

205 CMR 232: DISCIPLINE OF SPORTS WAGERING OPERATORS AND OTHER LICENSEES, AND REGISTRANTS

Section

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- 232.03 Discipline of Others Involved in Sports Wagering Operations

232.01 General Commission Authority

- (1) Investigatory Authority. The Commission retains the authority (i) to assign to the Bureau or to any other party and (ii) to direct that an investigation be made of, any suspected or asserted violation of G.L. c. 23N and 205 CMR. The Commission may establish internal policies setting out reporting requirements for any investigations which it has directed the Bureau or any other party to undertake.
- (2) Disciplinary Authority. Notwithstanding any other provision of this 205 CMR 232, the Commission also retains the authority to, following an adjudicatory hearing conducted pursuant to 205 CMR 101, condition, suspend or revoke a Sports Wagering Operator license, Occupational License, Sports Wagering Vendor license or registration, or any other license issued pursuant to G.L. c. 23N, or to issue a civil administrative penalty in accordance with G.L. c. 23N, § 16(n).

232.02 Discipline of a Sports Wagering Operator

- (1) Grounds for Action. In addition to any other grounds specifically provided throughout G.L. c. 23K and 23N or 205 CMR, and without limiting the Commission's, the Bureau's or any other entity's ability to require compliance with M.G.L. c. 23N or 205 CMR through any other method, a Sports Wagering Operator License may be conditioned, suspended, or revoked, or the Operator assessed a civil administrative penalty, if the Commission, either on its own, or pursuant to a finding or recommendation of the Bureau in accordance with this Section 205 CMR 232 determines that:
 - (a) The Operator engaged in an act or practice that caused irreparable harm to the security and integrity of the Sports Wagering Operation or the interests of the Commonwealth in ensuring the security and integrity of Sports Wagering;
 - (b) Circumstances have arisen that render an Operator unsuitable under M.G.L. c. 23N, §§ 6 or 9;
 - (c) An Operator failed to comply with its approved system of Internal Controls;
 - (d) An Operator refused or was unable to separate itself from an unsuitable qualifier;
 - (e) As provided in M.G.L. c. 23N, § 21(b), an Operator:
 - 1. has committed a criminal or civil offense under M.G.L. c. 23N or under any other laws of the commonwealth;
 - 2. is not in compliance with 205 CMR;

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3. is under criminal investigation in another jurisdiction;
 3. has breached a condition of licensure;
 4. has affiliates, close associates or employees that are not qualified or licensed under M.G.L. c. 23N and 205 CMR with whom the Operator continues to conduct business with or employ;
 5. is no longer capable of maintaining Sports Wagering operations; or
 6. whose business practice, upon a determination by the Commission, is injurious to the policy objectives of M.G.L. c. 23N; or

(f) An Operator failed to abide by any provision of M.G.L. c. 23K, 23N or 205 CMR, a condition of the Sports Wagering License, or an order of the Commission.

(2) Bureau Recommendations of Discipline. If the Bureau finds that an Operator has violated a provision of 205 CMR 232.02(1), it may issue a written recommendation that the Commission suspend, revoke, or condition said Operator's license. Either in conjunction with or in lieu of such a recommendation, the Bureau may also recommend that the Commission assess a civil administrative penalty upon said Operator in accordance with M.G.L. c. 23N, §§ 16 and 21 and 205 CMR 232.02(3). Such recommendation shall be provided to the Commission and the Operator in writing and shall include:

- (a) a concise statement of the alleged act or omission for which such action is sought to be taken;
- (b) each law, regulation, order, license or approval that has not been complied with as a result of such alleged act or omission;
- (c) the proposed action to be taken by the Commission, including the amount that the Commission seeks to assess as a civil administrative penalty for each alleged act or omission;
- (d) a statement of the Operator's right to an adjudicatory hearing on the proposed action or assessment;
- (e) the requirements the Operator shall comply with to avoid being deemed to have waived the right to an adjudicatory hearing; and
- (f) the manner of compliance, including payment of a penalty if the Operator elects to pay the penalty and waive an adjudicatory hearing.

(3) Commission Decision. An Operator may request a hearing on the Bureau's recommendation within ten (10) business days of the Bureau's issuance of a recommendation pursuant to 205 CMR 232.02(2). Such a review shall proceed as an adjudicatory hearing pursuant to 205 CMR 101.00. During review under this 205 CMR 232.02(3), the Commission may adopt or reject the discipline imposed by the Bureau or order such other discipline as it may find appropriate.

If an Operator does not request a hearing within such time, the Commission shall, at its next scheduled meeting, review the Bureau's recommendation and either:

- (a) adopt the recommendation as its final decision; or

(b) reject the Bureau's recommendation and issue a notice of its intent to adopt a separate recommendation following an adjudicatory hearing to be conducted in accordance with 205 CMR 101.

- (4) Notice of Commission Decision. The Commission shall cause to be served upon the Operator, by service in hand or by certified mail, return receipt requested a written notice of its decision pursuant to 205 CMR 232.01(3).
- (5) Assessment of Penalties. After written notice of noncompliance or intent to assess a civil administrative penalty has been given by the Commission, each day thereafter during which noncompliance occurs or continues shall constitute a separate offense and shall be subject to a separate civil administrative penalty if reasonable efforts have not been made by the operator to promptly come into compliance.

232.03 Discipline of Others Involved in Sports Wagering.

- (1) Grounds for Disciplinary Action. In addition to the grounds specifically provided throughout G.L. c. 23K and 23N or 205 CMR, and without limiting the Commission's, the Bureau's or any other entity's ability to require compliance with M.G.L. c. 23N or 205 CMR through any other method, any Occupational License or Sports Wagering Vendor license or registration issued under 205 CMR may be conditioned, suspended, or revoked, or a civil administrative penalty assessed, if the Commission or the Bureau determines that the licensee or registrant has:
 - (a) been arrested or convicted of a crime and failed to report the charges or the conviction to the Commission;
 - (b) failed to comply with any provision of M.G.L. c. 23N or 205 CMR pertaining to licensees and registrants, including failure to act in conformance with an applicable provision of the Sports Wagering Operator's system of Internal Controls.
- (2) Bureau Finding and Decision. If the Bureau finds that an Occupational Licensee or Sports Wagering Vendor licensee or registrant has violated a provision of 205 CMR 232.03(1), it may issue a written notice of its intent to reprimand, suspend, or revoke said license or registration, or to assess a civil administrative penalty on a license or registrant. Such notice shall be provided in writing to the licensee or registrant and the Commission and contain the information required by 205 CMR 232.02(2). It shall further advise the licensee or registrant of their right to a hearing and their responsibility to request a hearing in accordance with 205 CMR 232.03(3), if they so choose, and that failure to do so may result in the discipline automatically being imposed. Mailing of the notice to the address on record with the Commission, or emailing the notice to the address provided to the commission by the licensee/registrant shall be deemed satisfactory service of the notice.
- (3) Review of Bureau Decision. Any person aggrieved by a decision made by the Bureau pursuant to 205 CMR 232.03(2) may request review of said decision within thirty (30) days of receiving the Bureau's decision. Such review shall proceed in accordance with the procedures in 205 CMR 101.00. Failure to request such review may result in the decision automatically being imposed. During such review the Commission may adopt or reject the discipline imposed by the Bureau or order such other discipline as it may find appropriate.

In addition, the Commission may, upon receiving the notice required pursuant to 205 CMR 232.03(2), and within the same time period for appeal, issue written notice to the Bureau and the licensee or registrant that it will review the Bureau's decision in accordance with the provisions of 205 CMR 232.02(3)-(5) applicable to discipline of Sports Wagering Operators.

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- (4) Assessment of Penalties. After written notice of noncompliance or intent to assess a civil administrative penalty has been given by the Bureau, each day thereafter during which noncompliance occurs or continues shall constitute a separate offense and shall be subject to a separate civil administrative penalty if reasonable efforts have not been made by the licensee or registrant to promptly come into compliance.

REGULATORY AUTHORITY

G.L. c. 23N, §4