

NOTICE OF MEETING AND AGENDA

Revised 7/5/22

Pursuant to the Massachusetts Open Meeting Law, G.L. c. 30A, §§ 18-25, and Chapter 22 of the Acts of 2022, notice is hereby given of a meeting of the **Massachusetts Gaming Commission**. The meeting will take place:

Tuesday | July 12, 2022 | 10:00 a.m.

VIA CONFERENCE CALL NUMBER: 1-646-741-5292

MEETING ID/ PARTICIPANT CODE: 111 703 9337

Please note that the Commission will conduct this public meeting remotely utilizing collaboration technology. Use of this technology is intended to ensure an adequate, alternative means of public access to the Commission's deliberations for any interested member of the public. If there is any technical problem with the Commission's remote connection, an alternative conference line will be noticed immediately on www.massgaming.com.

All documents and presentations related to this agenda will be available for your review on the morning of the meeting date by visiting our website and clicking on the News header, under the Meeting Archives drop-down.

PUBLIC MEETING - #384

1. Call to Order

2. Approval of Meeting Minutes **VOTE**
 - a. October 7, 2021
 - b. May 25, 2022

3. Administrative Update - Karen Wells, Executive Director
 - a. On-site Casino Updates – Burke Cain, IEB Field Manager of Casino Operations, Gaming Agents Division Assistant Chief

4. Racing Division – Dr. Alex Lightbown, Director of Racing and Chief Veterinarian
 - a. Request for Promotional Fund Consideration – Chad Bourque, Financial Analyst; Steve O'Toole, Director of Racing at Plainridge Park Casino **VOTE**
 - b. Local Aid – Chad Bourque, Financial Analyst **VOTE**

5. Legal Division – Todd Grossman, General Counsel
 - a. Adoption of Policy Language from 205 CMR 103.03, 103.13, and 103.21— Carrie Torrisi, Associate General Counsel **VOTE**

- b. 205 CMR 138.00: Licensee's System of Internal Controls – and Small Business Impact Statement, for approval to begin the promulgation process – Judith Young, Associate General Counsel

- i. 205 CMR 138.02, *Licensee's System of Internal Controls*;
- ii. 205 CMR 138.05, *Systems for Ensuring Employee Licensing*;
- iii. 205 CMR 138.07, *Floor Plans*; and
- iv. 205 CMR 138.62, *Payment of Table Game Progressive Payout Wagers*.

VOTE

- 6. Research and Responsible Gaming – Mark Vander Linden, Director; Long Banh, Program Manager

- a. GameSense Quarterly Report - Massachusetts Council on Gaming and Health: Marlene Warner, Executive Director; Ray Fluette, GameSense Supervisor; Phillip Sherwood, Director of Communications and Marketing; Chelsea Turner, Director of Responsible Gambling

- 7. Investigations and Enforcement Bureau – Loretta Lillios, Director

- a. Civil Penalties and Fines Process and Policy – Heather Hall, Chief Enforcement Counsel; Bruce Band, Assistant Director, Gaming Agents Divisions Chief

VOTE

- 8. Commissioner Updates

- a. Independent Monitor's Budget Update
- b. Legislative Update

- 9. Other Business - Reserved for matters the Chair did not reasonably anticipate at the time of posting.

I certify that on this date, this Notice was posted as "Massachusetts Gaming Commission Meeting" at www.massgaming.com and emailed to regs@sec.state.ma.us. Posted to Website: July 5, 2022 | 4:30 p.m.

July 1, 2022

Cathy Judd-Stein

Cathy Judd-Stein, Chair

This meeting is open to all interested individuals.

If there are any questions pertaining to accessibility and/or further assistance is needed, please email crystal.beauchemin@massgaming.gov.



Massachusetts Gaming Commission Meeting Minutes

Date/Time: October 7, 2021, 10:00 a.m.
Place: Massachusetts Gaming Commission
 VIA CONFERENCE CALL NUMBER: 1-646-741-5292
 PARTICIPANT CODE: 112 413 3889

The Commission conducted this public meeting remotely utilizing collaboration technology. Use of this technology was intended to ensure an adequate, alternative means of public access to the Commission's deliberations for any interested member of the public.

Commissioners Present:

Chair Cathy Judd-Stein
 Commissioner Gayle Cameron
 Commissioner Brad Hill
 Commissioner Eileen O'Brien

1. [Call to Order](#) (0:20)

Chair Judd-Stein called to order the 357th public meeting of the Massachusetts Gaming Commission. Roll call attendance was conducted, and all four commissioners were present for the meeting.

2. [Approval of Minutes - April 8, 2021](#) (0:45)

Commissioner O'Brien moved to approve the minutes from the April 8, 2021 public meeting, subject to any necessary changes for typographical errors or non-material matters. Commissioner Cameron seconded.

Roll call vote:

Commissioner Cameron: Aye.

Commissioner O'Brien: Aye.

Commissioner Hill: Abstain.

Chair Judd-Stein: Aye.

The motion passed unanimously.

3. [Administrative Update](#) (0:57)

a. [On-Site Casino Updates](#) (3:45)

IEB Director Loretta Lillios noted that MGM Springfield continues to implement and enforce the city-wide mask mandate for indoor public places. Director Lillios stated there have been no significant issues with the policy, and compliance has been positive on both the personnel side, and the patron side at the property. Director Lillios added that MGM Springfield concluded its outdoor Free Music Friday series that it held over the summer. The program will transition indoors, into one of their ballrooms starting October 15th. Lastly, MGM Springfield is hosting their first conference in the convention area and has ramped up their hiring initiatives and extended offers of employment to nearly 60 people. Director Lillios noted that the IEB and Licensing Division side has seen a steady rise in hires across all three properties and are handling the licensing and background requests as necessary. At Encore Boston Harbor, operations continue to run smoothly. The Department of Public Health was onsite to answer employees' inquiries about the COVID-19 vaccine. Commissioner Cameron thanked Director Lillios for her thorough report.

Assistant Director of Investigations & Enforcement Bureau/Gaming Agents Division Chief Bruce Band reported that Encore Boston Harbor is eliminating two food trucks outdoors with the close of the summer season and is also changing their carpets in the high limit gaming area. Assistant Director Band also shared that the poker room at MGM Springfield is set to re-open on October 29th. The room will consist of 12 tables and an estimated 40 jobs added to the facility. Director Band added that Plainridge Park Casino is operating consistently and seeking to re-open their casual dining restaurant.

b. [Internal Re-Opening Plan Update](#) (4:55)

Executive Director Wells reported that the re-opening of the Boston office will commence on November 1st. She clarified that the office will be open to staff but will not open to the public until a later date. Executive Director Wells shared that the MGC Working group met yesterday and discussed re-opening. From there, she anticipates meeting with managers to review and distribute hybrid work request forms to staff members. Director Wells also shared that she is working to schedule a town hall on the week of the 18th to communicate with the entire staff and discuss the return-to-work policy. Director Wells concluded by sharing that the vaccine verification process has been working extremely well, and there have only been a few requests for exemptions. The Commissioners thanked Director Wells and the Working Group for their work on the return-to-work initiative. Director Wells commended her staff for their help on the project as well.

4. [Research and Responsible Gaming- Massachusetts Gambling Impact Cohort Study Key Findings and Public Health Recommendations](#) (12:38)

Director of Research and Responsible Gaming Mark Vander Linden, joined by Dr. Rachel Volberg, SEIGMA Principal Investigator and Professor at UMass Amherst, introduced the report on the Massachusetts Gambling Impact Cohort Study ("MAGIC"). MAGIC is the first adult

longitudinal cohort study of gambling and problem gambling in the US. With an initial sample of 3,139 Massachusetts residents, the MAGIC study surveyed the same individuals five times across a six-year time span, (2013-2019). The research accomplished three key objectives: first, it provides information on how gambling and problem gambling develops, progresses, and remits over time. Second, it identified demographic groups particularly at risk of experiencing gambling related problems. Finally, it highlighted risk and protective factors important in developing effective prevention, treatment, and policies to support player health. Director Vander Linden's report provided a high-level overview of the MAGIC study, focusing on its public health recommendations. The report, and an accompanying presentation were included in the Commissioner's packet, on pages 14 through 23. Director Vander Linden also provided a link for more information on the study's methodology and findings:

<https://massgaming.com/research/massachusetts-gambling-impact-cohort-study-six-year-longitudinal-study-of-gambling-and-problem-gambling-in-massachusetts/>

At the conclusion of the presentation by Director Vander Linden and Dr. Volberg, Commissioners asked questions pertaining to the study and accompanying report. Commissioner Cameron commended how effective the study was at retaining participants across the six year span of the study. Additionally, Commissioner Cameron asked if it was positive that many of the participants in the study transitioned downward from a less severe category, like "problem gambler" to "at-risk gambler". Dr. Volberg agreed, stating it was positive indication, but also explained that the transition could be indicative of the cycle of problem gaming and how difficulties can and do often re-emerge in this population. Dr. Volberg shared that Massachusetts, in contrast to some of the other international jurisdictions, has a larger proportion of people who are not first-time or early onset problem gamblers. To that end, the Commonwealth has more of a population of people who've had difficulties in the past, and then develop difficulties again. Dr. Vander Linden agreed and shared that these factors require a somewhat different mix of messaging of prevention and treatment, to be able to address both of those kinds of problems and their onset.

Commissioner Hill commended the report for being informative and appreciated that responsible gaming was a key priority of the Commission. He then inquired about the correlation between mental health and problem gaming, and if Director Vander Linden and Dr. Volberg considered methods to specifically assist individuals with co-occurring conditions such as gambling addiction and mental health disorders. Director Vander Linden agreed that the comorbidity between gambling disorders and mental health disorders was high and can reach over 90% in some cases. Director Vander Linden highlighted the benefit of increasing trainings for practitioners to recognize and comfortably speak about gambling disorders as essential, and strongly recommended that increasing the number of trainings and incentives for clinicians to access that type of training to increase their capacity to understand and treat it would be incredibly beneficial. Commissioner Hill thanked Director Vander Linden, and the entire Division for their hard work in the Commonwealth.

Commissioner O'Brien asked Director Vander Linden about the parameters for school-based programs in the Commonwealth noted within the report's recommendations. Director Vander Linden clarified that the programs were both for High School and College level students, however, that not all programs and trainings would be appropriate for all age groups. He

explained that considerations would be made when determining which prevention programs would be utilized for specific age demographics. Additionally, Director Vander Linden stated he would provide the Commissioners with a copy of the Youth Survey conducted by the City of Springfield on gambling behavior amongst 8th through 12th grade students. Chair Judd-Stein thanked Director Vander Linden and Dr. Volberg for their time and shared that she looked forward to learning about their additional research initiatives in the near future.

5. [Appointment of Commission Treasurer](#) (01:13:33)

Derek Lennon, Chief Financial and Accounting Officer shared that with the departure of Commissioner Zuniga, who had previously served as Commission Treasurer, the Commissioners would need to elect a new Commissioner to serve in the role. Chief Lennon explained that G.L. c. 23K, §§ 3(f) and 3(i) required the Commission to annually elect its members to serve as a treasurer, and as secretary. Chief Lennon explained that the Commission cannot transfer funds without the approval of the Commission in the form of signatures of Chief Financial Officer and Treasurer, so the role is very important to the fiscal operations of the Commission.

Chair Judd-Stein explained that the role needed to be filled, and while a new Commissioner would be appointed by the Treasurer at some point, the matter could be revisited in the future once a fifth Commissioner is appointed to discuss whether that member should serve as Treasurer after their appointment. She clarified that she did not recommend filling the current Treasurer role, as an interim position, however. Commissioner Cameron informed the Commissioners that she was available to serve and confirmed the role would fit into her schedule. Commissioner Cameron stated that would be honored to serve in the capacity of Treasurer and has been impressed by the way the Commission has structured its budget in the years prior.

With that, Commissioner O'Brien moved to appoint Commissioner Cameron as Treasurer of the Commission in accordance with G.L. c. 23K, § 3(f). Commissioner Hill seconded the motion.

Roll call vote:

Commissioner Cameron: Abstain.

Commissioner O'Brien: Aye.

Commissioner Hill: Aye.

Chair Judd-Stein: Aye.

The motion passed 3-0, with one abstention.

Transcribers Note: The meeting was paused for 10 minutes, and then reconvened with all Commissioners Present. [\(01:31:54\)](#)

6. [Community Affairs Division](#) (01:32:15)

a. Community Mitigation Fund Subcommittee Appointments (8:30)

Chief of Community Affairs Joe Delaney shared that Local Community Mitigation Advisory Committee ("LCMAC") positions needed to be annually reappointed, pursuant to G.L. c. 23K, §

68 and were set to expire on October 8, 2021. Chief Delaney provided a supplemental memorandum to the Commissioners in the Commissioner's Packet, on pages 24 through 27. The memorandum included the names and biographies of the individuals who presently serve on the Committees in Region A and Region B, whom have all agreed to serve for an additional year.

Chair Judd-Stein inquired if there were any additional vacancies that the Mitigation Fund Subcommittee was seeking to fill within the Region. Chief Delaney confirmed that the Region A LCMAC was still seeking a human services provider position that had not yet been filled. Region B LCMAC was seeking a Regional Economic Development Organization representative and a Human Services Provider as well. Chair-Judd Stein asked Chief Delaney to circulate the description of the roles to the Commissioners, so that they may be able to help the Division find interested candidates. Mr. Delaney agreed.

Commissioner Hill moved that Commission reappoint Vincent Panzini, David Bancroft, and Mayra I. Negrón-Rivera, to the Region A LCMAC; and Allison Ebner and Ellen Patashnick to the Region B LCMAC Subcommittee. Commissioner Cameron seconded.

Roll call vote:

Commissioner Cameron: Aye.

Commissioner O'Brien: Aye.

Commissioner Hill: Aye.

Chair Judd-Stein: Aye.

The motion passed 4-0.

b. MGC Subcommittee Representative (01:36:53)

Next, Chief Delaney shared that Community Mitigation Advisory Subcommittee is working with the Governor's office to try and identify several appointments for that subcommittee. He explained that the Commission has the authority to choose one representative of the Commission to be on the Community Mitigation Subcommittee. Mr. Delaney clarified that the Commission representative would be essential, as the subcommittee is currently short of a quorum. The subcommittee could begin holding meetings again with a Commission Representative present. Last year, the Commission designated Commissioner Stebbins for that Subcommittee. Chair Judd-Stein recommended that Commissioner Hill take over the position, as he brings an extensive knowledge on the municipal side of the government as well as his extensive background in the legislature. Commissioner Cameron and Commissioner O'Brien agreed it was an excellent recommendation.

Commissioner Cameron moved that the Commission appoint Commissioner Hill to the Subcommittee on Community Mitigation as the Commission's Representative in accordance with G.L. c. 23K, § 68(b). Commissioner O'Brien seconded.

Roll call vote:

Commissioner Cameron: Aye.

Commissioner O'Brien: Aye.

Commissioner Hill: Abstain.
Chair Judd-Stein: Aye.
The motion passed 3-0, with one abstention.

c. [Department of Conservations & Recreation Transportation Planning Applications](#)
 (01:39:27)

Next, Chief Delaney turned to a Transportation Planning Application the Community Mitigation Fund received. The Department of Conservation and Recreation (“DCR”) applied to repurpose the funds previously awarded to the cities of Everett and Somerville to complete the design and construction of a pedestrian bridge over the Mystic River. The bridge is adjacent to the Assembly Square MBTA station, Draw Seven Park, and the Encore Boston Harbor. DCR is seeking \$650,000. Chief Delaney provided Commissioners with an overview and history of the project included within a supplemental memorandum on pages 28 through 31 of the Commissioner’s packet. DCR’s Transportation Planning Application was included on pages 32 through 41.

During his presentation, Chief Delaney clarified that repurposing the previously allocated funds in no way affects the cities of Everett and Somerville, or any other eligible entity, from pursuing further CMF grants to resurrect the design and/or construction of the Assembly connector bridge in the future. In fact, the repurposing of these funds may be the action that ultimately allows that work to proceed. Chief Delaney and Senior Project Manager Thurlow recommended that the Commission approve DCR’s request of \$650,000 for the purposes outlined in its application. Chief Delaney explained that following the Commission’s approval, staff will execute a grant agreement and ISA with the Department of Conservation and Recreation. Commissioners expressed their support of the designs, as well as the thoroughness of the application and supplemental report submitted by the Division.

Commissioner O’Brien moved that the Commission approve the Department of Conservation and Recreation’s request for grant of \$650,000 to complete the design of the pedestrian bicycle bridge over the Mystic River, as described in the materials included in the Commissioner’s packet and as discussed here today. Commissioner O’Brien further moved the Commission staff be authorized to execute all necessary grant instruments commemorating the award in accordance with 205 CMR 153.04. Commissioner Hill seconded.

Roll call vote:
Commissioner Cameron: Aye.
Commissioner O’Brien: Aye.
Commissioner Hill: Aye.
Chair Judd-Stein: Aye.
The motion passed 4-0.

7. [Legal Division - Revisions to Regulations](#) (2:01:30)

Associate General Counsel Torrisi brought forward three regulations for review and vote to begin the promulgation process before the Commission: 205 CMR 134.01 - Key Gaming Employee Licensees; 205 CMR 134.02- Gaming Employee Licensees; and 205 CMR 134.03- Gaming Service Employees. Attorney Torrisi explained that during the COVID-19 pandemic in 2020, the Commission voted to amend the regulations to allow the licensees to bring in staff from sister properties to assist with training, strategy, and operation depending on the type of position that the person held- without requiring that they be licensed or registered by the Commission. Since then, the IEB last learned from the licensees that the properties would benefit if this exemption was broadened to allow staff from sister properties to assist at the gaming establishments in the Commonwealth for a limited period for trainings, not only during emergencies, but also any period that is first approved by the IEB. Attorney Torrisi clarified that the approval would still be limited to a 60-day period, with a one-time extension for up to 6-months upon approval by the Commission. Red-lined versions of the regulations with draft language and accompanying Small Business Impact Statement were included in the Commissioner's Packet on pages 42- 52.

Commissioners engaged in a thorough discussion on the benefits of the promulgation, given the ongoing pandemic, but also expressed their concerns that the provision could impact the potential for long-term jobs for citizens of the Commonwealth. Commissioner O'Brien shared her concern that the language, as drafted, could allow for the licensees to continually rotate personnel in every six months and a local candidate could be denied an opportunity for meaningful employment, accordingly. IEB Director Lillios clarified that all the Licensees were on board with language that limits how often the provision is utilized and eliminates a revolving door of candidates being brought in from sister properties outside the jurisdiction. Commissioner Cameron echoed Commissioner O'Brien concerns but noted her appreciation that the approval of the requests rests ultimately within the discretion of the IEB, which limits the potential for misuse. Commissioner O' Brien agreed that the IEB was best position to safeguard the use of the provision, but also asked that the language be drafted to clearly eliminate the same position being continually filled by a candidate from a sister property every 6 months. Attorney Torrisi agreed that the legal department would work on language that is consistent with that principle and would bring the regulations back to the Commission for their review at a later public meeting.

Chair Judd-Stein then inquired if a vote was necessary. Attorney Torrisi said a vote was not necessary at this time, but that the Legal Division would craft the language discussed during the meeting and bring the regulations back before the Commission and seek a vote to begin the promulgation process at that date. Commissioners agreed with this plan and thanked the Legal Division and Director Lillios for their presentation.

8. Commissioner's Update

9. [Other Business](#) (2:16:41)

With no other business before the Commission, Commissioner Hill moved to adjourn the meeting. Commissioner O'Brien seconded the motion.

Roll call vote:

Commissioner Cameron: Aye.

Commissioner O'Brien: Aye.

Commissioner Hill: Aye.

Chair Judd-Stein: Aye.

The motion passed unanimously. Meeting adjourned.

List of Documents and Other Items Used

1. Notice of Meeting and Agenda, dated October 5, 2021
2. [Commissioners' Packet](#) from the October 7, 2021, meeting (posted on massgaming.com)



Massachusetts Gaming Commission Meeting Minutes

Date/Time: October 21, 2021, 10:00 a.m.
Place: Massachusetts Gaming Commission
VIA CONFERENCE CALL NUMBER: 1-646-741-5292
PARTICIPANT CODE: 111 620 8934

The Commission conducted this public meeting remotely utilizing collaboration technology. Use of this technology was intended to ensure an adequate, alternative means of public access to the Commission's deliberations for any interested member of the public.

Commissioners Present:

Chair Cathy Judd-Stein
Commissioner Gayle Cameron
Commissioner Brad Hill
Commissioner Eileen O'Brien

1. [Call to Order](#) (0:00)

Chair Judd-Stein called to order the 358th public meeting of the Massachusetts Gaming Commission. Roll call attendance was conducted, and all four commissioners were present for the meeting.

2. [Administrative Update](#) (1:04)

a. [On-Site Casino Updates](#)

Assistant Director of Investigations & Enforcement Bureau/Gaming Agents Division Chief Bruce Band provided a brief update on the properties noting that poker is scheduled to open at MGM Springfield on October 29th with 13 tables and that all of the dealers are rehires from pre-Covid. The Commission thanked Director Band for his update.

b. [Internal Re-Opening Plan Update](#) (3:26)

Executive Director Karen Wells provided an update on the anticipated November 1st Boston office reopening. She noted that staff is working on a process for the return of necessary office equipment and reminded everyone that the offices will still not be open to the public. She also

suggested that the office maintain “Casual Friday” attire throughout the work week. She further stated that the Human Resources Division would recirculate the Commission’s Covid-related policy to staff. Chair Judd-Stein asked if the policy applies to independent contractors. Executive Director Wells stated that the vaccination policy does apply to independent contractors. The Commission thanked Executive Director Wells for the update.

c. [Executive Director Hybrid Work Schedule Request](#) (7:56)

Executive Director Wells noted that the hybrid work option required staff to submit their requests for hybrid work consistent with the policy and given that the Executive Director reports directly to the Commission, she has submitted her request form for the Commission’s consideration.

Commissioner O’Brien moved that the Commission approve the hybrid work schedule requested and submitted by Director Karen Wells as included in the packet. The motion was seconded by Commissioner Hill.

Roll call vote:

Commissioner Cameron: Aye.

Commissioner O’Brien: Aye.

Commissioner Hill: Aye.

Chair Judd-Stein: Aye.

The motion passed unanimously.

The Commission also discussed their own hybrid work schedules, noting that they would remain flexible in terms of when they will be in the office and when they will be remote.

d. [Equity and Inclusion Update](#) (13:30)

Executive Director Wells provided the Commission with an update on the equity and inclusion working group. She noted that Commissioner Skinner and Crystal Howard have joined the working group and that there are five areas that the group is focusing on: culture, regulation review, customer service, hiring and retention, and procurement practices. She noted that the agency has joined the pacesetters program to intentionally increase diverse spending. Chair Judd-Stein stated that pacesetters is a highly regarded program and Finance Director Derek Lennon further explained its benefits. The Commission thanked the working group for its efforts.

3. [Hiring Process Policy Development](#) (21:48)

Executive Director Wells explained that G.L. c. 23K, §20 requires the Executive Director to appoint employees subject to the approval of the Commission and that historically the Commission has complied with this mandate through the budget process as the Commission approves the Executive Director hiring a certain number of full-time employees. Executive Director Wells sought guidance on what positions the Commission would like to be delegated and recommended that the Executive Director notify the Commission of any potential hire that would be designated as a major policymaking position under G.L. c. 268B and the Commission

could then waive its involvement on a case-by-case basis. She further noted that after a decision is made this can be memorialized in a written policy.

Chair Judd-Stein asked for clarification on the major policymaking position definition. General Counsel Todd Grossman explained that G.L. c. 268A oversees the major policymaking position process for the purposes of filing statements of financial interest, and that a major policymaking position is essentially defined as someone who is the head of an organization, or someone who reports directly to the head of an organization, or someone who is the head of a major division within the organization.

Commissioner O'Brien suggested that this process include a review of what exact positions are being included in the event the Commission wants to tighten or broaden the group. Commissioner Hill and Commissioner Cameron agreed with these suggestions and with implementing this policy related to Commission involvement with major policymaking position hiring.

4. [Research and Responsible Gaming](#) (33:18)

Director Vander Linden introduced Long Banh, the Research and Responsible Gaming division's new Responsible Gaming Manager, and the Commission welcomed him to the team.

a. [Commercial Real Estate Report](#) (34:21)

Marie-Claire Flores-Pajot introduced a commercial real estate report presented by the economic side of the SEIGMA team, a copy of which is included in the Commissioners' Packet. She introduced speakers Thomas Peake, Senior Research Manager, and Dr. Mark Melnik, Director of the Economic and Public Policy Research Group at the UMass Donahue Institute. She noted that the Gaming Act recognizes the importance of tracking the changes that the new casinos and slot parlor could have in local economies and that part of that is looking at the commercial real estate market.

Mr. Peake and Dr. Melnik presented findings on a research study tracking how commercial real estate conditions have changed over time in the host and surrounding communities of the three casinos in Massachusetts, a report of which is included in the Commissioners' packet. There was discussion regarding the ways in which the specific regional and local locations of the gaming establishments may impact real estate conditions in a broader sense given the variable ecosystems of each community.

The Commission thanked the presenters for their report.

b. [GameSense Quarterly Report](#) (1:41:43)

Director Vander Linden introduced the Mass Council on Gaming and Health and a team of GameSense Advisors from each property to present the GameSense quarterly report. Chelsea Turner, the Mass Council's Director of Responsible Gaming, along with GameSense Advisors Linh Ho, Amy Gabrila, and Rhonda Martins, presented the report including quarterly numbers;

voluntary self-exclusion, reinstatement, and remote enrollment; property employee awards; responsible gaming education week; recovery month; and new live chat technology used to engage with patrons. A copy of the presentation is included in the Commissioners' Packet.

Commissioner Cameron asked if the team has data regarding the percentage of men versus women enrolled in the voluntary self-exclusion program. Director Vander Linden noted that while he did not have specific data on this it was a very interesting question. There was additional discussion regarding the report's indication that women tend to have more casual interactions with the advisors than signups. Director Vander Linden noted that the baseline general population survey indicated that the prevalence rate of problem gambling among males is 3.1% and among females is 1.1%.

The Commission thanked the presenters for their report.

5. [Racing Division](#) (3:32:24)

a. Quarterly Local Aid Update

Director of Racing Dr. Alexandra Lightbown presented the local aid for the quarter ending September 30th. Specifically, she noted that this quarter, using handles from January, February, and March of 2021, the City of Boston would receive \$118,265.85, the Town of Plainville would receive \$16,676.15, the Town of Raynham would receive \$18,688.49, and the City of Revere would receive \$59,131.53 for a grand total of local aid for the third quarter of \$212,761.02. She noted that there is a detailed breakdown and calculation of all amounts included in the Commissioners' Packet.

Commissioner O'Brien moved that the Commission authorize the local aid payments to the City of Boston, the Town of Plainville, the Town of Raynham, and the City of Revere in the amounts reflected in the memo included in the Commissioners' Packet and discussed here today. The motion was seconded by Commissioner Hill.

Roll call vote:

Commissioner Cameron: Aye.

Commissioner O'Brien: Aye.

Commissioner Hill: Aye.

Chair Judd-Stein: Aye.

The motion passed unanimously.

6. [Legal Division](#) (3:36:20)

a. Revisions to 205 CMR 134.01: Key Gaming Employee Licensees; 205 CMR 134.02: Gaming Employee Licensees; 205 CMR 134.03: Gaming Service Employees

General Counsel Grossman presented updates to 205 CMR 134.01, 134.02, and 134.03, which would allow the gaming establishments to bring employees from sister properties to work at the properties in Massachusetts for limited time periods for the purposes of training or similar needs.

General Counsel Grossman noted that the regulations currently allow this use only during emergency situations, and that the amendments remove the emergency requirement to allow for broader use. He further noted that the regulations allow an initial time period of 60 days for such use and require Commission authorization for extensions up to six months, with the exception of 205 CMR 134.03, which does not require Commission authorization for the six-month extension.

Commissioner O'Brien asked why the Commission authorization is not included in 205 CMR 134.03 and also raised the question as to whether the language allowing for a six-month time period in one twelve-month period is sufficient to ensure that permanent jobs are being filled by Commonwealth residents; she suggested updating to one six-month time period within an 18-month or 24-month time period. Chair Judd-Stein asked for reasoning related to the difference in 205 CMR 134.03. General Counsel Grossman noted that the gaming service employee jobs are unrelated to gaming, which perhaps could be the distinction. Chair Judd-Stein asked how often the IEB receives these types of requests. Chief Enforcement Counsel Heath Hall noted that the IEB does not receive these requests often, and that such requests have mainly been limited to staffing issues related to Covid and if a property is looking to expand the gaming area. Assistant Director Bruce Band also noted that if sports betting passes or if a new table game becomes available for use, the properties might want to bring someone with expertise in the area from a sister property to provide training.

Commissioner Cameron suggested that this type of situation might never apply to gaming service employees and perhaps this group should not be included in these regulation amendments.

There was further discussion regarding the appropriate time periods as raised by Commissioner O'Brien.

General Counsel Grossman summarized the Commission's discussion as follows: no amendments would be made to 205 CMR 134.03; the time period provisions in 205 CMR 134.01 and 205 CMR 134.02 would be amended to allow for one six-month extension in an 18-month period, as opposed to in a 12-month period, as authorized by the Commission.

Commissioner O'Brien moved that the Commission approve the small business impact statement and the amendments to 204 CMR 134.01 and 134.02 as included in the Commissioners' Packet subject to the further edit in sub paragraphs three in each section, changing the language "for more than one six-month period in a 12-month period" to "for more than one six-month period in an 18-month period" and that staff be authorized to take the steps necessary to fine the regulation with the Secretary of the Commonwealth and to proceed with the regulation promulgation process. The motion was seconded by Commissioner Cameron.

Roll call vote:

Commissioner Cameron: Aye.

Commissioner O'Brien: Aye.

Commissioner Hill: Aye.

Chair Judd-Stein: Aye.

The motion passed unanimously.

7. [Community Affairs](#) (4:01:01)

a. Community Mitigation Fund Guidelines

Community Affairs Division Chief Joe Delaney presented the draft Community Mitigation Fund Guidelines for the 2022 Community Mitigation Fund, a copy of which is included in the Commissioners' Packet, and provided background on the process up until this point as well as moving forward. Chief Delaney walked through specific changes to the guidelines, including the addition of a public safety grant as a separate category; the reorganization of certain requirements related to community planning grants; a limitation on applications for specific impact grants; a highlight on the availability of Community Mitigation Fund assistance for police training, including implicit bias and de-escalation training; the addition of an affirmative statement that there is an impact to the communities from the casinos to streamline the process for community planning grant applications; the elimination of the cap on transportation planning grants; and increasing the cap for workforce development grants; and the addition of a projects of regional significance, for which the community affairs team will seek input from the communities.

The Commission thanked Chief Delaney for these updates to the Guidelines and noted in particular their interest in the addition of a public outreach component.

8. [Other Business](#) (4:35:41) - none

Commissioner Hill moved to adjourn. The motion was seconded by Commissioner O'Brien.

Roll call vote:

Commissioner Cameron: Aye.

Commissioner O'Brien: Aye.

Commissioner Hill: Aye.

Chair Judd-Stein: Aye.

The motion passed unanimously.

List of Documents and Other Items Used

1. Notice of Meeting and Agenda dated October 21, 2021
2. [Commissioners' Packet](#) from the October 21, 2021, meeting (posted on massgaming.com)



Massachusetts Gaming Commission Meeting Minutes

Date/Time: May 25, 2022, 10:00 a.m.

Place: Massachusetts Gaming Commission
VIA CONFERENCE CALL NUMBER: 1-646-741-5292
PARTICIPANT CODE: 112 526 6753

The Commission conducted this public meeting remotely utilizing collaboration technology. Use of this technology was intended to ensure an adequate, alternative means of public access to the Commission's deliberations for any interested member of the public.

Commissioners Present:

Chair Cathy Judd-Stein
Commissioner Eileen O'Brien
Commissioner Brad Hill
Commissioner Nakisha Skinner

1. [Call to Order](#) (0:29)

Chair Judd-Stein called to order the 380th public meeting of the Massachusetts Gaming Commission. Roll call attendance was conducted. Commissioners O'Brien, Hill, and Skinner as well as Chair Judd-Stein were all present. Before proceeding, Chair Judd-Stein explained to participants that the agenda had been updated, and that a presentation from the Research and Responsible Gaming Division, would not go forward today to accommodate some scheduling changes of other presentations.

2. [Approval of Meeting Minutes](#) (4:09)

Commissioner Hill confirmed there were no minutes to approve for today's meeting.

3. [Administrative Update](#) (4:25)

a. On-site Casino Updates

Executive Director Wells introduced Bruce Band, Assistant Director of Investigations & Enforcement Bureau and Gaming Agents Division Chief, to provide an onsite Casino Update. Assistant Director Band reported that construction had begun at MGM Springfield to move the

GameSense center to its new location within the gaming establishment. Assistant Director Band also shared that Encore Boston Harbor will increase its poker room from 13 tables to 15 tables, and making the necessary staffing adjustments. The Commission thanked Director Band for his report.

4. [Research and Responsible Gaming](#)

- a. “Bridging the Research to Practice Gap: Context Matters! Understanding the Life Circumstances of Hispanic Residents of a Casino Neighborhood.” - Dr. Rodolfo R. Vega

Chair Judd-Stein explained that this matter had been rescheduled to a future Public Meeting due to existing scheduling conflicts.

5. [Community Affairs Division](#) (6:08)

- a. [MGM Springfield Quarterly Report](#) (6:25)

Joe Delaney, Community Affairs Division Chief, introduced the following MGM Springfield representatives to present their first quarter report: Daniel Miller, Director of Compliance; Arlen Carballo, Executive Director of Finance; and Gus Kim, General Counsel. MGM Springfield’s quarterly report is included in the Commissioner’s packet on pages 1 through 20.

Ms. Carballo provided an update on the first quarter finances of MGM Springfield, including gaming revenues, lottery sales, vendor diversity, and a breakdown of expenditures on minority, women, and veteran businesses. Mr. Miller presented on the compliance issues in quarter one, including the number of minors intercepted in the gaming area and prevented from gambling. Mr. Miller shared that the number this quarter was 80 % lower than the number of minors intercepted and prevented from gambling in the first quarter of 2020. Mr. Miller was happy to report that no minors were served alcohol during the first quarter reporting period.

Commissioner O’Brien requested Licensee to begin to differentiate between underage patrons (under 21) and minors (under 18) in their reports to the Commission moving forward. Mr. Miller confirmed. Commissioner Skinner inquired about the instances on page 10 of the presentation regarding how long an underage patron was on the floor before being intercepted. Mr. Miller stated that the figure provided was an average, with the shortest and longest times reported as outliers. He confirmed that they could also provide median data in the future. Commissioners agreed that this figure would be useful. Mr. Miller then provided an update on the “Play My Way” program at MGM Springfield which launched March 31st. Mr. Miller shared that over 1,700 patrons had enrolled in the program, and over 99.7% of patrons continued to use and stay enrolled in the program.

General Counsel Kim provided an update on 31 Elm Street project; sharing that MGM had fulfilled its 16-million-dollar commitment to the project. He also shared the Springfield City Council had approved the funding gap, and that construction was moving forward at the site. Commissioner Hill asked Mr. Kim if the convention centers in town had been receiving more

requests for use with the rollback of COVID-19 safeguards. Mr. Kim shared that both convention centers in Springfield appear to be coming back online and that the MGM Convention Center had been booking out nearly every single month for use by trade shows. Chair Judd-Stein asked Mr. Miller if he could provide an update on the poker room. Mr. Miller shared that MGM Springfield had increased from 12 to 14 tables in their poker rooms approximately two to three weeks ago. Mr. Miller added that MGM's poker room added an additional hour of operation in the morning; now opening at 10 am and closing at 3 am daily. Chair Judd-Stein asked if the licensees could provide an updated number of the amount all table games in the gaming establishment after the reopening. Ms. Carballo confirmed she would send the Commission an update shortly after the meeting. Mr. Miller also updated the Commissioners regarding an ongoing initiative to provide 24-hour table game service, which would also increase the number of jobs available at the licensees.

The Commission thanked MGM Springfield for their presentation and asked to be updated regarding the progress of the 31 Elm Street project.

b. [Encore Boston Harbor Quarterly Report](#) (33:17)

Chief Delaney then introduced: Jacqui Krum, Senior Vice President, and General Counsel; Juliana Catanzariti, Executive Director of Legal; and Damien O'Riordan, Executive Vice President of Operations to present their first quarter report. The Report was also inclusive of a special discussion and presentation on accessibility by David D'Arcangelo, Commissioner of Massachusetts Commission for the Blind. Encore Boston Harbor's quarterly report is included in the Commissioner's packet on pages 21 through 49.

Ms. Catanzariti presented a fiscal overview of the first quarter, including gross gaming revenue, lottery sales, and workforce spend. Ms. Catanzariti shared that 90% of the Encore Boston Harbor ("EBH") workforce were Massachusetts residents; 46% of employees were minorities; 44% were female; and 6% were veterans. She added that 8% of the 20-million-dollar discretionary spend in the first quarter was spent with minority business enterprises; 2% with veterans and 14% was spent with women-owned business enterprises. Commissioner O'Brien inquired what efforts EBH had been utilizing to reach their intended goal of 50% female employees. Ms. Krum shared that EBH has approximately 200 open positions, and that they are focusing on attracting more women to apply for them. She elaborated that EBH is partnering with local community groups and local trade organizations to reach additional communities. Commissioner O'Brien subsequently inquired about the type of positions offered at EBH. Ms. Krum clarified that many of the positions were in food and beverage industry, but that when the conventions return to the premises, the flexibility of those positions will appeal to women who have childcare needs and are able to rejoin the workforce. Chair-Judd Stein asked if the childcare center was available for EBH employees, and Ms. Krum confirmed that spots were still available for employees' children during work hours.

Moving next to compliance, Ms. Catanzariti shared those 13 underage patrons were intercepted on the gaming floor during the first quarter. She also differentiated how many minors (under 18) versus underaged people (under 21) for the Commissioners within the presentation.

From there, Ms. Krum provided an update on the ticket redemption units where patrons - seeking to redeem their tickets for cash - could select one of four charitable organizations, to donate the remaining change to. Ms. Krum shared that the feature was quite popular, and that the gaming establishment will rotate in new organizations that patrons can select on July 1st. Ms. Krum also provided a short update on the project developing on East Broadway; explaining that they are continuing to work on the design and layout of the pedestrian bridge and aim to submit their materials by mid-June. Mr. O’Riordian also shared the positive news that EBH had been named a five-star hotel and spa by Forbes. Commissioners and Chair Judd-Stein congratulated Mr. O’Riordian, and the entire EBH team and staff for their incredible efforts.

Commissioner D’Arcangelo then provided an update on the available accommodations for the Visually Impaired at Encore Boston Harbor both during the check-in process to the hotel and within guest accommodations. On the casino floor, staff are available to assist during table game play by reading card and tile values to guests, and by announcing the outcome of a decision where a visually impaired guest has made a wager. Commissioners thanked EBH and Commissioner D’Arcangelo for their presentations and contributions.

Commissioners took a short recess for 5 minutes. Meeting [resumed](#). All Commissioners were present.

c. [Community Mitigation Fund Applications](#) (01:31:35)

Chief Delaney then provided a brief overview of the Community Planning applications received by the Community Mitigation Fund’s Review Team (“Review Team”). The Division provided the Commissioners with a summary memorandum of the applications received, inclusive of their analysis and recommendation for whether the Commission should approve or deny the application. The memorandum is included in the Commissioners’ Packet on pages 50 through 61. Chief Delaney presented the following applications:

i) Everett – Industrial District Design – \$100,000

Chief Delaney and the Review Team recommended that the Commission award the full amount of \$100,000 to the City of Everett to refine zoning policies and develop design guidelines in the Industrial District.

ii) Foxborough/Plainville/Wrentham – Regional Destination Marketing – \$136,000

Chief Delaney explained that intent of this initiative is to attract visitation to the region by leveraging the presence of three major draws – Plainridge Park Casino (PPC), Wrentham Village Premium Outlet Mall and Patriot Place/Gillette Stadium. Chief Delaney and the Review Team recommended awarding the full amount of \$136,000 to Foxborough, Plainville and Wrentham to further develop a regional marketing initiative.

iii) Lynn – Marketing Campaign (*withdrawn*) – \$100,000

Chief Delaney clarified to the Commission that Lynn had withdrawn its application for a 2022 Community Planning Grant.

iv) Malden – Arts Center – \$100,000

The City of Malden requested \$100,000 to perform a study to convert the former Malden District Courthouse into the Malden Center for Arts & Culture. The ultimate reuse of the courthouse is aimed at attracting new visitors to Malden Center and creating a ripple effect by encouraging new visitors to patronize Malden's shops and restaurants. Chief Delaney and the Review Team recommended that the Commission award the full amount of \$100,000 to the City of Malden to complete the Malden District Courthouse Reuse Study. The Review Team further recommended that the grant not be awarded until the City can demonstrate that it has taken possession of the property. Chief Delaney confirmed to the Commissioners that if they did ultimately vote to approve the grant, he would work with the Legal Department to determine the appropriate next steps before the grant was distributed.

v) Medford – Wellington Rail Trail Study – \$100,000

The City of Medford requested \$100,000 to complete a community planning study for the revitalization of the Wellington area within Medford. The study will examine land use; redevelopment; urban design; infrastructure; and economic development recommendations. Chief Delaney and the Review Team recommended the Commission award the full amount of \$100,000 to the City of Medford for the Wellington Transformation Study.

vi) Northampton – Marketing Program – \$75,000

The Review Team recommended awarding the full amount of \$75,000 to the City of Northampton for the ongoing development of the "Northampton Live" website. The Review Team further recommended that the city develop and provide to the Commission a plan that outlines the specific steps that Northampton will take to transition the website into a self-sustaining platform, with assurances that the grant not go towards operational costs. Chief Delaney recommends that the City's plan should be submitted with their first quarterly report on October 1, 2022.

vii) Revere – Place Making & Branding – \$100,000

The City of Revere requested \$100,000 to analyze opportunities and develop best practices to establish Broadway as a full service and viable commercial destination for residents and visitors. Their goal is to advance initiatives related to district identity, brand association, improved public realm and cross marketing campaigns. Chief Delaney and the Review Team recommended awarding the full amount of \$100,000 to the City of Revere for place making and branding for the Broadway corridor.

viii) Springfield/ West Springfield/ Holyoke – Tourism Hotel Promotion– \$315,000

The Cities of Springfield, Holyoke and West Springfield are seeking \$315,000 to fund a tourism hotel promotion called, "The Fun's on Us." Chief Delaney stated that the "Fun's on Us" program is designed to encourage overnight hotel stays and boost hotel occupancy in the

Springfield area. After careful consideration and multiple meetings regarding this application, Chief Delaney and the Review Team did not ultimately recommend that the Commission award funding for this application. Chief Delaney explained that while this application was certainly tourism related, only a very small portion of the application appeared to be planning related. The \$15,000 identified for creative development would appear to qualify under this provision, however the remainder of the funds were primarily for program implementation. The 2022 CMF guidelines state that “[e]ligible planning projects must have a defined area or issue that will be investigated as well as a clear plan for implementation of the results.” Chief Delaney clarified further that the Review Team has always interpreted this provision as requiring the development of an implementation plan, not the actual funding of implementation. Additionally, Chief Delaney shared that there was a question raised within the Review Team as to whether the distribution of gift cards raises issue under the Massachusetts Constitution’s Anti-aid amendment that prohibits the expenditure of public funds to private entities where the expenditure substantially benefits the private entity. While the surrounding community could benefit from the increase in tourism, ultimately the hotels, as private entities would likely be the primary beneficiaries. For those reasons, Chief Delaney and the Review Team did not recommend this application for approval by the Commission.

ix) Boston – Problem Gambling– \$500,000

Chief Delaney explained that the City of Boston had withdrawn their application for a specific impact grant. Chief Delaney stated there was not much specificity in how the Programs mentioned within the City’s application would work to address the identified impact. The Review Team asked the City of Boston to provide additional information regarding the activities that would be funded and how they would be implemented and evaluated. After receiving the request for supplemental information, the City determined that they had underestimated the level of detail that was needed in the application and that further development of the grant application would extend well beyond the time frame necessary for the Commission to act. At that point, the City asked to withdraw the application. Chair Judd-Stein thanked Chief Delaney and the Review Team for their analysis, and stated that she looks forward to the future opportunities that the Responsible Gaming Division and the Community Mitigation Fund could collaborate on.

x) Hampden County Sheriff Department - \$400,000

Next, Chief Delaney stated that the Hampden County Sheriff’s Department (“HCSD”) is requesting \$400,000 for lease assistance at the Western Massachusetts Recovery and Wellness Center (“WMRWC”). This is the seventh year of a ten-year lease which resulted from the relocation of WMRWC from 26 Howard Street to 155 Mill Street in Springfield. HCSD has experienced a significant lease offset due to this forced move to make way for the MGM Casino. Chief Delaney explained that the Review Team has found a clear nexus to MGM Springfield as the old facility was in the footprint of the casino site, and the cost of the lease at 155 Mill Street is significantly higher than the old lease. Upon review of the application, the Review Team believes that the HCSD has demonstrated its continued need for this funding. Therefore, the Review Team recommends awarding a grant in the amount of \$400,000 to HCSD. Commissioners discussed the lease and how it could impact future applications on how they could be viewed moving forward. Chair Judd-Stein and Commissioner O’Brien discussed prior

applications submitted by HCSD, as well as leasing history of the space and confirmed to Commissioners Hill and Skinner that the HCSD was a year- to-year tenant at will in the original leasing space. After learning that amount requested was not the entire lease payment HCSD needed for their leasing costs, Commissioners agreed that they may need to discuss the future of this application going forward, and the HCSD should be notified that this may be the last year the Community Mitigation Fund is able to assist them.

xi) Saugus Public Safety - \$187,000

The City of Saugus seeks \$187,000 to purchase solar lighting for a section of the Northern Strand rail trail, that runs from the Encore casino area to Saugus. The funds will be used for the purchase and installation of 43 stand-alone solar lights. In this case, it is not the provision of the trail itself, but extending its usable hours by providing lighting to the trail. The provision of lighting on the trail would allow for extended use of the trail; particularly during the times of the year when the sun sets earlier. This would allow casino patrons and employees and other commuters to use the trail later into the evening. The Review Team agrees that extending the use times of the trail has the potential to help reduce the number of cars on the road near the gaming establishment.

After the close of discussion, Commissioner Hill moved that the Commission approve the applications for funding from the Community Mitigation Fund for the purposes described in the submitted applications and materials included in the Commissioners' Packet, and for the reasons discussed at the meeting. They were presented as follows: City of Everett- \$100,000; Towns of Foxborough/Plainville/Wrentham- \$136,000; City of Malden- \$100,000 (upon submission of satisfactory evidence to the Chief of Community Affairs that it has appropriate ownership or control of the subject property); City of Medford- \$100,000; Town of Northampton- \$75,000 on the condition that the City develop and provide to the Commission a written plan that outlines the specific steps that it will take to transition the subject website into a self-sustaining platform. This plan shall be submitted with the first quarterly report to be submitted by October 1, 2022; City of Revere- \$100,000; Hampden County Sheriff's Department- \$400,000; City of Saugus- \$187,000.

Commissioner Hill further moved, that Commission staff be authorized to execute a grant instrument commemorating this award in accordance with 205 CMR 153.04. Commissioner O'Brien seconded.

Roll call vote:

Commissioner O'Brien: Aye.

Commissioner Hill: Aye.

Commissioner Skinner: Aye.

Chair Judd-Stein: Aye.

The motion passed unanimously.

Commissioner Skinner moved that the Commission deny the application for funding from the Community Mitigation Fund for safety improvements collectively submitted by the Cities of

Springfield, West Springfield, and Holyoke for the reasons described in the memorandum in the Commissioners' Packet, and discussed today. Commissioner Hill seconded.

Roll call vote:

Commissioner O'Brien: Aye.

Commissioner Hill: Aye.

Commissioner Skinner: Aye.

Chair Judd-Stein: Aye.

The motion passed unanimously.

d. [Plainridge Park Casino Quarterly Report](#) (02:47:25)

Chief Delaney introduced representatives from Plainridge Park Casino to present their quarterly report, including Mr. Grounsell, General Manager; Ms. Yates-Akbaba, President of Finance; and Ms. Lucas, VP of Human Resources from Plainridge Park Casino ("PPC") to present their quarterly report from the first quarter of 2022. The report is included in the Commissioners' packet on pages 70 through 81.

Ms. Yates-Akbaba presented on gaming revenue and taxes, lottery sales, and local expenditures. Ms. Lucas presented on employee and vendor diversity including expenditures on minority, women, and veteran businesses. Commissioner O'Brien inquired about the lower than desired percentage of female employees at the property in the first quarter. Ms. Lucas explained that due to banquet servers, banquet managers, and serving staff not currently working at the casual dining restaurant, Flutie's, the percentage of female employees at the property was currently lower than the goal of 50%. Commissioner O'Brien asked a follow up question regarding the anticipated opening of the casual dining restaurant, as well as the banquet hall area, Mr. Grounsell explained that the issue is influx, but elaborated that PPC is hoping to recruit and train the staff necessary to re-open those amenities soon.

Commissioner Hill sought information on whether the PPC team had been working with any trade organizations, vocational schools and community colleges in the area to recruit students who have graduated in the area for onboarding. Ms. Lucas confirmed that the team is active within the community and is hopeful that they will be able to share their efforts and successes when they return for their next quarterly report presentation. The Commission thanked the team from PPC for their report, and for their continuous work and engagement in the surrounding community.

6. [Legal Division](#) (03:07:55)

- a. 205 CMR 116.03: Waivers and Small Business Impact Statement, for approval to begin the promulgation process

Associate General Counsel Torrisi provided Commissioners with an update to 205 CMR 116.03. This regulation has been brought forward as part of the Commission's 2022 Regulatory Review Process. Attorney Torrisi presented a cover sheet, a red-lined version of the regulation, and Small Business Impact Statement, included in the Commissioner's packet on pages 62 through 65. She then explained that there was no significant change in the effect of the regulation, but that the

change in language would make the regulation more consistent with the language within the statute, G.L. c. 23K, § 14(c).

Commissioner Skinner moved that the Commission approve the Small Business Impact Statement and amendment to 205 CMR 116.03 as outlined in the Commissioners' Packet, and authorize staff to take all steps necessary to begin the promulgation process. Commissioner O'Brien seconded.

Commissioner O'Brien: Aye.
Commissioner Hill: Aye.
Commissioner Skinner: Aye.
Chair Judd-Stein: Aye.
The motion passed unanimously.

7. [Commissioner Updates](#) (03:10:43)

a. Legislative Update

Commissioner Hill and Ms. Beauchemin, Chief Administrative Officer to the Chair and Special Projects Manager, provided a summary of the memorandum provided in the Commissioner's Packet on pages 68 and 69. Ms. Beauchemin provided a status update about the existing sports wagering bills in the house and senate. She stated that a conference committee was appointed to discuss the two existing bills to collaborate and report out a final, compromised bill on May 17th. She shared that two racing bills that had received extension orders through June 1st, 2022, had not been updated at this time. Lastly, Ms. Beauchemin provided an update on the law that would permanently allow for remote access to public meetings, and that the Commission had distributed a letter in support of the legislation. Chair Judd-Stein thanked Ms. Beauchemin, Commissioner Hill, and Communications Chief Tom Mills for the update and their work on the letter.

9. [Other Business](#) (57:23)

Having no other business, Commissioner O'Brien moved to adjourn. The motion was seconded by Commissioner Skinner.

Roll call vote:
Commissioner O'Brien: Aye.
Commissioner Hill: Aye.
Commissioner Skinner: Aye.
Chair Judd-Stein: Aye.

The motion passed unanimously, meeting adjourned.

List of Documents and Other Items Used

1. Notice of Meeting and Agenda, dated May 23, 2022
2. [Commissioners' Packet](#) from the May 25, 2022, Public Meeting



Division of Racing

MEMORANDUM

TO:	Massachusetts Gaming Commission
FROM:	Chad Bourque, Financial Analyst
SUBJECT:	Local Aid Quarterly Distribution for Q2 CY 2022
DATE:	July 01, 2022

In accordance with the Commonwealth of Massachusetts Budget and appropriation 1050-0140, local aid is payable to each city and town within which racing activities are conducted. Amounts are computed at .35 percent times amounts wagered during the quarter ended six months prior to the payment.

- | | |
|----------------------|--------------|
| • City of Boston | \$112,323.20 |
| • Town of Plainville | \$29,406.56 |
| • Town of Raynham | \$16,899.72 |
| • City of Revere | \$56,178.44 |

Total local aid quarterly payment June 30, 2022	\$214,807.92
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With the Commission's authorization payments will be made to the appropriate cities and towns.

Encl. localaid_q2_cy_2022

Cdb



Massachusetts Gaming Commission

101 Federal Street, 12th Floor, Boston, Massachusetts 02110 | TEL 617.979.8400 | FAX 617.725.0258 | www.massgaming.com

Computation of Local Aid Distributions Quarter End 06/30/2022

	<u>Oct, Nov, Dec</u>	<u>Local Aid .0035</u>	<u>Payable to City / Town</u>
Plainridge	4,326,680		
Exports	3,118,985		
Hollywood Bets	956,209		
Total	8,401,874	\$29,406.56	Plainville
Raynham	4,828,492	\$16,899.72	Raynham
Suffolk Downs	5,981,805		
TVG	22,073,529		
Twin Spires	10,179,975		
Xpress Bets	4,439,857		
NYRA Bets	5,419,509		
Total	48,094,675	\$168,331.36	Boston 2/3 Revere 1/3
Wonderland	48,650	\$170.28	Boston 2/3 Revere 1/3
Grand Total	61,373,691	\$214,807.92	

Distributions:

Town of Plainville	On Plainridge	\$29,406.56
Town of Raynham	On Raynham	\$16,899.72
City of Boston (line 1)	On Suffolk	\$112,209.69
City of Revere (line 1)	On Suffolk	\$56,121.68
City of Boston (line 2)	On Wonderland	\$113.51
City of Revere (line 2)	On Wonderland	\$56.76
Total		\$214,807.92

Payments should be made to the above communities for the amounts indicated.



Massachusetts Gaming Commission

Q4 2021 HANDLES	OCT	NOV	DEC	TOTALS
PLAINRIDGE	1,518,478	1,522,806	1,285,396	4,326,680
EXPORTS	1,747,979	1,371,006	0	3,118,985
WINLINE	311,602	347,508	297,099	956,209
TOTALS	3,578,059	3,241,320	1,582,495	8,401,874
RAYNHAM	1,713,482	1,637,758	1,477,252	4,828,492
SUFFOLK	2,362,928	2,045,480	1,573,397	5,981,805
TVG	7,449,274	8,094,704	6,529,551	22,073,529
TWS	3,577,074	3,911,203	2,691,698	10,179,975
XPRESS BETS	1,579,020	1,597,320	1,263,517	4,439,857
NYRA	1,720,067	2,229,091	1,470,351	5,419,509
TOTALS	16,688,363	17,877,798	13,528,514	48,094,675
WONDERLAND	13,952	18,189	16,509	48,650
TOTALS	21,993,856	22,775,065	16,604,770	61,373,691

Amounts are computed at .35 percent times amounts wagered during the quarter ended six months prior to the payment.



Massachusetts Gaming Commission

101 Federal Street, 12th Floor, Boston, Massachusetts 02110 | TEL 617.979.8400 | FAX 617.725.0258 | www.massgaming.com

MEMORANDUM

TO:	Massachusetts Gaming Commission
FROM:	Chad Bourque, Financial Analyst
SUBJECT:	Request for Consideration Harness Horse Promotional Trust Fund
DATE:	July 6, 2022

In accordance with General Laws of Massachusetts, Chapter 128A, Section 5g. The trustees may expend without appropriation all or any part of the promotional trust funds to the appropriate track licensee in proportion to the amount deposited in each fund for use in promotional marketing. The following promotional fund request has been reviewed.

HHPTF Request for Consideration: 2022-01

- 2022 Summer Handicapping Series

Total Request for Consideration:	\$26,000.00
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All financial statements required under section 6 shall be accompanied by a statement signed under the pains and penalties of perjury by the chief financial officer of the licensee setting forth the promotions completed with funds obtained under this section.

After review and confirmation of the request, with your authorization, promotional activity may commence.

Encl. plainridge_rfc_hhptf_2022_01

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Summer Handicapping Series

Free to Enter

Contests every Saturday starting July 23rd
thru September 3rd, 2022.

With **\$2000** in total prizes and a
\$1000 first prize given away each week!

\$10,000 FINAL September 5th, 2022
Top Ten Point Earners from Weekly Contest
Eligible for Final.

All entries must be in by **12:45pm** day of the contest.
Rules, PP's and Entry form included.

IF YOU GAMBLE, USE YOUR **GameSense** . VISIT GAMESENSEMA.COM • MUST BE 21 TO ENTER THE
GAMING FLOOR. VALID ID REQUIRED.

SUMMER HANDICAPPING SERIES

Official Rules

1. Summer Handicapping Series dates; \$2,000 weekly contests on Saturdays, July 23 & 30, August 6, 13, 20, 27 & September 3, 2022. A \$2,000 weekly consolation and the \$10,000 Series Final on Monday, September 5, 2022.
2. Free to enter. Must be 18 years of age or older to participate. Limit one (1) entry per person for each contest. Must be present with a valid ID to collect prize winnings. Plainridge Park Casino employees are not eligible to participate. Plainridge Park Casino reserves the right to change the format, rules and/or payouts to the contests for any reason at any time.
3. \$2,000 Weekly Contests; 1st Place \$1,000, 2nd Place \$500, 3rd Place \$250, 4th Place \$150, 5th Place \$100.
4. 1st Place 50 points, 2nd Place 25 points, 3rd Place 12 points, 4th Place 8 points, 5th Place 5 points, all remaining participants receive 1 point.
5. \$10,000 Final Contest; 1st Place \$5,000, 2nd Place \$2,500, 3rd Place \$1,200, 4th Place \$800, 5th Place \$500.
6. The Official Contest Entry Form and free Past Performances on the designated contest races will be available beginning at 4:00PM the day prior to each contest.
7. Each participant will be required to submit an official entry form with a \$2.00 Mythical WIN Wagers on ten (10) simulcast races designated for that contest day. Completed official entry forms are due by 12:45PM on the contest days. Submissions will not be accepted after 12:45PM.
8. A single horse/betting interest shall be selected as a \$2.00 Mythical **WIN** Wager and clearly marked for each of the designated ten (10) races by PROGRAM NUMBER. Submissions that appear illegible may be deemed invalid.
9. In the case of a "late scratch" on a selected horse, the selection will be considered a no bet and money will not be added to the participants total.
10. Calculation of the mythical wagers will be based on the official results from the corresponding tracks and verified through the totalizator system at Plainridge Park Casino.
11. Based on the officials results of each participants selections, the participant accumulating the largest total dollar amount of the combined \$2.00 Mythical Win Wagers will be declared the contest winner, 1st Place. The participant with the second largest total will be awarded 2nd Place, and so forth down to 5th Place. In the case of a tie, the participants will equally split the prize money awarded for those positions. Points will be awarded to each participant based on the contest results as well.
12. Points will be accumulated from the seven (7) weekly contests for each participant. The ten (10) highest point earners totaled from the combined weekly contests will be eligible for the \$10,000 Final. In the case of a tie for 10th Place, all those participants with the same total points in the tie will be eligible to compete the final as well. Participation in all seven (7) weekly contest is NOT mandatory, however it is encouraged to gain the best advantage to become a participant in the final.
13. The \$10,000 Series Final will follow the same format as the weekly contests; however, the ten (10) designated races will consist of a combination of simulcast and live Plainridge Park races. A \$2,000 consolation contest will also be held on Monday, September 5, 2022, open to all except for the participants in the \$10,000 Series Final.
14. All prize winners will be announced no later than one (1) hour after the last race of the contests.



PLAINRIDGE PARK
CASINO

Entry Form

<i>Plainridge Park Casino Handicapping Tournament</i>		Official Use only		
LEG(s)	SELECTION	Order of Finish		
A				
B				
C				
D				
E				
F				
G				
H				
I				
J				
<i>Totals</i>				

X

Name

X

Marquee Rewards Number

Daily Double / Pick 3 (Races 1-2-3) / Exacta / 50 cent Trifecta / 50 cent Pick 4 (Races 1-4) / 10 cent Superfecta

1

Parx Racing
Beaten Claiming

Purse \$21,000. (Plus 40% PA Bred Bonus) For Fillies Three Years Old or Fillies and Mares Four Years Old and Upward Which Have Never Won Two Races. Three Year Olds, 121 Lbs; Older, 126 Lbs Non-winners Of A Race Since May 15 Allowed 3 Lbs. Claiming Price \$12,500. Six Furlongs

SAMPLE PAST PERFORMANCE



Program#	Horse	Class	Pace	Speed	Jockey	Weight	2022:	2021:	Life:	Turf:	Off (Dirt):	Distance:	Track:
1	Classy Sadie (L)	52	\$12,500	Own: Woodland Farms LLC Trn: J. Guadalupe Guerrero (86-9-11-16)	2022: 1 0 1 0 \$4,000 2021: 3 0 0 0 \$740 Life: 18 1 2 2 \$92,338	Turf: 6 0 0 1 \$21,208 Off (Dirt): 4 1 0 0 \$47,160 Distance: 7 0 1 1 \$22,368 Track: 2 0 1 0 \$4,250							
6-1	Red Ch.m.5 Emcee - Gem's Classy Lass by Grand Slam, NY Olive Green, White Stars, White Sleeves, Olive Cap				ANDREW WOLFSONT (80-7-11-15) 123								
17May22	Prx4	ft	5:48	2303	4779	1:0748	31	21	22	Wolfson A	123	bl	2.70
4Jul21	Bel7	gd	7:60	2248	4595	1:2453	31	21	22	Castellano J	122	bfl	10.80
07Jun21	Prx8	fm	1:22	1:170	40	1:1368	1:4388	31	21	Gonzalez J L	123	bfl	7.60
21May21	Bel3	ft	6:55	2288	4601	1:1730	31	21	22	Saez L	123	bfl	9.50
20Nov20	Aqu10	ft	6:54	2278	4719	1:1325	31	21	22	Cardenas L	111	bfl	5.30
29Oct20	Bel9	sy	7:52	2276	4614	1:2389	31	21	22	Cancel E	118	bfl	10.50
18Oct20	Bel10	yi	6:13	2249	4652	1:1251	31	21	22	Hernandez B	118	bfl	41.25
Workouts(s):	6 May 22 Prx 4F ft :50.0b 18/28	21 Apr 22 Prx 4F ft :51.0b 18/20	13 Apr 22 Prx 4F ft :50.3b 37/46										
2	Frieder Fanatic (L)	41	\$12,500	Own: Branimar Stender and Dave Clark Trn: Louis C. Linder, Jr. (187-34-24-24)	2022: 5 1 1 1 \$22,960 2021: 1 0 1 0 \$6,000 Life: 6 1 2 1 \$28,960	Turf: 0 0 0 0 \$0 Off (Dirt): 1 0 0 0 \$250 Distance: 3 1 0 1 \$17,510 Track: 6 1 2 1 \$28,960							
4-1	White B.f.3 Brody's Cause - Protective Shield by Lookin At Lucky, KY Royal Blue, Gold Inverted Triangle with "BJC", Gold Bars on Sleeves, Royal Blue Cap				LUIS M. OCASIO (239-32-26-21) 118								
03May22	Prx1	ft	6:40	2273	4645	1:1405	31	21	22	Frieder Fanatic121	118	bfl	3.90
11Apr22	Prx4	ft	5:48	2315	4851	1:0908	31	21	22	Starship Rye114	118	bfl	*1.10
18Mar22	Prx2	ft	6:40	2276	4686	1:1471	31	21	22	Poor No More121	118	bfl	2.00
22Feb22	Prx8	ft	6:40	2222	4570	1:1308	31	21	22	Justhappy121	118	bfl	19.10
18Jan22	Prx3	gd	6:30	2383	4881	1:2288	31	21	22	Misty Maave121	118	bfl	15.10
08Dec21	Prx6	ft	5:48	2303	4757	1:0751	31	21	22	Lady Bernadette119	118	bfl	5.00
Workouts:	13 May 22 Prx 5F ft :1.01.3b 3/10												
3	Going Going Gone (L)	53	\$12,500	Own: Louis A. Bisso, Jr. Trn: Alfredo Velazquez (35-4-8-2)	2022: 7 0 1 1 \$10,710 2021: 12 4 4 3 \$27,020 Life: 24 1 5 4 \$55,515	Turf: 2 0 0 0 \$965 Off (Dirt): 5 0 0 2 \$7,730 Distance: 10 1 2 1 \$26,010 Track: 15 0 4 4 \$32,850							
3-1	Blue B.f.4 Orb - Lady Aphrodite by Giant's Causeway, NY Yellow, Red Ball Sash, Yellow Cap				JONATHAN OCASIO (97-3-9-15) 123								
30May22	Prx6	ft	1:40	4795	1:1427	1:4734	31	21	22	Tribord123	123	bl	2.20
26Apr22	Prx1	ft	6:40	2277	4623	1:1327	31	21	22	Starship Rye114	118	bfl	*1.50
11Apr22	Prx7	ft	6:40	2293	4705	1:1362	31	21	22	Lady Mistress118	118	bfl	11.20
14Mar22	Prx5	ft	7:24	2402	4733	1:2828	31	21	22	B B's Rocket123	123	bl	15.40
05Mar22	Prx3	ft	6:40	2371	4734	1:1161	41	21	22	Strike Magic119	118	bfl	10.30
08Feb22	Prx3	my	6:40	2399	1:1581	1:4295	41	21	22	1-11 Make It121	118	bfl	9.60
22Jan22	Aqu5	ft	6:52	2285	4629	1:1212	41	21	22	Betty's Smile120	118	bfl	12.90
Workouts(s):	13 May 22 Prx 5F ft :1.01.3b 3/10												
4	Gavichi (L)	63	\$12,500	Own: Just In Time Racing LLC Trn: Juan C. Vazquez (109-8-19-17)	2022: 6 0 2 1 \$13,650 2021: 3 1 2 0 \$23,950 Life: 10 1 4 1 \$55,920	Turf: 0 0 0 0 \$0 Off (Dirt): 1 0 0 0 \$250 Distance: 3 1 1 1 \$17,650 Track: 7 0 3 1 \$18,650							
5-2	Yellow Dk B/ Br.f.4 Mosler - Prosecca by Speightstown, MD Yellow, Blue Star, Blue Blocks on Sleeves, Yellow Cap				JEIRON BARBOSA (73-12-8-8) 118								
26Apr22	Prx4	ft	6:30	2267	4660	1:1969	31	21	22	Shetalkstomuch123	123	bl	*2.30
11Apr22	Prx7	ft	6:40	2293	4705	1:1362	31	21	22	Lady Mistress118	118	bfl	3.00
18Mar22	Prx3	ft	6:30	2256	4581	1:2043	31	21	22	Memphis Mafia116	116	bfl	6.40
01Mar22	Prx2	ft	5:48	2267	4660	1:0885	31	21	22	Above the Limit123	123	bl	5.80
08Feb22	Prx5	my	6:40	2306	4731	1:1362	41	21	22	Gia's Fuego114	114	bfl	1.60
11Feb22	Prx5	ft	6:30	2303	4704	1:2077	41	21	22	Chelsea Wall121	121	bl	*.90
28Dec21	Prx2	ft	7:24	2396	4774	1:2688	41	21	22	Artie's Rose118	118	bfl	2.30
Workouts(s):	4 Jun 22 Prx 4F ft :50.2b 40/55	10 May 22 Prx 4F ft :49.3b 38/53											
5	Pearlbouncing (P) (L)	29	\$12,500	Own: Nelson E. Berberena Trn: Mary A. Patterson (41-5-5-5)	2022: 5 1 1 0 \$22,800 2021: 4 0 0 0 \$1,984 Life: 9 1 1 0 \$24,784	Turf: 0 0 0 0 \$0 Off (Dirt): 0 0 0 0 \$0 Distance: 2 0 0 0 \$569 Track: 5 1 1 0 \$22,800							
10-1	Green B.f.3 Storm Wolf - Phaniebouncing by Congrats, PA Orange, White Ball, Orange "BB", Orange Cap				YABRIEL C. RAMOS (28-2-7-2) 111								
09May22	Prx3	ft	7:24	2416	4754	1:2612	31	21	22	Risque's Jewel123	123	bl	13.20
18Apr22	Prx2	ft	5:48	2253	4715	1:0817	31	21	22	Pearlbouncing115	115	bl	3.60
05Apr22	Prx1	ft	5:48	2302	4804	1:0939	31	21	22	No Sympathy126	126	bl	8.70
16Feb22	Prx4	ft	6:40	2262	4674	1:1412	31	21	22	Touring Maryanne121	121	bl	24.20
12Jan22	Prx1	ft	5:48	2212	4623	1:0550	31	21	22	Phantasy121	121	bl	30.40
21Aug21	W09	ft	5:20	2355	4712	1:0628	2	21	22	Stunning Resent118	118	bl	17.15
07Aug21	W06	ft	6:40	2274	4650	1:1133	2	21	22	Silent Resent118	118	bl	65.60
Workouts(s):	27 May 22 Prx 4F ft :49.0b 12/20	23 Mar 22 Prx 4F ft :50.0b 19/41											
6	Lucky Imagination (P) (L)	53	\$12,500	Own: Bing Cherry Racing Inc. Trn: Michael L. Catalano, Jr. (40-9-8-2)	2022: 3 0 1 0 \$7,330 2021: 3 0 0 1 \$5,600 Life: 13 1 1 2 \$54,320	Turf: 0 0 0 0 \$0 Off (Dirt): 3 0 0 1 \$11,830 Distance: 5 0 0 0 \$5,300 Track: 13 1 1 2 \$54,320							
5-1	Black Gr.f.m.5 Imagining - Lucky Chick by Two Punch, PA Light Blue, Bing Cherry Emblem, Red Ball on Sleeves, Light Blue Cap				EDUVIEL IGNACIO (184-11-16-17) 116								
19Apr22	Prx3	my	5:48	2252	4692	1:0621	31	21	22	Makeajoyfulnoise124	124	bl	21.60
22Feb22	Prx4	ft	6:40	2246	4640	1:1374	41	21	22	Dial a Lady121	121	bl	5.30
01Feb22	Prx5	ft	6:30	2303	4704	1:2077	41	21	22	Chelsea Wall121	121	bl	24.30
22Mar21	Prx3	ft	6:40	2302	4652	1:1202	41	21	22	Borderline Genius121	121	bl	12.10
18Feb21	Prx3	my	7:24	2226	4595	1:2666	41	21	22	This Round's Mine121	121	bl	2.80
13Jan21	Prx1	ft	6:40	2318	4801	1:1570	41	21	22	Lula's Roadrunner121	121	bl	2.90
Workouts(s):	8 Jun 22 Prx 4F ft :51.3b 25/28	31 Mar 22 Prx 4F ft :51.2b 19/21											
7	Vanishing Faith (L)	35	\$12,500	Own: Alexander J. Martinez Trn: Owner (20-2-2-1)	2022: 4 0 0 0 \$920 2021: 5 1 1 0 \$22,240 Life: 9 1 1 0 \$23,160	Turf: 1 0 0 0 \$190 Off (Dirt): 0 0 0 0 \$0 Distance: 2 1 0 0 \$14,350 Track: 0 0 0 0 \$0							
10-1	Orange Ch.f.3 Poseidon's Warrior - Vanishing Lady by Northern Affair, FL Black, Yellow Diamonds, Yellow Stripes on Sleeves, Black Cap				DEXTER HADDOCK (330-35-53-51) 118								
22May22	GP7	fm	1:16	4854	1:1246	1:3737	31	21	22	Hardly Social126	126	bl	52.70
16Apr22	GP2	ft	5:30	2222	4557	1:0585	31	21	22	Karatsars126	126	bl	9.40
13Mar22	GP10	ft	5:30	2278	4609	1:0526	31	21	22	Pronta121	121	bl	63.60
15Jan22	GP2	ft	5:25	2234	4581	1:0550	31	21	22	Del Rey121	121	bl	63.20
24Dec21	GP2	ft	1m5	4637	1:1162	1:3904	2	21	22	Science Friction118	118	bl	7.10
03Dec21	GP9	ft	6:30	2223	4595	1:1912	2	21	22	Anne's Dream121	121	bl	53.20
29Oct21	GP7	ft	5:30	2255	4636	1:0564	2	21	22	David's Rose118	118	bl	3.20
Workouts(s):	12 May 22 GP 4F ft :49.3b 23/33	9 Apr 22 GP 4F ft :49.2b 54/127	2 Apr 22 GP 4F ft :51.0b 69/84										

SELECTIONS: 4-3-2-6

PRX-06/15/2022-1

**Massachusetts Gaming Commission
Harness Horse Capital Improvement Trust Fund
Harness Horse Promotional Trust Fund**

1. Date: 7/6/2022
2. Association: Plainville Gaming & Redevelopment, LLC d/b/a/ Plainridge Park Casino
3. Project #: Plainridge HHPTF 2022-1
4. Project Description: Summer Handicapping Series
5. Type of Request: RFC - HHPTF
 - Request for Consideration / RFC
 - Request for Reimbursement / RFR
 - Harness Horse Capitol Improvement Fund / HHCIF
 - Harness Horse Promotional Trust Fund / HHPTF
6. Total Project Amount: \$26,000
 - Estimate / RFC - \$26,000
 - Actual / RFR –
7. RFC – Provide a detailed description of the promotional or capital improvement project including the project objectives, how it will enhance the operations of the association and / or improve attendance and handles at your racetrack:
In an effort to engage the racing patrons at Plainridge, a series of Handicapping Contests will be offered. Seven (7) consecutive weekly handicapping contests will be held on Saturdays from July 23rd through September 3rd, 2022, with \$2,000 total prizes awarded to the top 5 participants. A \$10,000 Series Final for ten (10) qualifying participants from the weekly contests and a \$2,000 consolation contest to be held on Labor Day, Monday, September 5, 2022.

Contest information is attached.

Currently negotiating with a social media firm to promote the Summer Handicapping Series. An additional request may be submitted for the cost of the services if or when a plan is formulated.

RFR – Requests for reimbursement must contain a listing of all project expenditures by date, paid to and check number. A copy of the invoice and cancelled check must support each expenditure.
8. For Capital Improvement Projects only, RFC's and RFR's must be submitted to the Commission's architect engineer consultant for review. The consultant makes recommendations to the Trustees relative to the cost and nature of the capital improvement project.
9. By Track Official: Steve O'Toole Title: Director of Racing Date: 7/6/2022
Steve O'Toole
10. Trustee Approval and Date:

Official Custodians Policy: Individuals Responsible for Personal Data Systems

1. Pursuant to M.G.L. c. 66, § 6, and M.G.L. c. 23K § 3(f) and (i), subject to the oversight of the chair, the secretary shall be the official custodian of all books, documents and papers filed by the commission and of its minute book; the chief financial and accounting officer shall be the official custodian of its books of account and accounting records; the deputy director shall be the official custodian of all records of the bureau; and the executive director shall be the official custodian of all other records of the commission. In the case of an absence or vacancy in the office of an official custodian or in the case of disability as determined by the commission, the chair may designate an acting custodian to serve until the vacancy is filled or the absence or disability ceases. Each official custodian may, with the permission of the chair, delegate to another commissioner, employee or employees of the commission or the bureau responsibility for the custody of some or all public records under his or her jurisdiction.

2. Pursuant to M.G.L. c. 66A, § 2, subject to the oversight of the chair, the executive director shall be the individual immediately responsible for any personal data system maintained by the commission; the deputy director shall be the individual immediately responsible for any personal data system maintained by the bureau; and each shall conform to the requirements of M.G.L. c. 66A and 801 CMR 3.00: *Privacy and Confidentiality* for preventing unauthorized access to or dissemination of personal data under his or her jurisdiction. In the case of an absence or vacancy in the office of an individual immediately responsible for any personal data system, or in the case of disability as determined by the commission, the chair may designate an acting person to serve as the individual immediately responsible for any personal data system until the vacancy is filled or the absence or disability ceases. The executive director or the deputy director may, with the permission of the chair, delegate to another commissioner or employee of the commission or the bureau immediate responsibility for any personal data system under his or her jurisdiction.

Policy Governing Information Provided in Response to Request for Applications – Phase 1 & Phase 2

1. In accordance with M.G.L. c. 23K, § 9(b), an application for a license in response to the commission's Request for Applications-Phase 1, 205 CMR 110.00: *Issuance of Request for Category 1 and Category 2 License Applications*, and an RFA-2 application submitted in accordance with 205 CMR 118.00: *Phase 2- Applying for a License* shall be a public record except those portions of the application containing information otherwise exempt from disclosure pursuant to 205 CMR 103.02(1) through (5).
2. As guidance to applicants and the public, the commission shall issue a set of specimen annotated application forms and distribute such forms together with, or incorporated as part thereof, the Request for Applications - Phase 1 pursuant to 205 CMR 111.00: *Phase 1 Application Requirements* and with or part of the Request for Applications- Phase 2 pursuant to 205 CMR 118.00: *Phase 2 - Applying For a License*. These specimen annotated application forms shall designate as “Exempt/Redact” or otherwise identify all information or categories of information which, at a minimum, the commission considers to be exempt from disclosure in accordance with 205 CMR 103.02(1) through (5).
3. To assist the commission in protecting from inadvertent disclosure information subject to 205 CMR 103.02(1) through (5), applicants shall follow the procedures in 205 CMR 103.10(1) in completing and submitting the required forms pursuant to 205 CMR 111.00: *Phase 1 Application Requirements* and 205 CMR 118.00: *Phase 2-Applying For a License*.
4. All information submitted by an applicant in the RFA Phase 1 or Phase 2 application, other than that described as “Exempt/Redact” or otherwise so identified in 205 CMR 103.09(2), shall be presumed to be available for public disclosure on request unless a confidentiality claimant demonstrates or the commission otherwise finds that a separable portion of the information is exempt from disclosure pursuant to 205 CMR 103.02(1) through (5). Confidentiality claimants shall make such a demonstration in accordance with the provisions of 205 CMR 103.10 through 103.12.

Security Protocols and Restricted Access Policy

1. The executive director, subject to the direction of the commission, shall establish and maintain secure storage areas, methodologies and procedures to protect tangible and electronic information exempt from disclosure as described in 205 CMR 103.02(1) through (5) contained in the records of the commission or the bureau. Records containing such information shall be kept, managed, accessed and used in accordance with the security protocols.
2. Records for which confidentiality claims have been made and related supporting materials, and information for which such claims have been finally adjudicated in favor of the confidentiality claimant, shall be kept, managed, accessed and used in accordance with the security protocols. Materials and information for which such claims have been finally adjudicated against the confidentiality claimant may be permanently removed from the protection of the security protocols.
3. The executive director the deputy director and the official custodians shall be responsible for implementing the security protocols for records under their respective custody.
4. Personnel and authorized agents of the commission or the bureau who require information contained within the secure tangible and electronic storage areas for the effective performance of their duties may, upon request to its official custodian, examine documents containing such information in accordance with the security protocols.
5. The commission and the bureau shall keep the number of tangible and electronic copies of information exempt from disclosure as described in 205 CMR 103.02(1) through (5) to a minimum and shall ensure that all copies of such information are maintained in a manner consistent with the requirements of the security protocols. No copies of such documents or information may be made or transmitted except in accordance with the security protocols; where necessary to the authorized duties and operations of the commission, the bureau, or their employees and authorized agents; or where release of the confidential information is authorized pursuant to 205 CMR 103.00. Any notes concerning such information made by commission or bureau employees or agents shall be treated as confidential pursuant to 205 CMR 103.00.
6. Commission or bureau employees or authorized agents who violate the procedures required by 205 CMR 103.00 or the security protocols established pursuant thereto shall be subject to disciplinary action.

Agency Contacts for This Specific Regulation		
Name	Email	Phone
Judith Young	judith.young@massgaming.gov	617- 979 - 8426
Overview		
CMR Number	205 CMR 138.00	
Regulation Title	<i>Uniform Standards of Accounting Procedures and Internal Controls.</i>	
<input checked="" type="checkbox"/> Draft Regulation		<input type="checkbox"/> Final Regulation
Type of Proposed Action		
<input checked="" type="checkbox"/> Please check all that apply		
<input type="checkbox"/> Retain the regulation in the current form.		
<input type="checkbox"/> New regulation (Please provide statutory cite requiring regulation):		
<input type="checkbox"/> Emergency regulation (Please indicate the date regulation must be adopted):		
<input checked="" type="checkbox"/> Amended regulation (Please indicate the date regulation was last revised): 05/13/2022		
<input checked="" type="checkbox"/> Technical correction		
<input type="checkbox"/> Other Explain:		

Summary of Proposed Action
The proposed amendments to 205 CMR 138.00, specifically, 205 CMR 138.02, <i>Licensee's System of Internal Controls</i> ; 205 CMR 138.05, <i>Systems for Ensuring Employee Licensing</i> ; 205 CMR 138.07, <i>Floor Plans</i> ; and 205 CMR 138.62, <i>Payment of Table Game Progressive Payout Wagers</i> ; have been submitted with amendments intended to clarify the protocols and procedures utilized by the licensees and reviewed by the Commission.
Nature of and Reason for the Proposed Action
These amendments seek to: establish a timed requirement for licensee's implementation of a protocol of system of control when deemed necessary by the Executive Director, (138.02); restores regulation language that was initially missing from the regulation, (138.05); ensures that the Investigations and Enforcement Bureau is provided with up-to-date floor plans on a quarterly basis (138.07); and that the Commission is notified of the protocols governing the

equal division of progressive jackpots by licensee, pursuant to the regulations and governing statute, (136.62).

Additional Comments or Issues Not Earlier Addressed by this Review

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Required Attachments

✓ Please check all that apply

<input checked="" type="checkbox"/> Redlined version of the proposed amendment to the regulation, including repeals	<input type="checkbox"/> Clean copy of the regulation if it is a new chapter or if there is a recommendation to retain as-is
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☐ Text of statute or other legal bases for regulation

<input checked="" type="checkbox"/> Small Business Impact Statement (SBIS)	<input type="checkbox"/> Amended SBIS
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205 CMR: MASSACHUSETTS GAMING COMMISSION

138.02: Licensee's System of Internal Controls

(1) At least 60 days prior to commencing operations a gaming licensee shall submit to the commission its proposed minimum system of internal procedures and administrative and accounting controls (internal controls) in accordance with 205 CMR 138.02(4). An Operations Certificate shall not be issued to a gaming licensee for the commencement of gaming operations in accordance with 205 CMR until the submission is approved in accordance with 205 CMR 138.02(2). The commission or its designee may perform any inspection necessary in order to determine conformance with the approved internal controls.

(2) The commission shall refer the proposal submitted in accordance with 205 CMR 138.02(1) to the Executive Director who shall review the submission for compliance with M.G.L. c.23K, 205 CMR 138.00 and other applicable sections of 205 CMR. Upon completion of review the Executive Director shall either approve the submission or advise the gaming licensee in writing of any deficiency, and may include any other recommendations and/or required changes intended to ensure that a robust system of internal controls is implemented. The gaming licensee may either accept a recommendation or required change in writing or advise the Executive Director in writing as to the reason for its disagreement. The gaming licensee may dispute any determination or recommendation made by the Executive Director to the commission which shall resolve the issue.

The commission or the Executive Director may revisit any provision of the internal controls at any time and direct adjustment if necessary, and provide for a reasonable implementation period, to ensure that a robust system of internal controls is in effect. Upon approval by the Executive Director the gaming licensee shall be issued a writing evidencing the approval of its internal controls including any associated conditions.

(3) At least 15 business days prior to changing any provision of the approved internal controls a gaming licensee shall submit the proposed change, including an explanation therefor, and new certifications from its chief legal and financial officers consistent with 205 CMR 138.02(4)(i) and (j), to the commission. The commission shall refer the proposed change to the Executive Director who shall review the proposal to determine whether it complies with 205 CMR 138.00. Changes to the system of internal controls will generally be permitted if the proposed change does not lessen the applicable administrative, accounting, or physical control. Upon completion of review the Executive Director shall either approve the proposed change or advise the gaming licensee in writing as to why the proposal does not comply with 205 CMR 138.00. The gaming licensee may appeal the Executive Director's determination to the commission which shall resolve the issue. Approved changes shall be maintained as part of the approved internal controls.

Modifications to internal controls may not be implemented until approved by the Executive Director or the commission. Provided, however, if the Executive Director does not object or otherwise respond to the submission in writing within 15 business days of receipt of the

submission, the gaming licensee may make the proposed change subject to further direction by the Executive Director in accordance with 205 CMR 138.02(3).

(4) The internal controls shall include the following:

- (a) Administrative controls which include, as their primary objective, policies and procedures designed to assure that all activities and transactions of the gaming licensee are instituted and completed in accordance with the applicable policy and/or procedure.
- (b) Accounting controls, as detailed in 205 CMR, which include, as their primary objective, procedures to assure that all activities and transactions of the gaming licensee are accurately reported and recorded in accordance with generally accepted accounting principles.
- (c) Reporting controls which shall include policies and procedures for the timely reporting of economic and social impact reports, and standard financial and statistical reports and information in accordance with 205 CMR.
- (d) Surveillance controls as detailed in 205 CMR 141.00: Surveillance of the Gaming Establishment.
- (e) Physical controls which include, as their primary objective, the safeguarding of company assets to include safeguards in the form of organizational safeguards, such as segregation of duties between incompatible functions, and physical safeguards such as restricted access to assets and routine security devices such as cameras and locking doors.
- (f) A network security plan as described in 205 CMR 143.12: Network Security.
- (g) A plan to ensure compliance with 205 CMR 140.00: Gross Gaming Revenue and Tax Remittance and Reporting.
- (h) All applicable policies and procedures required pursuant to 205 CMR 138.04 through 138.70.
- (i) A certification by the gaming licensee's chief legal officer that the submitted procedures conform to M.G.L. c. 23K, 205 CMR 138.00, and any applicable regulations referenced therein; and
- (j) A certification by the gaming licensee's chief financial officer that the submitted procedures provide adequate and effective controls, establish a consistent overall system of internal procedures and administrative and accounting controls, and conform to generally accepted accounting principles and 205 CMR.

(5) Nothing in 205 CMR 138.00 shall be interpreted so as to limit a gaming licensee's use of technology, provided that, if the gaming licensee intends to utilize any new technology not identified in its initial proposal, it shall submit the changes to its system of internal controls to incorporate the use of any such new technology to the commission which shall refer the proposed change to the Executive Director who shall review the proposal in accordance with 205 CMR 138.02(3).

- (6) (a) If a gaming licensee desires to incorporate a provision in its internal controls that is not in conformance with 205 CMR 138.00, or to exclude a provision required by 205 CMR 138.00, it may petition to do so by including its proposal in its internal controls filing, or

petition to change a provision of the internal controls in accordance with 138.02(3), along with a citation to the applicable provision of 205 CMR 138.00 and a written explanation as to why the variance is being requested. The Executive Director may allow the variance upon a finding that the proposal is at least equivalent to the relevant provision contained in 205 CMR 138.00 and/or that the proposal is likely to achieve the same outcome as if the provision contained in 205 CMR 138.00 were incorporated. Such variance shall be identified in the written approval issued in accordance with 205 CMR 138.02(2) and a report filed with the commission that identifies the provision of 205 CMR 138.00 that a variance was granted from and provides the general reason the variance was granted. Provided, however, that a gaming licensee may not seek a variance from any of the provisions of 205 CMR 138.40 through 138.47.

(b) In the event that a gaming licensee will be temporarily unable to abide by a provision of its system of internal controls, the Director of the IEB, or his or her designee, may upon request by the gaming licensee grant a limited temporary variance from a provision of the gaming licensee's system of internal controls, provided that such variance shall be for a set period of time not to exceed 48 hours, that the provision at issue shall relate to the gaming operation of the gaming establishment, and that it be based on good cause shown such that the health, safety or welfare of the public or the integrity of gaming will not be adversely impacted. Provided, that a gaming licensee may not seek a limited temporary variance from any of the provisions of 205 CMR 138.40 through 138.47. Where the circumstances warrant, such a variance may be renewed by the Director of the IEB, or his or her designee, for one additional 48 hour period. All such requests and determinations shall be documented and submitted to the Executive Director for review as promptly as possible.

(7) Upon approval in accordance with 205 CMR 138.02(2) and (3), the gaming licensee shall implement and abide by its system of internal controls **within a period spanning no more than 30 days**. The commission and the IEB may take any steps necessary to determine whether the internal controls are being followed and to enforce compliance. The gaming licensee shall periodically compare its approved system of internal controls, as written, to the system actually in place and operating for the purpose of identifying areas of non-compliance, if any, so as to take immediate corrective action. The periodic comparison shall be performed by either independent auditors or internal auditors.

(8) The gaming licensee shall maintain in its records and at all times a complete set of its system of internal controls in effect at that time.

(9) When possible, all filings and records required to be submitted to the commission in accordance with 205 CMR 138.00 shall be done electronically unless otherwise directed by the commission.

205 CMR: MASSACHUSETTS GAMING COMMISSION

138.05: System for Ensuring Employees Are Properly Licensed or Registered

(1) A system of internal controls submitted by a gaming licensee in accordance with 205 CMR 138.02 shall include a plan for ensuring that all individuals employed in the gaming establishment are properly licensed or registered in accordance with 205 CMR 134.01: Key Gaming Employee Licensees, 134.02: Gaming Employee Licensees, and 134.03: Gaming Service Employees. The system of internal controls shall include without limitation the following:

- (a) Procedures for assuring that only properly licensed and/or registered individuals are employed in each position for which a license or registration is required;
- (b) Procedures to prepare and submit petitions for temporary licenses to individuals for employment in the gaming establishment pursuant to 205 CMR 134.12: Temporary Licenses;
- (c) Procedures to assure the timely renewal of licenses and registrations of individuals employed in the gaming establishment;
- (d) Procedures for terminating or suspending the employment of individuals licensed or registered pursuant to 205CMR 134.01: Key Gaming Employee Licensees, 134.02: Gaming Employee Licensees, and 134.03: Gaming Service Employees within 24 hours of notification from the commission that the license, registration, or application of such individual has been revoked, suspended, or denied; and
- (e) Procedures for compliance with the employee reporting information required to be submitted to the commission on a bi-monthly basis in accordance with 205 CMR 138.05(2).

(2) The system of internal controls submitted by a gaming licensee in accordance with 205 CMR 138.02 shall include a plan for reporting the following to the commission on a bi-monthly basis and in a format as directed by the commission. For each individual licensed or registered in accordance with 205 CMR 134.00: *Licensing and Registration of Employees, Vendors, Junket Enterprises and Representatives, and Labor Organizations*:

- (a) License or registration number;
- (b) Last name, first name, middle initial;
- (c) Date of birth;
- (d) Position or job title, represented by a job code that corresponds with a position or job title in the gaming licensee's job compendium;
- (e) Initial hire date;
- (f) Effective date of any change in individual's position or job title;
- (g) Access code, if any, assigned to the individual, designating the restricted areas that the individual is permitted to enter;
- (h) For each individual who has been suspended or terminated since the most recent prior report was submitted to the commission:
 - 1. The information in 205 CMR 138.05(2)(a) through (g); and
 - 2. The effective date of suspension or termination.
- (i) A record of any and all designations to describe categories of employees, including without limitation, "full time," "part time" or "seasonal;" the number of individuals in each category; and the total number of individuals in all categories.
- (j) The date on which the **information submitted in the report was compiled.**

205 CMR: MASSACHUSETTS GAMING COMMISSION

205 CMR: MASSACHUSETTS GAMING COMMISSION

138.07: Floor Plans

(1) A system of internal controls submitted by a gaming licensee in accordance with 205 CMR 138.02 shall include provisions for the production and updating of a floor plan for the gaming establishment. Further, provisions shall be included to ensure that no gaming operations occur without an approved floor plan, and that the configuration of the gaming area remains compliant with the approved plan at all times unless amended in accordance with the process outlined by 205 CMR 138.07(2) or (3). The initial floor plan for a gaming establishment resulting from the process described in 205 CMR 138.07 shall be reviewed as part of the 205 CMR 138.02 approval process.

The gaming area depicted in a floor plan shall be arranged in such a manner as to provide optimum security for the gaming operations. A floor plan shall accurately depict the entire layout, including equipment positioning, in the gaming area and support areas; shall be drawn to at least c scale (c = one foot); and shall depict, at a minimum, the location of the following:

- (a) The gaming area, and any simulcasting facility including, at a minimum, the proposed total square footage thereof and a clear delineation of the respective perimeter of each;
- (b) Each gaming pit, its pit location number, and any alternate configurations;
- (c) Each table game, noting its table number;
- (d) Each CCTV camera, noting its type and camera number;
- (e) Each slot booth, noting its booth number;
- (f) Each cashier's cage and its component offices and areas;
- (g) Each window at the cashiers' cage, noting its window number;
- (h) Each count room;
- (i) Each slot zone, its slot zone location letter or number and the total number of authorized slot machine locations within that slot zone, and at the gaming licensee's option, a maximum of four alternate configurations or locations for that slot zone and the alternate slot zone location number for each (for example, Slot Zone 2A);
- (j) Each authorized slot machine or other electronic gaming device location, which location shall contain no more than one slot machine at a time, noting its slot machine location number and any slot zone location letter or number;
- (k) Each automated coupon redemption machine or kiosk, noting its location number;
- (l) Each automated jackpot payout machine, noting its location number;
- (m) Each gaming voucher redemption machine, noting its location number;
- (n) Each satellite cage and its component offices and areas;
- (o) Each area approved for the storage of gaming chips or plaques;
- (p) Each room or area approved for the storage of dice or playing cards;
- (q) Each other room or area that is accessible directly from the gaming area;
- (r) For those establishments with a simulcasting facility:
 - 1. Each simulcast counter and any ancillary simulcast counter, along with their component offices, areas and equipment;
 - 2. Each credit voucher machine, noting its location number;
 - 3. Each self-service pari-mutuel machine, noting its location number; and

4. Each other area or room designated by the commission.

(2) Temporary Amendments to Floor Plan.

(a) In order to temporarily amend the floor plan approved in accordance with 205 CMR138.07(1) and reconfigure one or more approved table game pit areas or slot machine zones (areas) in the gaming area, a gaming licensee must first seek the Bureau's approval by filing a written request with the Bureau at least 24 hours prior to implementing such reconfiguration. The request shall be accompanied by a certification from the licensee's surveillance department that adequate surveillance coverage will be in place for the temporary reconfiguration. If the gaming licensee does not receive a response from the Bureau within 24 hours of submitting the request, the gaming licensee may proceed with the reconfiguration. (Movement of a slot machine must also be done in accordance with 205 CMR 144.00: *Approval of Slot Machines and Other Electronic Gaming Devices and Testing Laboratories*). The Bureau may deny any request that will result in a violation of any law, regulation, or approved internal control, or may jeopardize the safety and/or security of a patron or the integrity of the gaming operation.

(b) A reconfigured gaming area, table game pit, or slot machine zone (area) shall not:

1. Exceed the dimensions approved in the existing approved floor plan for the area unless the request for temporary amendment includes any required approval of the municipal building official. Such approval may be required in instances including, but not limited to, the egress from the gaming floor or area is altered, structural modification is proposed, or the use or occupancy classification for the area is modified;
2. Result in improper surveillance coverage under the approved surveillance plan.

(c) Each table game pit shall have an alarm system, approved by the Bureau, which enables an employee of the gaming establishment to transmit a signal that is audibly and visually reproduced in each of the following locations whenever there is an emergency in the pit:

1. The surveillance monitoring rooms;
2. The casino security department; and
3. The on-site Bureau office.

(d) A temporary reconfiguration may only remain in place for 30 days from approval. Upon request, the Bureau may approve one 30-day extension of the temporary approval. In order for an amendment to the configuration to remain in place for a longer period of time, the amendment process described in 205 CMR 138.07(3) shall be followed.

(e) All reconfigurations made pursuant to a temporary amendment to an approved floor plan shall be subject to inspection by the Bureau to ensure compliance with all applicable laws and regulations and the gaming licensee's approved system of internal controls.

(f) The Bureau may approve a request for a temporary amendment to an approved floor plan on less than 24 hours notice in its discretion provided that all pertinent information is provided to its satisfaction.

(3) Amendments to Approved Floor Plan.

(a) A floor plan approved in accordance with 205 CMR138.07(1) may be amended upon request by a gaming licensee and approval by the Bureau. Such request shall be filed with the Bureau in writing at least 72 hours prior to the time for which implementation of the amendment(s) is sought. Such request shall include, at a minimum, the following information as applicable:

1. A depiction of any new configuration to the gaming area, a table game pit, or a slot machine zone (area) in comparison with the existing configuration;
2. A depiction of any new outer perimeter of the gaming area, table game pit area, or slot machine zone (area) in comparison with the existing perimeter;
3. A statement of the resulting square footage of the area to be amended in comparison with the existing square footage for the area;
4. A narrative from a design professional certifying the changes to the floor plan, and/or any necessary approval from the municipal building official;
5. Identification of any necessary amendments to the gaming licensee's surveillance plan to ensure adequate coverage of the configuration.

(b) Within 72 hours of receipt of a request to amend a floor plan filed by a gaming licensee, the Bureau, shall review the proposed change set forth in the application to ensure that it will not result in a violation of any law, regulation, or approved internal control, or may jeopardize the safety and/or security of a patron or the integrity of the gaming operation. After review, the Bureau may preliminarily approve the request, deny the request, request further information from the gaming licensee, or request that the licensee's request be modified. The gaming licensee shall not implement any changes until receiving preliminary approval from the Bureau.

(c) The gaming licensee shall notify the Bureau in writing upon implementing a preliminarily approved amendment to the floor plan. The Bureau shall inspect the physical changes to ensure that they conform to the approved amendment. Following such inspection the Bureau may issue a final approval for the amendment, request that changes be made to conform to the preliminary approval, or request that changes be made to ensure compliance with applicable laws, regulations, or approved internal controls, or to ensure the safety and/or security of a patron or the integrity of the gaming operation.

(4) An approved copy of the floor plans, and amendments thereto, shall be filed with the Bureau in the gaming establishment **every three months, or upon the request of the Bureau**. A copy shall be kept on file with the gaming licensee's security office, and with the gaming licensee's monitoring rooms.

(5) Prior to commencing gaming operations with the amended configuration, an updated Table Games Master List shall be filed to ensure compliance with 205 CMR 138.66(3)(a).

205 CMR: MASSACHUSETTS GAMING COMMISSION

138.62: Payment of Table Game Progressive Payout Wagers; Supplemental Wagers Not Paid from the Table Inventory

If a gaming licensee offers, at its table games, one or more progressive jackpots that increase in value as the game is played based upon a set rate of progression, and the jackpot is awarded to a patron when a specific result or outcome is achieved, the system of internal controls submitted by a gaming licensee in accordance with 205 CMR 138.02 shall also include policies and protocols governing equal division of payouts and reset amounts in instances when a progressive jackpot that increases in value as the game is played is won by two or more patrons during the same round of play as provided by 205 CMR 143.02: *Progressive Gaming Devices*.

205 CMR: MASSACHUSETTS GAMING COMMISSION

SMALL BUSINESS IMPACT STATEMENT

The Massachusetts Gaming Commission (“Commission”) hereby files this small business impact statement in accordance with G.L. c. 30A, §2 relative to the proposed amendments to 205 CMR 138.00: *Uniform Standards of Accounting Procedures and Internal Controls*. Specifically, the following sections: **205 CMR 138.02, *Licensee's System of Internal Controls*; 205 CMR 138.05, *Systems for Ensuring Employee Licensing*; 205 CMR 138.07, *Floor Plans*; and 205 CMR 138.62, *Payment of Table Game Progressive Payout Wagers***; notice of which was filed with the Secretary of the Commonwealth. This regulation was developed as part of the process of promulgating regulations governing the operation of gaming establishments in the Commonwealth.

This regulation and the proposed new sections therein, govern the financial and administrative procedures of the gaming establishments. This regulation is largely governed by G.L. c. 23K, §§ 4(28), 5, 25(d), 27 and 28.

205 CMR 138.00 applies to the licensees and gaming establishments within the Commonwealth. Accordingly, this regulation is unlikely to have an impact on small businesses. The Commission offers the following responses to the statutory questions in accordance with G.L. c. 30A, §2:

1. Estimate of the number of small businesses subject to the proposed regulation:

As a general matter, no small businesses are subject to this regulation as it pertains to licensees and their respective gaming establishments.

2. State the projected reporting, recordkeeping and other administrative costs required for compliance with the proposed regulation:

The Commission does not project any reporting, recordkeeping or other administrative costs required for small businesses to comply with this regulation or the proposed new section therein.

3. State the appropriateness of performance standards versus design standards:

Both performance and design standards are required in this regulation to approve submissions by the licensee, pursuant to 205 CMR 138.00, and are sufficient to ensure the accuracy of the financial and administrative operations of the casinos.

4. Identify regulations of the promulgating agency, or of another agency or department of the Commonwealth, which may duplicate or conflict with the proposed regulation:

The Commission is unaware of any conflicting or duplicative regulations of any other agency or department within the Commonwealth.

5. State whether the proposed regulation is likely to deter or encourage the formation of new businesses in the commonwealth:

G.L. c. 23K was enacted to create a new industry in the Commonwealth and to promote and grow local small businesses and the tourism industry, including the development of new small businesses. The proposed regulation is intended to effectuate those intentions and growth.

Massachusetts Gaming Commission
By:

Judith A. Young
Associate General Counsel

Dated: June 22, 2022

TO: Chair Judd-Stein, Commissioners Hill, O'Brien, and Skinner

FROM: Mark Vander Linden, Director of Research and Responsible Gaming;
Long Banh, Responsible Gaming Program Manager

DATE: July 12, 2022

RE: MCGH FY 2022 Fourth Quarter Report

The Expanded Gaming Act includes a number of key mandates to ensure the successful implementation of expanded gaming, including the prevention of and mitigation of social impacts and costs. Chapter 23k section 21(16) requires casino operators to provide an on-site space for an independent substance abuse, compulsive gambling and mental health counseling service and establish a program to train gaming employees in the identification of and intervention with customers exhibiting problem gaming behavior.

To fulfill this mandate, the Commission adopted GameSense, an innovative responsible gaming program that equips casino patrons who chose to gamble with information and tools to adopt positive play behaviors and offers resources to individuals in distress from gambling-related harm. The Commission has a contract with the Massachusetts Council on Gaming and Health (MCGH) to operate the GameSense Information Centers, located on-site at all Massachusetts casinos and staffed 16-24 hours daily by trained GameSense Advisors.

Today, MCGH staff, Marlene Warner, Executive Director; Chelsea Turner, Director of Responsible Gambling; Phil Sherwood, Director of Communications and Marketing; and Amy Gabrila, Senior GameSense Advisor will share with you GameSense activities and highlights from the fourth quarter of FY22.

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Long Banh, Responsible Gaming Program Manager

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END-OF-YEAR GAMESENSE PRESENTATION FOR MGC

The Massachusetts Council on Gaming and Health (MACGH) - July 12, 2022

Presenters: Marlene Warner, Chelsea Turner, Amy Gabrila & Phil Sherwood



The Massachusetts Council
ON GAMING AND HEALTH

GameSense™



- **Numbers Snapshot**
- **PlayMyWay (PMW) Update**
- **GameSense in Action**
- **Excellence Awards**
- **Communications Spotlight**
- **National Conference on Problem Gambling (NCPG) National Conference**



**Topics for
Today**



GameSense™

ENCORE BOSTON HARBOR

<u>Type of Interaction:</u>	<u>FY</u>	<u>April</u>	<u>May</u>	<u>June</u>	<u>FY</u>	<u>Year End Totals</u>
Simple Interaction:	FY21	6501	7682	6445	FY21	81015
	FY22	8105	7433	5948	FY22	92656
Demonstration:	FY21	486	504	442	FY21	11322
	FY22	1117	715	558	FY22	17485
Exchange:	FY21	393	340	276	FY21	4480
	FY22	325	357	299	FY22	3844
Casino Related:	FY21	2363	2674	2605	FY21	30395
	FY22	4458	4061	3129	FY22	46096
VSEs:	FY21	15	20	16	FY21	171
	FY22	22	25	24	FY22	254
	VSE Overnight:	3	2	4	VSE Overnight:	36
	Remote:	7	6	8	Remote:	74
	Initiated by LiveChat:	4	4	1	Initiated by LiveChat:	20
Reinstatements:	FY21	2	3	3	FY21	40
	FY22	6	0	11	FY22	66
	Reinstatement Overnight:	0	0	3	Reinstatement Overnight:	10

MGM SPRINGFIELD

<u>Type of Interaction:</u>	<u>FY</u>	<u>April</u>	<u>May</u>	<u>June</u>	<u>FY</u>	<u>Year End Totals</u>
Simple Interaction:	FY21	3330	4007	4485	FY21	37951
	FY22	4406	4069	6067	FY22	54155
Demonstration:	FY21	657	924	1061	FY21	7791
	FY22	1490	1264	1419	FY22	17428
Exchange:	FY21	259	281	296	FY21	3692
	FY22	1863	1285	950	FY22	8750
Casino Related:	FY21	914	1236	1358	FY21	14642
	FY22	1191	1268	1956	FY22	17184
VSEs:	FY21	10	8	7	FY21	84
	FY22	11	7	9	FY22	101
	Remote:	3	1	4	Remote:	13
	Intitiated by Live Chat:	1	1	2	Intitiated by Live Chat:	6
Reinstatements:	FY21	4	0	2	FY21	38
	FY22	5	3	5	FY22	46
Play My Way:	FY22	941	505	375	FY22	1821

PLAINRIDGE PARK CASINO

<u>Type of Interaction:</u>	<u>FY</u>	<u>April</u>	<u>May</u>	<u>June</u>	<u>FY</u>	<u>Year End Totals</u>
Simple Interaction:	FY21	2347	2551	3344	FY21	32766
	FY22	3083	3470	2944	FY22	43512
Demonstration:	FY21	231	238	205	FY21	2868
	FY22	621	462	504	FY22	6609
Exchange:	FY21	236	310	333	FY21	2904
	FY22	255	257	306	FY22	3562
Casino Related:	FY21	419	420	472	FY21	5669
	FY22	522	431	463	FY22	6148
VSEs:	FY21	4	6	5	FY21	56
	FY22	9	10	8	FY22	81
	Remote	0	2	5	Remote:	9
	Initiated by LiveChat	0	3	5	Intitiated by Live Chat:	9
Reinstatements:	FY21	6	0	1	FY21	40
	FY22	3	5	2	FY22	46
Play My Way:	FY21	120	263	325	FY21	2509
	FY 22	36	39	37	FY22	915

PlayMyWay (PMW) Update



- **MGM Springfield**
- **Plainridge Park Casino**
- **Encore Boston Harbor**
(Coming soon!)

GAMESENSE IN ACTION



- **MGM/Wordle**
- **Pride Parade**
- **GSIC Moving**
- **PPC/At the Racetrack**
- **AR at the GSIC**
- **EBH/Derby Day Activity**
- **GameSense Trainings at Suffolk Downs & Raynham Park**

GAMESENSE EXCELLENCE AWARDS

EBH:

- Rose Poulima, Table Games
- Ana Lei, Planning
- Alvin Gonzalez, Security

MGM:

- Brad Larsen, Table Games
- Cesar Torres, Table Games
- Sandra Torres, Slot Operations

PPC:

- Jeffrey Levitt, Security EMT
- Fonda Honeycutt, Food & Beverage
- Robert Burdett, Security

GameSense

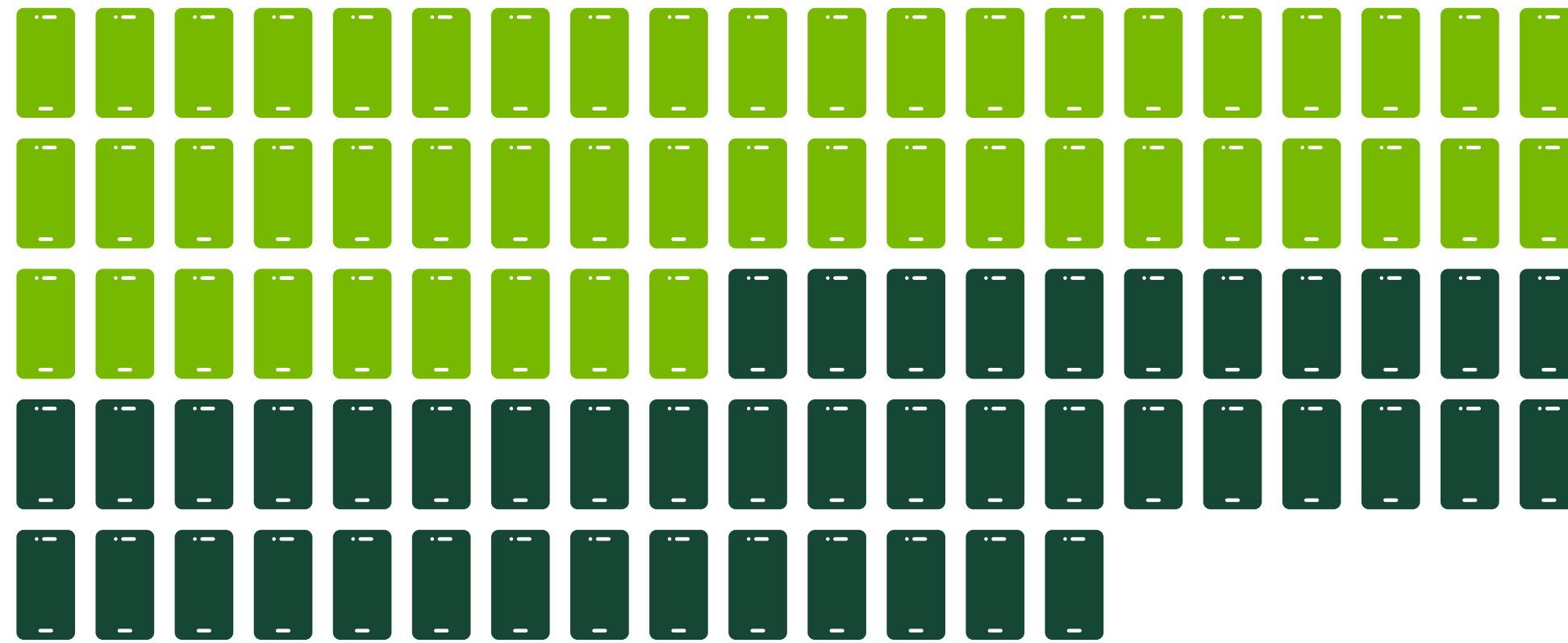
Special thanks
to Commissioner
Judd-Stein for
always adding
the personalized
touch!



Paying it Forward: Jane's Story



LiveChat



4th quarter: 94 LiveChats =
49 (VSE), 6 (PG), 39 (General Info)

Click here and
start chatting
with us!

Chat now



Previous FY: 329 LiveChats =
148 (VSE), 51 (PG), 230 (General Info)



FY22: Where We've Been

- Interaction numbers up across all three properties
- Responsible Gaming Education Week (RGEW)
- Gift Responsible Campaign
- Problem Gambling Awareness Month (PGAM)
- Rollout of PlayMyWay (PMW) at MGM
- Augmented Reality App
- Introduced Lower-Risk-Gambling-Guidelines (LRGG) at casinos
- Conducted RG Trainings at Suffolk Downs and Raynham Park
- First full-year offering Remote VSEs and LiveChat
- GameSense Newsletters to interested patrons
- Many Trainings for casino staff/community
- New GSIC activities
- Ongoing professional development (including staff trainers in MHFA)

FY23: Where We're Going

- Responsible Gaming Education Month
- Gift Responsible Campaign
- Problem Gambling Awareness Month (PGAM)
- Offer input on PMW at MGM
- Collaborate with Rollout of PMW at EBH
- Participate in 3rd party evaluation of GameSense
- Prepare for Sports Betting
- Launch Urge Surfing services
- Lead collaboration of 3rd party exclusion services
- New GSIC Activities and Celebrations
- GameSense Annual Report and Newsletters
- Trainings for casino staff/community
- Bus Outreach
- Ongoing professional development



The National Council on Problem Gambling (NCPG) 2022 Conference



**National Conference
on Gambling Addiction &
Responsible Gambling 2022**

- Hosted in Boston
- MACGH Staffing Conference
- MACGH & GameSense Speaking

◦ Pre-Conf

- June 8: “Foundations in Gaming Disorder: Training Professionals on the New Frontier” – Marlene Warner; Maureen Greeley; Tana Russell; Odessa Dwarika; Phil Sherwood
- June 9: “Remote Voluntary Self-Exclusion and Online RG/PG Support” – Phil Sherwood; Ray Fluette

◦ Conference

- July 20: “Problem Gambling 101: An Introduction to Gambling Disorder” –Jodie Nealley
- July 20: “Sports Betting 101” –Ken Averill
- July 20: “Sportsbooks and Responsible Gambling”: Marlene Warner (moderator), Tammi Barlow, Teresa Fiore, Chrissy Thurmond, and Rich Taylor
- July 21: “Critical Issues in Responsible Gambling Legislation & Regulation” – Mass. Representative Paul Tucker, Marlene Warner
- July 21: “Responsible Gambling Implications and Applications for Lotteries”: Marlene Warner (moderator), Charles McIntyre, Greg Smith, and Mass. Lottery
- July 22: “Regulators Roundtable on Responsible Gambling”: Cathy Judd-Stein, Becky Harris, David Rebuck, Dan Hartmann, and Jamie Hummingbird
- July 22: “A Strategic Framework for Sports Betting”: Long Banh and Marlene Warner
- July 22: “Asian Outreach; Inside the Casino & Outside in the Community” – Linh Ho
- July 22: “Integrating Telephone Recovery Support into the Voluntary Self Exclusion Process in Massachusetts– Odessa Dwarika; Jodie Nealley

QUESTIONS?

The Massachusetts Council on Gaming and Health (MACGH) - July 12, 2022



The Massachusetts Council
ON GAMING AND HEALTH

GameSense™



MEMORANDUM

TO: Chair Cathy Judd-Stein
Commissioner Eileen O'Brien
Commissioner Bradford Hill
Commissioner Nakisha Skinner

FROM: Loretta Lillios, IEB Director
Heather Hall, Chief Enforcement Counsel

RE: The IEB's Process & Policy for Assessment of Civil Administrative Penalties
(Fines)

Date: July 1, 2022

At its open meeting on April 28, 2022, the Commission reviewed and discussed the IEB's Process for Assessment of Civil Administrative Penalties (Fines), including the IEB's Memorandum on the topic. At that time, the Commission also reviewed the IEB's *Draft Policy* for the Assessment of Fines, but did not engage in a full discussion regarding the policy.

Following this public discussion, the IEB made an addition to its *Draft Policy* that stemmed from a Commissioner's question (at the April 28th meeting) about the IEB's approach when it issued a fine that was lower in amount than a fine it had previously issued. The addition is highlighted in the Policy document attached to this Agenda item. (The IEB also has included its Memorandum in the packet for the Commission's convenience).

Commission Action Requested: The IEB requests that the Commission consider the IEB Policy, with the highlighted addition, at its July 7, 2022 meeting and approve it, by consensus or vote as appropriate. The IEB looks forward to discussing this matter with the Commission.

MEMORANDUM

TO: Chair Cathy Judd-Stein
Commissioner Eileen O'Brien
Commissioner Bradford Hill
Commissioner Nakisha Skinner

FROM: Loretta Lillios, IEB Director
Heather Hall, Chief Enforcement Counsel

RE: The IEB's Process for Assessment of Civil Administrative Penalties (Fines)

Date: February 4, 2022 (updated June 30, 2022)

cc: Karen Wells, Executive Director
Todd Grossman, General Counsel
Michael Banks, Captain, Mass. State Police/GEU
Bruce Band, Chief, Gaming Agents Division

1. Introduction

The IEB has prepared this memorandum to describe the IEB's process for issuing civil administrative penalties (fines) to licensees and registrants for repeated instances of noncompliance. As such, this memorandum may assist the Commission in providing additional policy and process guidance to the IEB.

2. Statutory and Regulatory Background

General Law chapter 23K, section 4(15) grants the commission broad authority to assess a fine on a licensee, registrant, or qualifier. Section 4(15) provides, in relevant part, that the "commission shall have . . . the power to: . . . deny an application or limit, condition, restrict, revoke or suspend a license, registration, finding of suitability or approval, or *fine a person licensed, registered, found suitable or approved for any cause that the commission deems reasonable[.]*". (Emphasis supplied).

In addition to the authority granted to the commission by § 4(15), G.L. c. 23K, § 36 authorizes the IEB to assess a civil administrative penalty on a licensee or registrant for failing to comply with provisions of G.L. c. 23K, the gaming regulations, or orders adopted by the commission.¹ See also G.L. c. 23K, § 4(32) (providing that one of the enumerated purposes of

¹ A copy of section 36 is included at the end of this Memorandum. The link to section 36 is: <https://malegislature.gov/Laws/GeneralLaws/PartI/TitleII/Chapter23K/Section36>.

the Commission is to “ensure that there is no duplication of duties and responsibilities between the commission and bureau; provided, however, that the commission shall not place any restriction upon the bureau’s ability to investigate or prosecute violations of this chapter or the regulations adopted by the commission[.]”), and 205 CMR 105.05 (Civil Penalties: “The bureau shall have power and authority, without limitation, to assess a civil administrative penalty to and in accordance with M.G.L. c. 23K, § 36.”).

Generally, before a civil administrative penalty may be assessed, § 36 requires that the IEB, as a prerequisite, give the licensee or registrant prior written notice of the noncompliance and an opportunity to rectify it. That is, only after the written notice and the time for coming into compliance has elapsed does the IEB assess a penalty for subsequent noncompliance of the same sort.²

3. Sources of Information

Typically, the IEB becomes aware of instances of noncompliance from the monitoring and auditing efforts of the on-site Gaming Agents, the on-site members of the Gaming Enforcement Unit (“GEU”), the on-site members of the Alcoholic and Beverages Control Commission (“ABCC”), and by way of self-reporting from the gaming licensees themselves. On a less frequent basis, the IEB investigates reports from other sources as well, such as reports from front line casino employees, patron complaints, submissions from the Fair Deal tip hotline, media reports, and intelligence information provided by other law enforcement agencies.

The IEB has a standing weekly meeting of the IEB Director, the Chief of the Gaming Agents Division, the State Police Commander of the GEU, the Chief Enforcement Counsel, the Chief of the Financial Investigations Division, and other senior members of the IEB. In addition, there is frequent communication outside of the weekly standing meeting with the IEB Director and management of each of the IEB’s divisions. Serious or recurring noncompliance matters are flagged for and discussed by IEB senior management in their early stages.

4. Overall Objective of IEB’s Enforcement Measures

The overall objective of the IEB’s monitoring and enforcement function is for the licensee or registrant to come into compliance. With this objective in mind, the IEB implements enforcement measures that are incremental in nature. This approach fosters the licensee’s or

² The bureau may assess a penalty *without* providing prior written notice in very limited circumstances, only if the failure to comply meets all four of the following criteria: “(i) was part of a pattern of noncompliance and not an isolated instance; (ii) was willful or neglectful and not the result of error; (iii) resulted in a significant breach to the integrity of the gaming establishment or gaming laws of the commonwealth; and (iv) consisted of failure to promptly report to the commission any knowledge of evidence or circumstances that would cause a reasonable person to believe that a violation of this chapter had been committed.” See G.L. c. 23K, § 36(a).

registrant's opportunity for achieving compliance. It also encourages self-reporting, which is a foundational aspect of gaming regulatory oversight.

To date, the IEB's Office of the Chief Enforcement Counsel has issued 25 Notices of Noncompliance and has assessed a Civil Administrative Penalty in five instances. The penalty amounts issued thus far range in amounts from \$5,000 to \$100,000. The gaming licensees should be commended for their culture of self-reporting and for giving adequate and timely attention to rectifying noncompliance issues in the first instance.

5. Escalating Enforcement Measures

This section describes the incremental enforcement measures utilized by the IEB to address noncompliance matters. The IEB reserves the ability to accelerate and condense the measures in certain circumstances including those involving serious violations. The IEB makes every effort to communicate noncompliance items with the licensee contemporaneously with the IEB's identification of the noncompliant activity, and to implement enforcement measures in a timely manner. Timely communication and prompt enforcement measures enhance the ability of the licensee to achieve compliance without undue delay.

a) Verbal Notification by Gaming Agent Division, with Email Follow-Up

Typically, the Gaming Agent Senior Supervisor first brings the noncompliance at issue to the attention of the relevant casino department director. Then, the casino's Compliance representative is informed during the routine bi-weekly (twice monthly) meetings held with Gaming Agent management and supervision and the casino. In most cases, the Chief of the Gaming Agent Division, the Gaming Agent Field Manager, the Senior Supervisor, and the Gaming Agent Compliance Manager attend these meetings on behalf of the IEB. Gaming Agent supervision follows up on these meetings with an email to the gaming licensee memorializing the noncompliance discussion. This gives the licensee the opportunity to understand, address, and rectify the matter early on. Communication between Gaming Agent supervision and the casino is critical and allows the IEB to monitor the casino's efforts at addressing and correcting the matter in real time.

b) Issuance of Noncompliance Form ("NCF") by Gaming Agent Division

On occasions where instances of noncompliance continue, Gaming Agent Management may approve the issuance of a written notice of noncompliance using a Noncompliance Form ("NCF") designed for this purpose. Once approved, the Senior Supervisor delivers the NCF to the gaming licensee. The licensee is asked to acknowledge, initial, and date its receipt of the NCF. The NCF contains a Comment section where the licensee can voice its understanding of the situation, and a Corrective Action section where the licensee can indicate steps it is taking to address the matter. Again, communication continues to be critical so that the licensee is clear about expectations going forward.

c) Issuance of Notice of Noncompliance by Chief Enforcement Counsel's Office

In instances where the noncompliance continues after the Gaming Agents' issuance of the NCF, the Chief Enforcement Counsel may prepare a more formal "Notice of Noncompliance." This Notice of Noncompliance cites the relevant statutory and regulatory authority and Internal Controls where applicable. The Notice contains a Facts section, which includes a description of prior relevant instances of noncompliance and the noncompliance at hand. The Notice of Noncompliance also sets forth a required Time for Correction and remedial measures directed. It is the IEB's practice to alert the licensee or registrant in advance of issuing the Notice of Noncompliance.

Following receipt of the Notice of Noncompliance, the licensee or registrant reports back to the Gaming Agents Division and the Chief Enforcement Counsel on the measures it has put into place to ensure that the noncompliance does not continue.

d) Assessment of Civil Administrative Penalty by Chief Enforcement Counsel's Office

Unfortunately, on some occasions, further instances of noncompliance ensue. In those instances where the formal Notice of Noncompliance and opportunity for correction are not successful, the IEB evaluates the matter for a civil administrative penalty.

Under 23K, § 36(c), whenever the IEB seeks to assess a civil administrative penalty, the IEB is required to first serve a written "Notice of Intent" to assess the civil administrative penalty upon the licensee or registrant. Section 36(c) provides that this Notice of Intent to Assess a Civil Administrative Penalty shall include:

a concise statement of the alleged act or omission for which such civil administrative penalty is sought to be assessed, each law, regulation, order, license or approval which has not been complied with as a result of such alleged act or omission, the amount which the bureau seeks to assess as a civil administrative penalty for each alleged act or omission, a statement of the licensee's or registrant's right to an adjudicatory hearing on the proposed assessment, the requirements the licensee or registrant shall comply with to avoid being deemed to have waived the right to an adjudicatory hearing and the manner of payment thereof if the person elects to pay the penalty and waive an adjudicatory hearing.

The IEB's protocols call for the IEB Director to approve all Notices of Intent to Assess a Civil Administrative Penalty.

Where appropriate, this Notice of Intent is accompanied by Exhibits containing, for example, relevant surveillance footage and casino reports demonstrating the existence of the continued noncompliance.

Each written Notice of Intent to Assess a Civil Administrative Penalty invites the licensee or registrant to inform the IEB whether it disputes any of the facts alleged in the Notice, and to inform the IEB of any mitigating information it wishes to bring to the IEB's attention. Inviting the input of the licensee or registrant at this juncture is a helpful part of the IEB's process. It gives the licensee or registrant the opportunity to bring mitigating information to the IEB's attention, and to alert the IEB to circumstances that may not have been observable to the IEB. Such information may include, for example, that the licensee proactively introduced additional employee training, disciplined involved employees, or implemented changes in its processes or other measures to address the issue. This information-sharing may lead the IEB to conclude that an adjusted dollar amount more fairly addresses the infraction at hand or, potentially, that a fine is not warranted after all. Ultimately, this communication may lead to the IEB and the licensee reaching an agreement as to the amount of the civil administrative penalty.

Following this discourse with the licensee, the IEB may issue an Assessment of Civil Administrative Penalty. To date, the amounts of all five Assessments issued by the IEB have been agreed-upon.

Under G.L. c. 23K, § 36(e), a licensee or registrant may seek an adjudicatory hearing to challenge the facts alleged by the IEB in the Assessment, or to challenge the amount of the assessment as excessive. Challenges by a gaming licensee are reviewed by the Commission pursuant to 205 CMR 101.01(2)(e). Challenges by other types of licensees or registrants are reviewed in the first instance by a hearing officer pursuant to 205 CMR 101.02. See G.L. c. 23K, § 36(d) (setting forth the licensee's or registrant's right to an adjudicatory hearing under G.L. c. 30A), and § 36(e) (providing a 21-day period for the licensee or registrant to file a notice of appeal to challenge the facts alleged by the IEB or to assert that the amount of the proposed penalty is excessive). Payment of the fine or failure by the licensee or registrant to file a Notice seeking a hearing within the 21-day period allotted by §36 results in a waiver of the hearing right.³

It is the practice of the IEB to inform the Commission of the issuance of civil administrative penalties. The IEB is mindful to do so in a manner that will preserve the Commission's impartiality in instances where the licensee or registrant may exercise its right to an adjudicatory hearing. The IEB also is mindful to do so in a forum that will preserve the confidentiality of sensitive information, if any.

³ The licensee or registrant may ask to extend the time for filing the request for a hearing beyond 21 days in order to allow it to carefully review and evaluate the details in the Notice.

6. Consideration of Appropriate Dollar Amounts

In making a determination of the appropriate dollar amount to assess as a civil administrative penalty, the IEB considers many factors. Noncompliance matters that reach this stage are intensively fact-specific by their nature. Factors considered include the level of seriousness of the noncompliance and its potential impact on the integrity of gaming operations or public safety; the number and degree of prior similar instances of noncompliance; and the opportunities that licensed or registered personnel had to recognize, intercede, and rectify the noncompliance (but failed to do so). The IEB considers the licensee's entire history of compliance in the relevant area, including whether the IEB assessed a prior fine for similar noncompliance and if so, the dollar amount of the prior fine, as well as any circumstances that may warrant a larger or smaller amount for subsequent fines.

Some factors are dependent on the particular type of noncompliance. For instance, in determining the appropriate fine amount for the over-service of alcohol, the IEB considers the degree of visible intoxication of the patron, the level of contact with the patron by casino staff, the number of alcoholic beverages served in total and per hour, whether the individual was underage, and the number and proximity of prior incidents of noncompliance and notices of noncompliance of the same sort.

As a further example, in determining the appropriate amount to assess upon a nongaming vendor for failure to comply with the registration requirements for its employees, the IEB considered the serious nature of the violation and the potential risk to the integrity of the licensing and registration process,⁴ the location of the vendor's establishment adjacent to the casino floor, the fact that the burden of satisfying the registration requirement is quite low, and the repeated and ongoing nature of the noncompliance over an extended period of time despite notifications from the IEB. The IEB also considered the mitigating circumstances at that time, specifically that the owners of the business had no prior experience in the highly regulated casino environment, that the employees at issue eventually registered, and that the company was in compliance with a remedial measure previously ordered by the IEB.

In evaluating an appropriate fine amount, the IEB also keeps informed and maintains a file of fines issued by gaming regulators in other jurisdictions.⁵ Further, over the course of time, the IEB's past actions serve as internal precedent for future assessments.⁶

⁴ Employing a person in a position that requires licensure or registration under G.L. c. 23K is a criminal offense punishable by imprisonment in the house of correction for not more than six months or by a fine not to exceed \$10,000, or both, and in the case of a person other than a natural person, by a fine not to exceed \$100,000. See G.L. c. 23K, § 37(b).

⁵ In light of the increased prevalence of remote and hybrid work arrangements, the IEB is transitioning this file into an electronic format to be maintained on SharePoint.

⁶ As previously stated, to date, the IEB has issued only five civil administrative penalties. The licensee or registrant has agreed to the dollar amount in all five instances, thereby waiving its right to review by the commission. It can be expected that at some point, a licensee or registrant will request an adjudicatory hearing on the IEB's Assessment. Decisions of the Commission (for matters involving gaming licensees)

Initially, the IEB considered adopting a Schedule of Fines, organized by type of infraction. The idea behind a Schedule of Fines was to create a dollar range for each category of infraction, and to include gradations for first offense, second offense, third offense, etc. Ultimately, the IEB did not favor this approach because it does not lend itself to the intensively fact-specific analysis that is warranted. Also, the IEB wanted to avoid a scenario where a licensee might examine the potential dollar amount for noncompliance and make a business and economic decision not to comply based on the ceiling amount of the fine in the Schedule. Further, a Schedule of Fines could serve to limit the IEB's ability to consider mitigating circumstances. On the whole, the IEB believes that a Schedule approach is less effective in furthering the goals of achieving compliance, encouraging self-reporting, and discouraging bad behavior. The Commission previously discussed the Schedule method at two public meetings in 2015.⁷

In summary, the IEB bases the enforcement measure taken (including the dollar amount of the fine, if any) on the particular facts at hand. This includes consideration of mitigating information. Performing this fact-specific analysis on an individualized basis insulates the IEB's enforcement action from a challenge based on "substantial evidence," "arbitrary or capricious," and "abuse of discretion" grounds. See G.L. c. 30A, § 14(7). The Supreme Judicial Court has stated that "[w]here there is substantial evidence in the record to support the [agency's] decision," then "it was not arbitrary or capricious as a matter of law." Cherubino v. Board of Registration of Chiropractors, 403 Mass. 350, 359 (1988); Hotchkiss v. State Racing Comm'n, 45 Mass. App. Ct. 684, 688-689 n.5 (1998) (superior court erred by reversing agency's decision to eject mutuel teller; "a decision that is supported by substantial evidence cannot be arbitrary and capricious" and a court may not substitute its judgment for that of an expert agency which made a rational, discretionary choice in implementing the statutory scheme it was empowered by the Legislature to oversee.). "'Substantial evidence' means such evidence as a reasonable mind might accept as adequate to support a conclusion." G.L. c. 30A, § 1(6). "To satisfy the 'substantial evidence' requirement, the agency's conclusion need not be based upon the 'clear weight' of the evidence or even the preponderance of the evidence, but rather only upon reasonable evidence, that is, 'such evidence as a reasonable mind might accept as adequate to support a conclusion.'" Gupta v. Deputy Dir. Of the Div. of Employment & Training, 62 Mass. App. Ct. 579, 582 (2004, (quoting G.L. c. 30A, § 1(6)). An agency's decision is not "arbitrary or capricious" if it has a "rational basis." Sierra Club v. Comm'r of Dept. of Env'tl. Mgt., 439 Mass. 739, 748 (2003). Both the substantial evidence test and the arbitrary or capricious test are "highly deferential" to the agency, and a reviewing court will not substitute its views as to the facts. See Friends and Fishers of Edgartown Great Pond, Inc. v. Dept. of Env'tl. Protection, 446 Mass. 830, 836, 840 (2006) (substantial evidence test); Britton v. Zoning Bd. Of Appeals of

and of the hearing officer (for matters involving other types of licensees or registrants) will of course have precedential value as well.

⁷ The Commission considered the IEB's process of issuing civil administrative penalties, including the option of adopting a Schedule of Fines, at its open public meetings on September 17 and October 1, 2015.

Gloucester, 59 Mass. App. Ct. 68, 74 (2003) (arbitrary or capricious test). See also Cherubino, 403 Mass. at 354-359 (substantial evidence and arbitrary or capricious tests).

Furthermore, under Massachusetts law, see Thomann v. Board of Reg. of R.E. Brokers and Salesman, 481 Mass. 1006, 1011-1012 (2018), where, as here, the agency has the statutory and regulatory power to impose a sanction, the agency “has discretion in determining the appropriate sanction.” A reviewing court will “consider only whether the sanction imposed was a reasonable exercise of [the agency’s] discretion” and the court “will not interfere with the agency’s imposition of a penalty except in the most extraordinary circumstances.” Id.

7. Conclusion

The IEB looks forward to discussing this important matter with the Commission.

General Law c. 23K, Section 36:

Assessment of civil administrative penalties for failure to comply with provisions of chapter or any regulation or order of the commission

Section 36. (a) The bureau may assess a civil administrative penalty on a licensee or registrant who fails to comply with any provision of this chapter or any regulation or order adopted by the commission; provided, however, that the noncompliance shall have occurred after the bureau had given such person written notice of the noncompliance and the time stated in the notice for coming into compliance had elapsed; provided further, that the bureau may assess a penalty without providing written notice if the failure to comply: (i) was part of a pattern of noncompliance and not an isolated instance; (ii) was willful or neglectful and not the result of error; (iii) resulted in a significant breach to the integrity of the gaming establishment or gaming laws of the commonwealth; and (iv) consisted of failure to promptly report to the commission any knowledge of evidence or circumstances that would cause a reasonable person to believe that a violation of this chapter had been committed. The civil administrative penalty shall be in addition to any other civil penalty that may be prescribed by law.

(b) For the purpose of determining whether such noncompliance was part of a pattern of noncompliance and not an isolated instance, the bureau shall consider, without limitation: (i) whether the bureau had previously notified the person of such noncompliance on more than 1 occasion during the previous month or of any noncompliance with the same provision of a law, regulation, order, license or approval as the current noncompliance during the previous 6-month period; or (ii) whether the current and previous noncompliances, considered together, indicate a potential threat to the integrity of the gaming establishment and gaming in the commonwealth or an interference with the commission's ability to efficiently and effectively regulate gaming in the commonwealth and enforce any regulation, license or order. If a licensee or registrant who has received a notice of noncompliance fails to come into compliance within the time period stated in the notice, the civil administrative penalty may be assessed by the bureau upon the licensee or registrant from the date of receipt of such notice.

(c) Whenever the bureau seeks to assess a civil administrative penalty on a licensee or registrant, the bureau shall cause to be served upon the licensee or registrant, either by service in hand or by certified mail, return receipt requested, a written notice of its intent to assess a civil administrative penalty which shall include a concise statement of the alleged act or omission for which such civil administrative

penalty is sought to be assessed, each law, regulation, order, license or approval which has not been complied with as a result of such alleged act or omission, the amount which the bureau seeks to assess as a civil administrative penalty for each alleged act or omission, a statement of the licensee's or registrant's right to an adjudicatory hearing on the proposed assessment, the requirements the licensee or registrant shall comply with to avoid being deemed to have waived the right to an adjudicatory hearing and the manner of payment thereof if the person elects to pay the penalty and waive an adjudicatory hearing. After written notice of noncompliance or intent to assess a civil administrative penalty has been given, 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.

(d) Whenever the bureau seeks to assess a civil administrative penalty on a licensee or registrant, the licensee or registrant shall have the right to an adjudicatory hearing under chapter 30A, the provisions of which shall apply except when they are inconsistent with the provisions of this chapter.

(e) A licensee or registrant shall be deemed to have waived its right to an adjudicatory hearing unless, within 21 days of the date of the bureau's notice that it seeks to assess a civil administrative penalty, the licensee or registrant files with the bureau a written statement denying the occurrence of any of the acts or omissions alleged by the bureau in the notice, or asserting that the amount of the proposed civil administrative penalty is excessive. In an adjudicatory hearing authorized under chapter 30A, the bureau shall, by a preponderance of the evidence, prove the occurrence of each act or omission alleged by the bureau.

(f) If a licensee or registrant waives the right to an adjudicatory hearing, the proposed civil administrative penalty shall be final immediately upon such waiver. If a civil administrative penalty is assessed at the conclusion of an adjudicatory hearing, the civil administrative penalty shall be final upon the expiration of 30 days if no action for judicial review of the decision is commenced under chapter 30A.

(g) A licensee or registrant who institutes proceedings for judicial review of the final assessment of a civil administrative penalty shall place the full amount of the final assessment in an interest-bearing escrow account in the custody of the clerk or magistrate of the reviewing court. The establishment of an interest-bearing escrow account shall be a condition precedent to the jurisdiction of the reviewing court unless the party seeking judicial review demonstrates in a preliminary hearing held within 20 days after the filing of the complaint either the presence of a substantial question for review by the court or an inability to pay. Upon such a demonstration, the court may grant an extension or waiver of the interest-bearing escrow account or may require, in lieu of such interest-bearing escrow account, the posting of a

bond payable directly to the commonwealth in the amount of 125 per cent of the assessed penalty. If, after judicial review, in a case where the requirement for an escrow account has been waived, and in cases where a bond has been posted in lieu of such requirement, the court affirms, in whole or in part, the assessment of a civil administrative penalty, the commission shall be paid the amount thereof together with interest at the rate provided in section 6C of chapter 231. If, after such review in a case where an interest-bearing escrow account has been established, the court affirms the assessment of such penalty, in whole or in part, the commission shall be paid the amount thereof together with the accumulated interest in the interest-bearing escrow account. If the court sets aside the assessment of a civil administrative penalty in a case where the amount of such penalty has been deposited in an interest-bearing escrow account, the licensee or registrant on whom the civil administrative penalty was assessed shall be repaid the amount so set aside, together with the accumulated interest thereon.

(h) Each licensee or registrant who fails to timely pay a civil administrative penalty and each person who issues a bond under this section and who fails to timely pay to the commission the amount required hereunder, shall be liable to the commonwealth for up to 3 times the amount of the civil administrative penalty, together with costs, plus interest from the time the civil administrative penalty became final and attorneys' fees, including all costs and attorneys' fees incurred directly in the collection thereof. The rate of interest shall be the rate provided in section 6C of chapter 231. The bureau shall be authorized to require that the amount of a civil administrative penalty imposed under this section exceed any economic benefit realized by a person for noncompliance.

IEB POLICY REGARDING ASSESSMENTS OF CIVIL ADMINISTRATIVE PENALTIES BY THE IEB¹

Governing Authority:

G.L. c. 23K, § 36

G.L. c. 23K, § 4(32)

205 CMR 105.05 (Civil Administrative Penalties)

Applies to:

Gaming Licensees

Licensed Gaming Vendors (Primary & Secondary)

Registered Non-Gaming Vendors

Licensed Casino Employees (Keys, GELs)

Registered Casino Employees (SERs)

- **Authority:** General Law chapter 23K, section 36 authorizes the IEB to assess a civil administrative penalty on a licensee or registrant for failing to comply with provisions of G.L. c. 23K, the gaming regulations, or orders adopted by the Commission. See also G.L. c. 23K, § 4(32) (providing that the commission shall not place any restriction upon the bureau's ability to investigate or prosecute violations of c. 23K or the regulations adopted by the Commission), and 205 CMR 105.05 (Civil Penalties: "The bureau shall have power and authority, without limitation, to assess a civil administrative penalty to and in accordance with M.G.L. c. 23K, § 36.").
- **Sources of information:** The IEB evaluates instances of noncompliance brought to its attention by the on-site Gaming Agents, the on-site members of the Gaming Enforcement Unit ("GEU"), the on-site members of the Alcoholic and Beverages Control Commission ("ABCC"), and by way of self-reporting from the gaming licensees. The IEB also investigates reports from other sources, including from front line casino employees, patron complaints, submissions from the Fair Deal tip hotline, media reports, and intelligence information provided by other law enforcement agencies.
- **Objective and Incremental Nature of Enforcement Measures:** The overall objective of the IEB's monitoring and enforcement function is for the licensee or registrant to come into

¹ The Commission also is authorized by statute to assess a civil administrative penalty. See G.L. c. 23K, § 4(15) (the "commission shall have . . . the power to: . . . deny an application or limit, condition, restrict, revoke or suspend a license, registration, finding of suitability or approval, or *fine a person licensed, registered, found suitable or approved for any cause that the commission deems reasonable*[.]"). (Emphasis supplied). This Policy addresses the process utilized by the IEB for issuing a civil administrative penalty under separate provisions of G.L. c. 23K.

compliance. With this objective in mind, the IEB implements enforcement measures that are incremental in nature. This approach fosters the licensee's or registrant's opportunity for achieving compliance. It also encourages self-reporting, which is a foundational aspect of gaming regulatory oversight. The IEB reserves the ability to accelerate and condense the enforcement measures in certain circumstances including those involving serious violations and risks to public safety.

- Timely Attention to Noncompliance Matters: The IEB makes every effort to communicate noncompliance items with the licensee contemporaneously with the IEB's identification of the noncompliant activity, and to implement enforcement measures in a timely manner. Timely communication and prompt enforcement measures enhance the ability of the licensee to achieve compliance without undue delay.
- Notice of Intent to Assess a Penalty Invites Input from the Licensee: Whenever the IEB seeks to assess a Civil Administrative Penalty, the IEB first provides the licensee or registrant with a Notice of Intent to assess the penalty. See G.L. c. 23K, § 36(c). The IEB also invites the licensee or registrant to inform the IEB whether it disputes any of the facts alleged in the Notice, and to inform the IEB of any mitigating information it wishes to bring to the IEB's attention. Inviting the input of the licensee or registrant is a helpful part of the IEB's process because it gives the licensee or registrant the opportunity to bring mitigating information to the IEB's attention, and to alert the IEB to circumstances that may not have been observable to the IEB. This information-sharing may lead the IEB to conclude that an adjusted dollar amount more fairly addresses the infraction at hand or, potentially, that a fine is not warranted after all. Ultimately, this communication may lead to the IEB and the licensee reaching an agreement as to the amount of the civil administrative penalty.
- Determining Appropriate Dollar Amount: In making a determination of the appropriate dollar amount to assess as a civil administrative penalty, the IEB considers many factors. Noncompliance matters that reach this stage are intensively fact-specific by their nature. Factors considered include, without limitation:
 - the level of seriousness of the noncompliance and its potential impact on the integrity of gaming operations or public safety;
 - the number and degree of prior similar instances of noncompliance;
 - prior fines issued for similar noncompliance and the dollar amounts, if any, and any circumstances that may warrant a larger or smaller dollar amount for subsequent fines;
 - the opportunities that licensed or registered personnel had to recognize, intercede, and rectify the noncompliance (but failed to do so);
 - factors that are dependent on the particular type of noncompliance;

- fines issued by gaming regulators in other jurisdictions; and
 - past precedent of the IEB and past precedent of the Commission Hearing Officers and the Commission in reviewing IEB actions.
- Approval: The IEB's protocols call for the IEB Director to approve all Notices of Intent to Assess a Civil Administrative Penalty and all Assessments of such Penalties.
 - Standards of Review: The IEB remains mindful of the standards by which any of its orders are subject to review, including the "substantial evidence" standard and the related requirements that its orders remain insulated from challenges based on "arbitrary or capricious" and "abuse of discretion" grounds. See G.L. c. 30A, § 14(7).
 - Notification to Commission of Fines Assessed by the IEB: It is the practice of the IEB to inform the Commission of the issuance of civil administrative penalties. The IEB is mindful to do so at a time and in a manner that will preserve the Commission's impartiality in instances where the licensee or registrant may exercise its right to an adjudicatory hearing. The IEB also is mindful to do so in a manner that will preserve the confidentiality of sensitive information, if any.