regulation in this section or elsewhere in the Athletic Code or this part will not be waived or relaxed in any degree by a Commission official for a boxing contest in this Commonwealth. Championship contests will not fall within this prohibition.

CHAPTER 23. AMATEUR BOXING

§ 23.1. Relations with amateur athletic associations.

(a) The Commission may collaborate through the local amateur athletic associations in the conduct of amateur events in this Commonwealth, at its discretion. At no time may the authority of the Commission or the responsibility of the Commission to enforce the Athletic Code be relinquished, delegated or impaired, by or through the processes of collaboration.

(b) When the Commission collaborates with an amateur athletic association in the conduct of an amateur event, the rules and regulations of the amateur athletic association relating to weight classes, ring and ring equipment, conduct of contests and scoring system shall be in effect. However, if a controversy arises in connection with a subject which is not covered by the express provisions of this chapter, the Commission will reserve the right to finally pass upon the matter and to make whatever decision it deems to be fair and equitable under the circumstances. The decision will be final.

§ 23.2. Amateur events.

(a) An amateur event under the jurisdiction of the Commission may not be held without a permit for the event having been first secured by the sponsor from the Commission. Permits for amateur events shall be issued only to those sponsors approved by the Commission.

(b) The sponsor shall be responsible for the maintenance of order and the safety of persons present at each event under its sponsorship and it shall provide ample and effective police and fire protection at each event.

§ 23.4. Boxers.

(a) The Commission will require each amateur boxer scheduled to appear in a contest under its jurisdiction to be examined by a physician.

(b) The Commission may suspend an amateur boxer who the Commission determines cannot safely defend himself or whose actions are deemed detrimental to the sport of boxing.

(c) Participants in amateur events under the jurisdiction of the Commission shall conform to the regulations set forth by the local amateur athletic associations.

(d) When deemed appropriate by the Commission, the provisions for professional boxers in §§ 21.4(c) and (h), 21.6(g), 21.8(m)—(o) and 21.16 apply to amateur boxers.

§ 23.5. Seconds or trainers.

(a) The Commission will permit amateur boxing seconds to function only after they have been approved by the local amateur athletic associations. However, the Commission may designate a second if no second approved by the amateur athletic associations is available.

(b) The Commission may remove a second who displays improper conduct in the course of an event.

(c) First aid and other ring equipment of a second shall in all cases and at all times, before, during and after use, be subject to inspection by the attending physician and Commission personnel. Any decision as to the propriety of its use shall be final.

§ 23.6. Referees.

(a) Amateur boxing referees shall be appointed by the amateur athletic associations with the approval of the Commission. Referees may be removed by a commissioner, the Executive Director or an inspector at any time if deemed incompetent.

(b) A referee appointed under this section shall be 21 years of age or older, of good moral character and reputation, of sound physical health and approved by the amateur athletic association overseeing the event.

(c) The powers and duties of an amateur boxing referee shall be the same as those for professional boxing referees in § 21.11(a) (relating to referees), except that the referee shall enforce the rules of amateur boxing as set forth in the Athletic Code and this part as well as those rules adopted and promulgated by the amateur athletic associations.

(d) The Commission will determine the amount of the compensation of amateur boxing referees in accordance with reason and equity in the circumstances of the respective events to which they are appointed, and the compensation shall be paid in full in each case by the sponsor of the event.

§ 23.7. Judges.

(a) An amateur boxing judge shall be appointed by the amateur athletic association with the approval of the

Commission. A judge may be removed by a commissioner, the Executive Director or an inspector at any time if deemed incompetent.

(b) An amateur boxing judge shall be 21 years of age or older, and of good moral character and reputation.

(c) It shall be the duty of an amateur boxing judge to observe carefully and expertly the performances of the boxers in each contest to which he is appointed and to appraise the performances fairly and accurately.

§ 23.8. Timekeepers.

(a) Timekeepers for amateur events may be appointed by the amateur athletic association with the approval of the Commission.

(b) The duties and responsibilities of timekeepers for amateur boxing events shall be the same as of timekeepers for professional contests in § 21.13 (relating to timekeepers).

§ 23.9. Insurance.

(a) The sponsor of each amateur event shall ensure that all participants are covered by insurance. Costs associated with the insurance shall be the responsibility of the sponsor.

(b) Responsibilities with respect to the reporting, examination and investigation of injuries to amateur boxers shall be the same as those in § 21.14(c) and (d) (relating to insurance). However, when the requirements of these subsections are violated by unlicensed persons, the delinquent persons shall be eligible for disbarment from further connection with amateur and professional events under the jurisdiction of the Commission.

§ 23.10. Age of participation.

(a) A person between 12 and 17 years of age may participate in amateur contests or exhibitions after obtaining written permission from a parent or legal guardian, and the consent of the Executive Director.

(b) A person 12 to 16 years of age may not participate in a contest against an opponent who is more than 1 year older.

(c) The limitations in subsections (a) and (b) do not apply to sanctioned events for the Junior Olympics under the direction of a National governing organization certified by the Commission.

(1) For the purposes of the Junior Olympic events, participants, with the written permission of a parent or legal guardian, may box only in the following age divisions:

- (i) Ten and eleven years of age.
- (ii) Twelve and thirteen years of age.
- (iii) Fourteen and fifteen years of age.

(2) A participant may not take part in any event outside of the approved division for that age group.

CHAPTER 25. PROFESSIONAL KICKBOXING

§ 25.3. Conduct of contests.

(a) A contestant will be given a physical examination by a Commission licensed physician at least 2 hours before the event. The results of the examinations shall be set forth in writing on Commission approved forms. If, in the opinion of the physician, a boxer is physically or mentally unfit to proceed, the physician shall notify the person in charge, who shall immediately cancel the contest or exhibition.

(b) A contest may not exceed 12, 3-minute rounds, with a minute rest period between rounds.

(c) A contestant intentionally avoiding physical contact with an opponent will receive a warning. If a contestant continues to avoid physical contact with the opponent after receiving a warning during that round, the contestant will be declared the loser of that round. If a contestant continues to avoid physical contact either in the same round or in the following rounds, the contestant may be subject to the same penalties and procedures as a contestant using foul tactics. (See § 25.6 (relating to fouls).)

(d) If a contestant refuses to continue a contest while physically able to do so, the referee shall disqualify the contestant, award the contest to the opposing contestant and report the incident to the Commission. The purse of the disqualified contestant may be impounded by the Commission pending a hearing on the disposition thereof.

(e) As soon as a contestant has been knocked down, the official timekeeper shall begin calling the count from 1 to 10. The referee shall direct the opponent to a neutral corner. Regardless of whether the boxer rises before the count of 10 is reached, a boxer who has been knocked down is required to take a mandatory count of 8 before the contest may continue.

(f) If a contestant who is down rises before the count of 10 is reached and immediately goes down again without being struck, the referee shall resume the count where it was left off.

(g) If both contestants go down at the same time, counting will be continued as long as one of them is down. If one contestant rises before the count of 10, and the other contestant remains down after the count of 10, the first contestant to rise shall be declared the winner by knockout. If both contestants rise before the count of 10, the clock shall be stopped until an examination is completed. If both contestants stay down for a count of 10, the contest will be stopped and the decision will be a technical draw.

(h) Before a fallen contestant can resume fighting after having slipped, fallen or been knocked to the floor, the referee shall wipe the contestant's gloves free of foreign substances, in the manner articulated in § 21.16(e) (relating to safety code).

(i) If a contestant has been wrestled, pushed or has fallen through the ropes during a contest, the referee shall call time-out and allow the contestant to return to the ring. If there is a question of a contestant's ability to return to the ring, the referee shall ask the ringside physician to examine the contestant. The physician shall decide if the contestant is able to continue. If the contestant is able to continue, the contestant may be assisted up into the ring by his chief second only. The chief second is not permitted to perform other tasks at this time.

§ 25.4. Judging and scoring system.

(a) Each event, except those held solely for training purposes, shall be scored by three judges. The three judges of an event shall each select a winner of each round at the end of each round, marking their ballots accordingly. Ballots will be supplied by the promoter. These ballots will be collected by the referee and tabulated at the end of each round by the scorekeeper. Fractions of a point may not be given. Once the ballots have been marked by the respective judges, changes to the ballots will not be allowed.

(b) Judges shall score rounds by recording a score of ten points for the winner of each round and nine points or less to the loser of the round. Judges may score a round as even and thus shall mark their scorecards with ten points for each boxer.

(c) Examples of ten-point scoring are as follows:

(1) 10-10 Indicates an even round. Neither contestant distinguished himself as being more effective than the other. In addition, the contestants appeared equal in the areas that may be used to break an even round, such as opponent control, ring strategy and overall conditioning and abilities as a complete kickboxing contestant, with emphasis on kicking ability.

(2) 10-9 Indicates one contestant distinguished himself as the more effective contestant during the round, as described in this section. This score is the most often used, and allows for a slight to considerable margin between the contestants. One contestant may have been only slightly better than the other or he may have dominated the round without really stunning the other contestant.

(3) 10-8 Used sparingly, but indicates a round in which one contestant was in constant control, and unquestionably outclassed his opponent. This contestant shall also have obviously stunned his opponent, usually including at least one knockdown or standing eight-count. If there were no knockdowns or standing eight-counts, one of these occurrences shall have been imminent.

(d) Points shall be totaled on each judge's scorecard to determine that judge's selection of a winner. Each judge's selection will count as one vote towards determining the overall winner of the contest. If two judges have an equal number of points for both contestants, the contest will be declared a draw. If one judge has an equal number of points for both contestants and the scores of the other judges each favor a different contestant, the contest shall be declared a draw. If the scores of two judges favor one contestant and the third judge's score favors the other contestant, the contestant receiving the two votes shall be declared the winner, by split decision. If the scores of all three judges favor one contestant, that contestant will be declared the winner by unanimous decision.

§ 25.5. Minimum kick requirement.

(a) Each contestant shall execute a minimum of eight kicking techniques during the course of each round, unless otherwise agreed to by both boxers and a commissioner or the Executive Director. The kicks shall be clear attempts to make contact with the opponent above the waist to qualify. If a contestant does not execute his minimum kicks per round (MKRS), the contestant then shall make up the kicks in the next round, and if he does not, he will have a one point deduction.

(b) An example of minimum kick technique scoring is as follows: First round contestant only executes six kicks. In the second round this contestant shall make up his two kicks from round one plus his eight minimum kicks for round two for a total of ten kicks. If a contestant fails to make the minimum number of kicks in one round, and then fails to make up the kicks in the following round, that contestant will then be penalized one point. A contestant who fails to meet their MKRS in three consecutive rounds shall be disqualified and the victory awarded to his opponent.

(c) The public address announcer will inform the audience of minimum kicking requirement (MKR) violations. The Commission will apply these MKRS rules or the

MKRS rules of a Nationally recognized kickboxing council or association for a particular contest, subject to the written approval of the Commission.

(d) One MKR official shall be assigned to each contestant in a contest. The official shall be positioned at ringside and is responsible to count, in order, the number of qualifying kicks executed by the contestant. The MKR official assigned to contestant A will sit opposite contestant A's corner, and the MKR official assigned to contestant B will sit opposite contestant B's corner. Both officials will keep track of the number of kicks executed by their assigned contestant with hand held cards. If a contestant executes less than the minimum number of required kicks in one round, the MKR official for that contestant will immediately notify the referee of the number of kicks thrown.

(e) At the end of each round the referee will take the judges' ballot slips and deliver them to a commissioner or the Executive Director for tabulation of the results onto a master scorecard.

§ 25.6. Fouls.

(a) The referee shall determine all fouls based on the severity of the foul, the intent of the contestant committing the foul and the result of the foul. At the time of the infraction, the referee shall indicate to the judges the number of points that are to be subtracted from each boxer. The referee may simply issue a warning to the contestant, and no points will be subtracted.

(b) Accidental or intentional fouls will be governed under the regulations regarding accidental or intentional fouls in professional contests in § 21.5(d), (e) and (F) (relating to scoring system). The following actions are considered to be fouls:

- (1) Striking with the elbow.
- (2) Striking or kicking to the groin or any area below the waist.
- (3) Attacking with a knee.
- (4) Intentional striking or kicking to the back of the neck or throat.
- (5) Striking to the face with a part of the arm other than the gloved hand.
- (6) Linear, or straight-in, striking or kicking to the spine.
- (7) Kicking to the legs.
- (8) Punching or kicking of the contestant when he is down. A contestant is knocked down when any part of the contestant's body other than the feet touches the floor. If a contestant is on his way to the floor, the opponent may continue the attack until the contestant has touched the floor with any part of his body other than the feet.
- (9) Takedowns.
- (10) Intentionally pushing, shoving or wrestling an opponent out of the ring with any part of the body.
- (11) Illegal sweeping—a kick in which the leg is swept in a roundhouse motion.
- (12) Attacking on the break when both contestants have been ordered to take one step back by the referee.
- (13) Attacking after the bell has sounded to end the round.
- (14) Holding and hitting; such as holding with one hand, especially behind the neck, and hitting with the other.

(15) Grabbing or holding onto an opponent's foot or leg, followed by a takedown, strike or kick.

(16) Holding the ropes with one hand while kicking, punching or defending with the other hand or the legs.

(17) Leg checking by extending the leg to check an opponent's leg to prevent him from kicking. The checked kick will be counted by the minimum kicking requirement (MKR) official as an attempted kick.

(18) Purposely going down without being hit. This will result in the referee automatically administering an eight-count, as specified in the rule on knockdown.

(19) The use of abusive language in the ring or corner, as determined by the referee.

(20) Hitting or flicking with an open glove.

(21) Intentionally evading contact.

(22) Clinching, holding or otherwise tying up an opponent's arms to prohibit him from punching for two seconds or more, or repeatedly tying up the opponent's arm.

(23) Biting.

(c) If the contest ends in a knockout or a technical knockout, the Commission will enter the exact time of the knockout or technical knockout on the master scorecard.

(d) The Commission will make the final tallies and verify the accuracy of the scores.

§ 25.8. Equipment.

(a) Contestants shall wear foot protectors, an individually fitted mouthpiece, a foul proof groin protector, a plastic cup with athletic supporter or preferably, an abdominal guard. Other equipment, such as hockey shin guards, elbow or forearm pads are not permitted. Loose or untied clothing is not permitted. Kickboxers may not wear rings or other jewelry.

(b) Contestants shall wear a uniform which shall include long pants that reach the ankle. The uniform shall be clean and not torn or frayed. Only black belts will be permitted to be worn in the ring. Loose or untied clothing is not permitted. Uniforms are subject to inspection by the referee and the Commission.

(c) In contests or exhibitions when the contestants weigh 150 pounds or under, boxing gloves weighing at least 8 ounces each shall be used. In contests or exhibitions when the contestants weigh over 150 pounds, boxing gloves weighing at least 10 ounces each shall be used. Gloves shall be supplied by the promoter and be in good condition without tears or wrinkles.

(d) The wrapping of the hands is mandatory. Hands shall be wrapped with soft, surgical gauze no more than 2 inches wide and not longer than 10 yards. Tape is not allowed between fingers. Each hand is allowed only one cross (X) across the back of the hand and two wraps around the wrist.

(e) Contestants are required to wear foot protectors. Only two windings of tape are permitted around the foot to hold the foot protector in place. Ankle supporters may be secured to the foot with no more than four windings of surgeon's adhesive tape. Hand and foot wraps are subject to Commission inspection and approval.

§ 25.9. Ringside officials.

(a) At kickboxing events except those held solely for training purposes, there shall be a referee, three judges, a timekeeper, a scorekeeper, two minimum kicking require-

ment (MKR) officials and a physician in attendance. Officials shall be approved and licensed by the Commission. The promoter shall supply the Executive Director with a complete list of ringside officials at least 5 days before the scheduled event.

(b) Professional MKR officials and scorekeepers shall be licensed by the Commission as judges. The amount of compensation for these officials shall be determined and paid by the promoter of the event.

(c) Referees and judges shall be approved and licensed by the Commission and be at least 21 years of age, of good moral character and reputation, of sound physical health and of a level of intelligence and knowledge of kickboxing satisfactory to the Executive Director.

(d) Kickboxing referees shall be paid a minimum of \$100 for each event by the promoter. Judges shall be paid a minimum of \$75 for each event by the promoter.

(e) The amount of compensation for timekeepers will be determined and paid by the promoter of the event.

(f) There shall be at least one physician at all kickboxing events. This physician, who shall be seated at ringside, shall be licensed by the Commission.

(g) Physicians shall be paid a minimum of \$100 per event by the promoter.

CHAPTER 27. AMATEUR KICKBOXING

§ 27.2. Licensing and age requirements.

(a) Amateur contestants and amateur officials need not be licensed.

(b) A person between 12 and 17 years of age may participate in amateur contests or exhibitions after obtaining written permission from a parent or legal guardian, and the consent of the Executive Director.

(c) A person 12 to 16 years of age may only participate in these contests with a person not more than 1 year older.

(d) The limitations in subsections (a) and (b) do not apply to sanctioned events for the Junior Olympics under the direction of a National governing organization certified by the Commission.

(1) For the purposes of the Junior Olympic events, participants, with the written permission of a parent or legal guardian, may box only in the following age divisions:

- (i) Ten and eleven years of age.
- (ii) Twelve and thirteen years of age.
- (iii) Fourteen and fifteen years of age.

(2) A participant may not take part in any event outside of the approved division for that age group.

§ 27.3. Conduct of contests.

(a) Amateur contestants shall wear headgear and appropriate shin protectors.

(b) Each amateur contestant shall execute a minimum of six kicking techniques during the course of each round.

(c) Amateur contests shall consist of a maximum of three 2-minute rounds unless approved in advance by the Commission.

Subpart C. WRESTLING

CHAPTER 31. PROFESSIONAL WRESTLING

§§ 31.1—31.14. (Reserved).

§ 31.21. Conduct of contests.

(a) Before a professional wrestling contest or exhibition can take place the following requirements shall be met:

(1) A physician shall be present at all times and seated at ringside to observe the physical condition of all participants. The physician's fee shall be paid by the promoter of the event.

(2) An ambulance or paramedical unit shall be present at the event unless the ambulance or paramedical unit is located within 5 miles of the arena and these units have been notified, by the promoter, that an event is taking place.

(3) Adequate security shall be employed to control the public. The size of the security force is at the discretion of the promoter and the owner or operator of the arena.

(b) The following represent prohibited acts:

(1) The owner or operator of an arena where a professional wrestling event takes place may not destroy a ticket or ticket stub until 3 months after the date of the event.

(2) Wrestlers may not deliberately cut or otherwise mutilate themselves.

§ 31.22. Promoters.

(a) Promoters of professional wrestling events shall be licensed by the Commission prior to promoting any type of wrestling contest or exhibition. Licenses expire on December 31 of the year of issue. The Commission will not issue or renew a promoter's license to a person who has been convicted, pleaded guilty or nolo contendere to an offense in section 2101 of the Athletic Code (relating to promoter's license), during the 10 years preceding the application date.

(b) Promoters shall file with the Commission a bond of at least \$10,000 prior to promoting or advertising any type of wrestling contest or exhibition. Bonds shall be on forms supplied by the Commission and shall be accompanied by a filing fee of \$25.

(c) At least 10 days before the date of a wrestling contest or exhibition, the promoter shall notify the Commission, in writing, of the date, time and location of the event.

(d) Upon conviction of a promoter for a violation of Chapter 21 of the Athletic Code (relating to regulation of professional wrestling contests and exhibitions), the Commission will suspend the promoter's license in accordance with the Athletic Code.

(e) A promoter may not employ as a participant in a wrestling contest or exhibition an individual under 18 years of age.

§ 31.23. Enforcement.

The Executive Director may send an inspector to any professional wrestling event or exhibition to be admitted by the promoter without fee to ensure compliance with this subpart and Subpart C of the Athletic Code (relating to Wrestling Act). The promoter shall pay a fee of \$100 to the Commission within 10 days after the event for each wrestling event to which an inspector is sent.

§ 31.24. Gross receipts taxes.

(a) Every promoter shall pay a tax of 5% on the face value of all tickets sold to any wrestling contest or exhibition.

(b) This tax shall be paid within 10 days after the event and shall be accompanied by a gross receipts tax form, prescribed by the Commission, setting forth all taxable receipts received from the event and any other information the Commission may require. Payment not

received by the Commission within the 10-day period shall be subject to a late fee of \$100.

CHAPTER 33. (Reserved)

§§ 33.1—33.12. (Reserved).

[Pa.B. Doc. No. 02-889. Filed for public inspection May 17, 2002, 9:00 a.m.]

Title 67—TRANSPORTATION

DEPARTMENT OF TRANSPORTATION

[67 PA. CODE CH. 211]

Corrective Amendment to 67 Pa. Code § 211.1072(c)

The Department of Transportation has discovered a discrepancy between the agency text of 67 Pa. Code § 211.1072(c) (relating to speed limit sign beacon) as published in the *Pennsylvania Code Reporter* (Master Transmittal Sheet No. 258) and as currently appearing in the *Pennsylvania Code*. Subsection (c) contained two typographical errors.

Therefore, under 45 Pa.C.S. § 901: The Department of Transportation has deposited with the Legislative Reference Bureau a corrective amendment to 67 Pa. Code § 211.1072(c). The corrective amendment to 67 Pa. Code § 211.1072(c) is effective as of May 4, 1996, the date the defective official text was announced in the *Pennsylvania Bulletin*.

The correct version of 67 Pa. Code § 211.1072(c) appears in Annex A.

Annex A

TITLE 67. TRANSPORTATION

PART I. DEPARTMENT OF TRANSPORTATION

Subpart A. VEHICLE CODE PROVISIONS

ARTICLE VIII. ADMINISTRATION AND ENFORCEMENT

CHAPTER 211. OFFICIAL TRAFFIC CONTROL DEVICES

Subchapter J. TRAFFIC SIGNALS

OTHER HIGHWAY TRAFFIC SIGNALS

§ 211.1072. Speed limit sign beacon.

(a) *General.* A speed limit sign beacon is two circular yellow lens sections mounted vertically and flashed alternately. Typical installations include:

(1) A blankout school speed limit sign beacon shall have lenses with a visible diameter of not less than 6 inches and shall be located within the border of the sign.

(2) Any other speed limit sign beacon, including a school speed limit sign beacon other than the blankout sign, shall have lenses with a visible diameter of not less than 8 inches and be mounted outside the border of the sign with the center of the lens in line with the vertical centerline of the sign. These beacons shall be mounted with the closest part of the housing 12 inches above the top and below the bottom of the sign. The bottom of the housing of the lower beacon shall be at least 5 feet above the roadway surface or sidewalk.

(b) *Use.* A speed limit sign beacon is intended for use with a fixed or variable speed limit sign. When appli-

cable, a flashing speed limit beacon, with an appropriate accompanying sign, may be used to indicate the speed limit shown is in effect—variable message speed limit signs or school speed limit.

(c) *School speed limit sign beacons.* All school speed limit sign beacons shall be controlled by a time clock. The time of operation shall be indicated on the permit, and they shall be limited as much as possible in order not to destroy the effectiveness of the sign. In general, the arrival and departure times can be covered by allowing the sign to operate for 1/2 hour for each period. The

noontime movements should be covered by two 1/2 hour periods, but may require a longer period which should not exceed 1 1/2 hours. All times should be shorter, if at all possible. The signs should not be used when a small portion of the student body is moving about, such as only a minor percentage of the pupils leaving school for lunch. They may not be flashed at night, on school holidays, during vacation or on nonschool days.

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