R15-020

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The Honorable Mark Brnovich
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The regulation of boxing in Arizona is set forth in Title 5, Chapter 2. In accordance with Arizona statutes, before the Commission issues a license to a boxer, the applicant is required to have a medical examination and a separate ophthalmological examination. Prior to Laws 2013, Chapter 72, Section 6, the ophthalmological examination was part of the overall medical examination. This, in effect, required the ophthalmological examination to be done by an MD or DO (who are the only licensed persons capable of doing a complete body physical for the boxer). However, in 2013, subsection F. was amended to read as follows:

"5-228. Persons required to procure licenses; requirements; background information; fee; bond
...F. Before the commission issues a license to a boxer or a mixed martial arts contestant, the applicant shall submit to the commission the results of a current medical examination performed by a physician licensed pursuant to title 32, chapter 13 or 17 on forms furnished or approved by the commission. In addition to the medical examination, the following information must be submitted:

1. The results of an ophthalmological examination that is recorded on forms furnished or approved by the commission...."

Therefore, the drafters made it clear that the ophthalmological exam is separate from the basic medical exam.

This change followed the trend in other states. Other states that require medical exams and further require "ophthalmological" exams, at one time required that the ophthalmological exams be performed by MDs or DOs; however, a number of states, including large states such as California, Ohio, Minnesota, and others, have interpreted ophthalmological to include eye exams not only by MDs and DOs, but by optometrists. (Note: in the US, 9 states have unconfirmed requirements; in 2 states there is no Commission. Of the remaining states, with respect to eye exams, 14 states require that they be performed by MDs or optometrists; the remaining 14 states require that MDs or DOs perform the eye exam.) The Arizona Boxing Commission itself has discussed this issue and the interpretation of ophthalmological. The question is whether the term "ophthalmological" requires the eye exam to be performed by an ophthalmologist, or whether it can be performed by an optometrist. The threshold question is: does the term "ophthalmological" require the eye exam to be done by a "ophthalmologist"?

It is my contention that it does not. In the 14 states that permit either an MD or an optometrist to conduct the eye exam, the eye exams are referred to as "ophthalmological" exams. The term "ophthalmological" is defined as the medical science of the eye. In Arizona, MDs and optometrists (with separate scopes of practice) are both permitted to treat eye medical conditions and to diagnose eye conditions. It is my contention that an ophthalmological exam describes the nature of the exam and not of the person conducting the exam.
I would like to request a formal written Attorney General opinion on the interpretation of Section 5-228 (F.)(1.) My question is whether the term ophthalmological describes the exam and does not describe who conducts the exam, or whether it requires the exam to be conducted by an "ophthalmologist." (Note: the application form currently used by the Boxing Commission retains the requirement associated with the old version of 5-228 (F.) in that the eye exam can only be conducted by an ophthalmologist.)

I realize that if the term "ophthalmological exam" is described as the nature of the exam and not the examiner, it is still up to the examiner to show that they are qualified to conduct the ophthalmological exam. However, it is worthy of mention that the medical codes commonly used by Medicare and all insurers classify "ophthalmological exams" as code 92000. Optometrists routinely perform 92000 codes (ophthalmological exams) on a daily basis.

Thank you for your assistance in this matter. Please let me know if you have any questions.

Respectfully,

Rep. Paul Boyer