

January 5, 2018

**VIA EMAIL ONLY**

Jeffrey F. Lebowski  
General Counsel  
Minnesota Department of Labor and Industry  
443 Lafayette Rd N  
Saint Paul, MN 55155  
jeffrey.f.lebowski@state.mn.us

**Re: *In the Matter of the Proposed Amendments to Rules of the  
Department of Labor and Industry/Office of Combative Sports  
Governing Mixed Martial Arts***  
**OAH 71-9042-34945; Revisor R-4461**

Dear Mr. Lebowski:

Enclosed herewith and served upon you please find the **ORDER ON REVIEW  
OF ADDITIONAL NOTICE PLAN AND DUAL NOTICE** in the above-entitled matter.

For the convenience of the Office of Administrative Hearings, the Administrative Law Judge requests the Minnesota Department of Labor and Industry to change the contact information on page two of the Dual Notice, at lines 5-8 of the paragraph titled Notice of Hearing, to read "Judge Palmer-Denig's Legal Assistant Katie Lin can be reached at the Office of Administrative Hearings, 600 North Robert Street, P.O. Box 64620, Saint Paul, Minnesota 55164-0620, telephone 651-361-7900 and facsimile 651-539-0310 or [katie.lin@state.mn.us](mailto:katie.lin@state.mn.us)."

If you have any questions regarding this matter, please contact Katie Lin at (651) 361-7911, [katie.lin@state.mn.us](mailto:katie.lin@state.mn.us), or facsimile at (651) 539-0310.

Sincerely,



JESSICA A. PALMER-DENIG  
Administrative Law Judge

JPD:la  
Enclosure

STATE OF MINNESOTA  
OFFICE OF ADMINISTRATIVE HEARINGS

In the Matter of the Proposed  
Amendments to Rules of the Department  
of Labor and Industry/Office of Combative  
Sports Governing Mixed Martial Arts

**ORDER ON REVIEW  
OF ADDITIONAL NOTICE  
PLAN AND DUAL NOTICE**

This matter came before Administrative Law Judge Jessica A. Palmer-Denig upon a request by the Minnesota Department of Labor and Industry (Department) for a legal review under Minn. R. 1400.2060, .2080 (2017) of the Additional Notice Plan and Dual Notice of Intent to Adopt Rules in the above-captioned proceeding.

Under its Additional Notice Plan, the Department plans to notify:

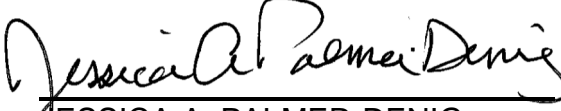
- Association of Boxing Commissions
- Members of the Minnesota Combative Sports Advisory Council
- MMA Officials' Pool
- Active MMA Gyms/Training Centers:
  - The Academy, Brooklyn Center, MN
  - McCune's Martial Arts, Brooklyn Park, MN
  - Spartan Martial Arts, Oakdale, MN
  - Minnesota School of Martial Arts, Shafer, MN
  - American Top Team, Savage, MN
  - Warrior's Cove, Little Canada & St. Louis Park, MN
  - Start BJJ, St. Cloud, MN
  - Impact Martial Arts, Austin, MN
  - Pura Vida BJJ & MMA, Milwaukee, WI
  - The Cellar Gym, St. Anthony, MN
- Trade Publications:
  - Minnesota Fighting News
  - Minnesota MMA News
  - The Underground

Based upon a review of the written submissions by the Department, and as explained in the accompanying Memorandum,

**IT IS HEREBY ORDERED THAT:**

1. The Additional Notice Plan is **APPROVED**, contingent upon sending notice to all license holders under Minn. Stat. § 341.30, subd. 1 (2016).
2. The Dual Notice is **APPROVED**.

Dated: January 5, 2018

  
JESSICA A. PALMER-DENIG  
Administrative Law Judge

**MEMORANDUM**

The Additional Notice Plan proposed by the Department did not contemplate sending notice to all license holders under Minn. Stat. § 341.30, subd. 1. The Department explained that it advised all such license holders of “the opportunity to sign up for U.S. mail or electronic rulemaking notices in any or all of the areas regulated by the Department, including Combative Sports,” in a notice issued September 18, 2017.<sup>1</sup> Following a deadline of November 22, 2017, for any responses, the Department updated its rulemaking mailing lists. The Department and the Office of Combative Sports also updated their respective websites to indicate that interested parties could request to be added to the rulemaking mailing lists. As a result of these actions, the Department did not plan to provide direct notice of this rulemaking to license holders.

The Administrative Law Judge has altered the Department’s Additional Notice Plan to provide for a direct notice. According to the Department’s filing, the notice it sent license holders was general, soliciting responses for all of the Department’s rulemaking activities. Therefore, it was not specific to this rulemaking and the record does not show that the Department notified license holders that this rulemaking was imminent. Further, the Department does not provide any information as to the number of responses it received to the mailed notice or website solicitations. As a result, the Department has not shown that its effort to increase participation in its mailing lists was effective generally or specifically related to combative sports. The Administrative Procedure Act exists to increase public accountability of administrative agencies, and to increase public participation in the formulation of administrative rules.<sup>2</sup> Therefore, the Administrative Law Judge requires the Department to provide direct notice of this rulemaking to all persons licensed under Minn. Stat. § 341.30, notwithstanding its earlier efforts to revise its mailing lists.

**J. P. D.**

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<sup>1</sup> Draft Statement of Need and Reasonableness at 4, n.2.

<sup>2</sup> Minn. Stat. § 14.001(2), (5) (2016).