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## Massachusetts Gaming Commission Meeting Minutes

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**Date/Time:** January 20, 2023, 11:00 a.m.  
**Place:** Massachusetts Gaming Commission  
VIA CONFERENCE CALL NUMBER: 1-646-741-5292  
PARTICIPANT CODE: 112 738 1553

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 Bradford Hill  
Commissioner Nakisha Skinner  
Commissioner Jordan Maynard

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

Chair Judd-Stein called to order the 425<sup>th</sup> Public Meeting of the Massachusetts Gaming Commission ("Commission"). Roll call attendance was conducted, and all five commissioners were present for the meeting.

#### 2. [Administrative Update](#) (01:32)

##### a. [Determination of Sports Wagering Category 1/Retail Launch \(Jan. 31\) Time](#) (01:39)

Karen Wells, Executive Director, noted that the Commission approved the launch of category one sports wagering operators on January 31, 2023. She recommended that sports wagering start at 10:00 A.M. on that date. The Commission reached a consensus that category one sports wagering would launch at 10:00 A.M. on January 31, 2023.

#### 3. [Legal](#) (05:59)

a. [Sports Wagering Regulations](#): (06:07)

i. [205 CMR 256.00: Sports Wagering Advertising – Regulation and Small Business Impact Statement for review and approval to commence the promulgation process and/or adoption via emergency](#). (06:16)

Deputy General Counsel Carrie Torrisi introduced Outside Counsel Mina Makarious from the law firm Anderson and Krieger. Attorney Makarious presented proposed changes to 205 CMR 256. *A memorandum, draft of 205 CMR 256, and Small Business Impact Statement were included in the Commissioners' Packet on pages 3 through 14.*

Commissioner O'Brien asked if the prohibitions section of 205 CMR 256 would prevent advertising on television. Attorney Makarious stated that the proposed standards for advertising on television would be similar to Pennsylvania and New York's regulations.

Commissioner Hill asked Director of Research and Responsible Gaming Mark Vander Linden if he was satisfied with the proposed language from a responsible gaming perspective. Director Vander Linden stated that the language in the proposed regulation was not explicit regarding the required responsible gaming messaging. He expressed his preference that responsible gaming language should be consistent and directed by the Commission. Attorney Makarious noted that specific responsible gaming language would be included in another regulation.

The Commission had a robust discussion regarding whether 18- to 20-year-olds should be allowed to endorse sports wagering operators. Commissioner O'Brien and Commissioner Skinner expressed that those under the age of 21 should not be able to participate in the sports wagering industry. Commissioner Maynard noted that bets could be placed on these athletes and stated that he did not want to deprive the players of this financial opportunity. Commissioner Hill noted that athletes have a short career span, and that not allowing them to have endorsement deals could deprive the athletes of opportunities. Commissioner O'Brien expressed concern that this type of endorsement would target individuals under the age of 21. Chair Judd-Stein stated that she did not want to arbitrarily bar athletes from the possibility of profiting from an endorsement.

The Commission reached a consensus that the proposed language in the regulation would be changed to preclude minors from endorsing sports wagering operators in Massachusetts and preclude individuals aged 18 to 20 who are not professional athletes from endorsing sports wagering operators in Massachusetts.

Commissioner O'Brien moved that the Commission approve the Small Business Impact Statement and draft of 205 CMR 256 as included in the Commissioners' Packet and further discussed and amended here today, specifically in recognition of the edits on page 11 of the PDF of the Commissioners' Packet in regards to athletes under 21 and minor athletes, and further that staff be authorized to take the steps necessary to file the required documentation with the Secretary of the Commonwealth by emergency and thereafter to begin the regulation promulgation process and further that staff be authorized to modify chapter or section numbers or titles to file additional regulation sections as reserved or make any other administrative

changes as necessary to execute the regulation promulgation process. Commissioner Skinner seconded the motion.

*Roll call vote:*

*Commissioner O'Brien:* Aye.

*Commissioner Hill:* Aye.

*Commissioner Skinner:* Aye.

*Commissioner Maynard:* Aye.

*Chair Judd-Stein:* Aye.

*The motion passed unanimously, 5-0.*

ii. [205 CMR 239.00: Continuing Disclosure and Reporting Obligations of Sports Wagering Licensees - Regulation and Small Business Impact Statement for review and approval to commence the promulgation process and/or adoption via emergency.](#) (1:05:25)

Attorney Makarious presented the proposed 205 CMR 239. *A memorandum, draft of 205 CMR 239, and Small Business Impact Statement were included in the Commissioners' Packet on pages 15 through 25.*

Commissioner Skinner asked if the reporting requirement in 205 CMR 239.03(1)(h) would also apply to the licensee's parent company. Attorney Makarious stated that the regulation included the affiliated parent company, and that the language in the regulation was identical to the language used in 205 CMR 139.

General Counsel Todd Grossman stated that 205 CMR 239.03(7) could be removed as counter checks were a form of credit, and credit was not a valid payment for sports wagering. Attorney Makarious stated that he would remove that portion of the regulation. Commissioner Skinner stated that there was an incorrect citation in 205 CMR 239.06(2). Attorney Makarious stated that he would edit and correct all typos and formatting errors.

Commissioner O'Brien moved that the Commission approve the Small Business Impact Statement and draft of 205 CMR 239 as included in the Commissioners' Packet and further discussed and amended here today, specifically to delete 205 CMR 239.03(7) and to fix specified numeration mistakes, and further that staff be authorized to take the steps necessary to file the required documentation with the Secretary of the Commonwealth by emergency and thereafter to begin the regulation promulgation process and further that staff be authorized to modify chapter or section numbers or titles to file additional regulation sections as reserved or make any other administrative changes as necessary to execute the regulation promulgation process. Commissioner Hill seconded the motion.

*Roll call vote:*

*Commissioner O'Brien:* Aye.

*Commissioner Hill:* Aye.

*Commissioner Skinner:* Aye.

*Commissioner Maynard:* Aye.

Chair Judd-Stein: Aye.  
The motion passed unanimously, 5-0.

iii. [205 CMR 241.00: Surveillance and Monitoring – Regulation and Small Business Impact Statement for review and approval to commence the promulgation process and/or adoption via emergency.](#) (1:29:11)

Attorney Makarios presented the proposed changes to 205 CMR 241. *A memorandum, draft of 205 CMR 241, and Small Business Impact Statement were included in the Commissioners' Packet on pages 26 through 29.*

Commissioner Hill moved that the Commission approve the Small Business Impact Statement and draft of 205 CMR 241 as included in the Commissioners' Packet and discussed here today, and further that staff be authorized to take the steps necessary to file the required documentation with the Secretary of the Commonwealth by emergency and thereafter to begin the regulation promulgation process and further that staff be authorized to modify chapter or section numbers or titles to file additional regulation sections as reserved or make any other administrative changes as necessary to execute the regulation promulgation process. Commissioner Maynard seconded the motion.

Roll call vote:  
Commissioner O'Brien: Aye.  
Commissioner Hill: Aye.  
Commissioner Skinner: Aye.  
Commissioner Maynard: Aye.  
Chair Judd-Stein: Aye.  
The motion passed unanimously, 5-0.

iv. [205 CMR 255.00: Play Management – Regulation and Small Business Impact Statement for review and approval to commence the promulgation process and/or adoption via emergency.](#) (1:31:50)

Deputy General Counsel Torrisi introduced Outside Counsel Annie Lee from the law firm Anderson and Krieger. Attorney Lee presented the proposed changes for 205 CMR 255. *A memorandum, draft of 205 CMR 255, and Small Business Impact Statement were included in the Commissioners' Packet on pages 30 through 37.*

Commissioner Skinner asked if 205 CMR 255.02(3) would prevent an operator from being able to voluntarily reimburse a patron. Director Vander Linden stated that the intention of the regulation was to align with requirements in 205 CMR 233 regarding voluntary self-exclusion ("VSE"). Commissioner Skinner stated that an operator had previously voluntarily returned wagers that should not have been placed when a technical error approved the wagers.

Director Vander Linden stated that play management tools were intended to assist individuals in setting a budget, but players could potentially circumvent them due to technical errors or having

multiple accounts. Attorney Makarios noted that 205 CMR 248 prohibited players having multiple accounts with an operator.

Commissioner Skinner expressed that she would like the language amended to allow the operators an option to voluntarily return funds. The Commission reached a consensus to amend the proposed 205 CMR 255 to allow operators the flexibility to voluntarily return funds to patrons.

Chair Judd-Stein noted that one operator had a company-wide limitation on deposits for customers aged 21 through 25. She stated that the regulation should be changed to allow the operators to have limitations in the interest of responsible gaming. Attorney Lee suggested that the language could be changed to “operators may subject patrons to limitations in their approved internal controls, otherwise the individual must affirmatively designate”.

Vice-President of Government Relations and General Counsel from Gaming Laboratories International (“GLI”) Kevin Mullaly stated that there might be technical challenges to providing notifications to the user that they are approaching their set limits. He stated that kiosks did not currently support this type of notification. He further noted that sports wagering operators might not be able to comply with the proposed requirement before launch.

Commissioner Skinner asked if notifications of approaching limits were required in other jurisdictions. GLI’s Vice President of Government Relations and Regulatory Affairs Joe Bunevith stated that no other jurisdiction required notification that the user was approaching their set limit. Chair Judd-Stein asked how long it would take for the operators to incorporate this feature. Mr. Bunevith stated that it would depend upon the operator as they all have different platforms.

Director Vander Linden suggested that the Commission staff could reach out to the operators to determine what features were able to be ready by the proposed launch date. He stated that the Massachusetts operators had always been good partners in developing responsible gaming and player management tools. Chair Judd-Stein suggested that the Commission take a break to allow the legal team to work on a solution for the notification issue.

*Transcriber’s Note: The Commission took a brief break at [2:27:01](#) and reconvened the public meeting at [3:02:58](#).*

Executive Director Wells stated that it was impossible to have the notification technology available on sports wagering kiosks for the January 31, 2023 category one sports wagering launch. Mr. Bunevith stated that it was also possible that the category three operators would not have the technology in place for the March launch. Commissioner O’Brien stated that the Commission could grant waivers until such time as the technology is implemented. Mr. Mullaly stated that the Commission could mandate that operators include compliance with the notification technology requirements in their internal controls.

Commissioner Hill stated that he did not believe this issue was ripe for consideration without more research and discussion with the operators. He suggested that the Commission hold off on

voting for this regulation. Deputy General Counsel Torrisi stated that the Commission could promulgate 205 CMR 255 through the ordinary process rather than by emergency to allow for the operators to provide input. Commissioner Maynard asked if this regulation needed to be finalized before the January 31, 2023 launch date. Deputy General Counsel Torrisi stated that it was not necessary for launch.

Commissioner Hill moved that the Commission table a vote on 205 CMR 255 and bring it back at some point in the very near future. Commissioner O'Brien proposed an amendment that the discussion of 205 CMR 255 return in 2 weeks. Commissioner Hill accepted the amendment. Commissioner O'Brien seconded the motion.

*Roll call vote:*

*Commissioner O'Brien: Aye.*

*Commissioner Hill: Aye.*

*Commissioner Skinner: Aye.*

*Commissioner Maynard: Aye.*

*Chair Judd-Stein: Aye.*

*The motion passed unanimously, 5-0.*

v. [205 CMR 254.00: Temporary Prohibition from Sports Wagering – Revised Regulation for review and approval to post the updated version for comment.](#)  
(3:50:33)

Attorney Lee presented the proposed changes for 205 CMR 254. *A memorandum, draft of 205 CMR 254, and Small Business Impact Statement were included in the Commissioners' Packet on pages 38 through 42.*

Commissioner Maynard noted that the operators had indicated that they did not want to provide notifications to players that their cooling-off period is ending as it would risk enticing the player back to the platform. He asked if these notifications were used in other jurisdictions. Mr. Bunevith stated that these notifications are not provided in any other jurisdiction. He stated that it could be technically challenging for the operators to implement such notifications into their platforms.

Director Vander Linden stated that the notification could be used to provide players with responsible gaming options, including the option of enrolling in VSE, before re-entering the platform. Commissioner Maynard asked if the notification could just be a link to the responsible gaming portion of the Commission's website. Mr. Bunevith stated that including a link would be a less technically complex request.

Deputy General Counsel Torrisi stated that 205 CMR 254 was in effect by emergency, and that any language under review could be removed when it comes to the Commission for a final vote on February 9, 2023. Commissioner Maynard expressed that he did not believe this issue was ripe for consideration without more information from the applicants.

The Commission reached a consensus to post the proposed amended language to the Commission's website and to request public comment on the proposed changes.

Commissioner Hill noted that he had to leave the meeting at 4:00 P.M. and requested that the Commission move ahead in the agenda to consider the sports wagering events and wager catalog. Chair Judd-Stein stated that the Commission would discuss 205 CMR 213 at a future meeting so that the full Commission could consider the events catalog.

#### 4. [Sports Wagering Implementation](#) (4:20:12)

##### a. [Continued Review and Approval of Sports Wagering Events Catalog](#) (4:20:19)

Sterl Carpenter, Regulatory Compliance Manager, presented the proposed sports wagering event catalog to be offered by the Commission with topics including wager types, approved events, and approved leagues. *The proposed sports wagering events catalog was included in the Commissioners' Packet on pages 47 through 88.*

Chair Judd-Stein asked if virtual events were different from Esports. Mr. Bunevith stated that was correct. He stated that the Commission could allow virtual events provided that the event is tested by an independent test lab in accordance with 205 CMR 247.01.

Mr. Carpenter explained that the category one retail operators had requested the events outlined in the packet, but all operators would be able to offer the events approved by the Commission. Chair Judd-Stein stated that online operators would have the opportunity for input.

Chair Judd-Stein asked if any wager-types were not recommended for approval. Mr. Carpenter explained that the Sports Wagering Division did not recommend virtual wagers decided by random number generation ("RNG"). He explained that the outcomes of those matches are generated by a computer algorithm that selects the winner in a non-biased way.

Commissioner Skinner stated that she did not feel prepared to discuss the event catalog without further information regarding why these wagers were recommended. Chair Judd-Stein asked if the events catalog needed to be approved in this meeting for the launch timeline. Executive Director Wells stated that it could be moved to a meeting on January 24, 2023. The Commission reached a consensus to have further discussions regarding the events catalog on January 24, 2023.

Mr. Carpenter stated that he wanted to raise some matters for the Commission to consider before the next discussion of this topic. He noted that if a league is approved, such as the NFL, wagers would be permitted on the league's pre-season and post-season games. He stated that the Commission could approve wagers for certain events, such as the NFL draft. Commissioner O'Brien asked if allowing wagers on the draft would be considered outside of the statute. Mr. Carpenter stated that the NFL draft could be interpreted as a sporting event. General Counsel Grossman clarified that the definition of sporting event in the statute included "other events authorized by the Commission in accordance with this chapter". He stated that the NFL draft



could be wagered on if approved. Chair Judd-Stein noted that a governing body would have to be approved before the Commission could approve wagering on Esports.

Commissioner O'Brien asked if other jurisdictions had their full catalog available upon launch, or if they expanded their offerings over time. Mr. Bunevith stated that event types were continually added to catalogs across all states. Commissioner Maynard stated that he would like input from the category three sports wagering operators before voting on the sports wagering catalog. Mr. Bunevith noted that several of the category one operators' event requests would likely align with their tethered category three operator partners. Director of Sports Wagering Bruce Band noted that the Commission could approve additional events and wagers when the category three operators requested them.

General Counsel Grossman inquired about how the governing body for different sports were identified. Mr. Carpenter stated that he researched the different sports governing bodies, and that staff relied on operators to provide a list of governing bodies with oversight over events.

Chair Judd-Stein asked what non-sports events were requested to be added to the events catalog. Mr. Carpenter stated that operators requested that wagers be allowed on the Academy Awards and two competitive eating events. He stated that operators also requested that chess, cornhole, Esports, and jai alai be added to the list of approved events.

Commissioner Skinner asked what would be posted to the Commission website to inform the operators and the public which events are allowed. Mr. Carpenter stated that the approved events would be posted to the Commission's website in an Excel spreadsheet format. Commissioner Skinner requested that the Commission staff prepare a justification for the event recommendations before the next discussion on this topic.

*Transcriber's note: Commissioner Hill left the meeting prior to discussion of the next agenda item.*

b. [Floor Plan Approvals – Retail](#) (5:21:30)

Director Band presented the proposed floor plans for each category one sports wagering applicant. *The proposed category 1 sports wagering applicants' floor plans were included in the Commissioners' Packet on pages 89 through 99.*

Commissioner Skinner asked what the difference would be in Plainridge Park Casino's ("PPC") temporary floor plan and their final floor plan. Director Band stated that PPC intended to convert Flutie's Sports Pub into a sportsbook. He stated that PPC would submit a final floor plan to the Commission for approval.

Commissioner O'Brien asked if the changes to MGM Springfield's ("MGM") floor plan for sports wagering would allow for open access to the gaming floor. Director Band stated that there would not be open access to the sports wagering areas. Commissioner O'Brien inquired about MGM's compliance with keeping underage individuals out of the gaming floor. Director Band stated that MGM's compliance had not been the best for the past month.



Commissioner O'Brien commented that she was still dubious of allowing wagers to be placed in Encore Boston Harbor's ("EBH") garage. Director Band stated that the garage location was enclosed by walls and had camera coverage. Commissioner O'Brien asked if there were any safety concerns related to the garage area. Director Band stated that he had contacted the Gaming Enforcement Unit and that they did not raise any concerns regarding the garage. Commissioner O'Brien stated that she would abstain from voting on EBH's floor plan until she received more details regarding the garage.

Commissioner Maynard moved that the Commission approve the floor plans submitted by the category one sports wagering operator Plainridge Park Casino as included in the Commissioners' Packet and discussed here today. Commissioner O'Brien seconded the motion.

Commissioner Skinner stated that it was not ideal to be approving a floor plan based upon a PDF image, but she recognized that there was a time constraint. She expressed that she would have preferred to visit each location, but that she was okay with voting based upon the Investigations and Enforcement Bureau's ("IEB") recommendation.

*Roll call vote:*

*Commissioner O'Brien:*       *Aye.*

*Commissioner Skinner:*       *Aye.*

*Commissioner Maynard:*       *Aye.*

*Chair Judd-Stein:*       *Aye.*

*The motion passed unanimously, 4-0.*

Commissioner O'Brien stated that her only concern regarding MGM's floor plan was regarding underage individuals accessing the gaming floor. She stated that she wanted updates from MGM regarding that topic. Director of the IEB Loretta Lillios stated that the Chief Enforcement Counsel's office was reviewing MGM's compliance and working with MGM on the underage access issue. She stated that there would be additional structural changes to address the open floor plan.

Commissioner Maynard moved that the Commission approve the floor plan submitted by the category one sports wagering operator MGM Springfield as included in the Commissioners' Packet and discussed here today. Commissioner O'Brien seconded the motion.

*Roll call vote:*

*Commissioner O'Brien:*       *Aye.*

*Commissioner Skinner:*       *Aye.*

*Commissioner Maynard:*       *Aye.*

*Chair Judd-Stein:*       *Aye.*

*The motion passed unanimously, 4-0.*

Commissioner O'Brien stated that she wanted to see photos of EBH's garage before voting on the floor plan. Commissioner Maynard expressed concern about the loss of parking spaces in times of high traffic volume.

Commissioner Maynard moved that the Commission approve the floor plans submitted by the category one sports wagering operator Encore Boston Harbor as included in the Commissioners' Packet and discussed here today. Commissioner Skinner seconded the motion.

*Roll call vote:*

*Commissioner O'Brien: Abstain.*

*Commissioner Skinner: Aye.*

*Commissioner Maynard: Aye.*

*Chair Judd-Stein: Aye.*

*The motion passed unanimously, 3-0, with one abstention.*

5. [Other Business](#) (6:00:29)

Hearing no other business, Chair Judd-Stein requested a motion to adjourn.

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

*Roll call vote:*

*Commissioner O'Brien: Aye.*

*Commissioner Skinner: Aye.*

*Commissioner Maynard: Aye.*

*Chair Judd-Stein: Aye.*

*The motion passed unanimously, 4-0.*

**List of Documents and Other Items Used**

1. [Revised Notice of Meeting and Agenda dated January 19, 2023](#)
2. [Commissioner's Packet from the January 20, 2023, meeting](#) (posted on [massgaming.com](http://massgaming.com))