



Massachusetts Gaming Commission Meeting Minutes

Date/Time: October 6, 2022, 10:00 a.m.

Place: Massachusetts Gaming Commission

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

PARTICIPANT CODE: 112 810 4737

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](#) (00:07)

Chair Judd-Stein called to order the 396th Public Meeting of the Massachusetts Gaming Commission ("Commission"). Roll call attendance was conducted, and all five commissioners were present for the meeting.

2. [Approval of Meeting Minutes](#) (00:36)

The *public meeting minutes* were included in the Commissioner's Packet on pages 4 through 11.

Commissioner Hill moved that the Commission approve the minutes from the June 9, 2022, public meeting that are included in the Commissioner's Packet, subject to any necessary corrections for typographical errors or other non-material matters. The motion was seconded by Commissioner O'Brien.

Roll call vote:

Commissioner O'Brien: Aye.

Commissioner Hill: Aye.

Commissioner Skinner: Aye.

Commissioner Maynard: Abstain.

Chair Judd-Stein: *Aye.*
The motion passed unanimously, 4-0 with one abstention.

3. [Legal Division](#) (1:24)

a. Racing Application Update

Deputy General Counsel Caitlin Monahan provided a brief update on the status of horse racing applications received prior to the October 1, 2022, deadline. She stated that Plainridge Park Casino had filed a renewal license application for harness horse racing located in Plainville. She stated that the Commission had also received an application for a new thoroughbred racetrack from the Commonwealth Equine and Agricultural Center LLC for a proposed track in Hardwick. She stated that the Commission would need several hearing dates scheduled for this process, in addition to public hearing dates in the host communities so that the public can provide input on the applications.

b. [Tentative Hearings and Meetings Schedule](#) (2:48)

Crystal Beauchemin, Chief Administrative Officer to the Chair and Special Projects Manager, stated that holds had been placed for October 17, October 18, October 28, October 31, November 1, and November 3. She stated that due to the process the hearing should occur prior to 30 days, but she still needed to confirm the locations and times.

The *Racing Application Proposed Hearing Schedule* was included in the Commissioner's packet on page 12.

4. [Finance and Legal Divisions](#) (3:46)

a. Daily Fantasy Sports Tax Deduction related to Amended MGL c. 12 § 11M ½;
MGL c. 23N § 3 and §14(a)(iii)

Chief Financial and Accounting Officer ("CFAO") Derek Lennon explained that the proposed regulation 205 CMR 240 was for taxing daily fantasy sports and sports wagering. He explained that the tax rate for in-person sports wagering was 15% of the adjusted gross receipts, 20% of the adjusted gross receipts for mobile sports wagering, and 15% of the adjusted gross receipts for daily fantasy sports wagering.

CFAO Lennon stated that fantasy sports wagering was still regulated by the Attorney General's office, but provisions in G.L. Chapter 23N designated the Commission as the tax collecting entity for both fantasy sports wagering and sports wagering. He noted that the legislation was silent as to the taxation of promotional play. The *draft regulation and small business impact statement* was included in the Commissioner's Packet on pages 13 through 19.

CFAO Lennon explained that the adjusted gross receipts calculation subtracted federal excise tax and payouts to patrons from the total gross. He stated that the statute required operators to close out adjusted sports wagering receipts daily, and to file with the Commission prior to the 15th of

each month. Chair Judd-Stein asked if this was a new tax collection. CFAO Lennon stated that the taxation of fantasy sports wagering is new, and that the Commission staff will have to work with the Attorney General's Office regarding enforcement.

Commissioner O'Brien noted that the legislation required any person offering fantasy sports contests to register with the Commission and asked if the form for registering had been created. CFAO Lennon stated that the form had not been generated yet, but it will be a simple form to ascertain understanding of who the operators are.

Commissioner O'Brien inquired as to whether the obligation to pay tax was effective upon the effectuation of the statute or the implementation of the regulation. General Counsel Todd Grossman explained that the Commission could collect taxes retroactively dating back to August 10, 2022, as the sports wagering act was put into place by emergency preamble and effective immediately upon enactment. He stated that the regulation timeline does not affect the obligations of registrants to pay taxes. Chair Judd-Stein asked if the fantasy sports wagering registration form could be brought before the Commission on October 13, 2022. CFAO Lennon replied that it was possible to have the form for that date.

CFAO Lennon stated that if the 15th calendar day of a month fell on a weekend or holiday the sports wagering taxes would have to be filed prior to the 15th. He stated that the registrants and operators would have to file through Electronic Funds Transfers and would likely be doing wire transfers. He stated that the Commission would have to set up wire transfers with the fantasy sports wagering entities and sports wagering operators.

Commissioner O'Brien sought clarification related to the provision excluding credit extended or collected by the operator for purposes other than sports wagering and requested an example. CFAO Lennon explained that the provision was used to limit the tax collections to sports wagering and fantasy sports wagering. Commissioner O'Brien asked if the Commission should incorporate a cross-reference to the regulations that currently exist related to fantasy sports. Deputy General Counsel Monahan stated that the regulatory language could be incorporated into the section discussing statutory authority.

Commissioner Skinner expressed an interest in the solicitation of public comment on the regulations. General Counsel Grossman stated that if the regulation was enacted by emergency promulgation, the regulation would be enacted and then undergo the ordinary promulgation process including a public hearing in approximately four-to-six weeks.

Commissioner O'Brien stated that public comments are a concern in requests for emergency promulgation of regulations, and that an access point for the public should be institutionalized. She suggested a separate link be added to the Commission website to link the regulations being considered for the purpose of transparency and public input. Commissioner Maynard agreed, but stated he liked the flexibility of the emergency regulations.

Chair Judd-Stein asked if the suggestion would allow for public input to be incorporated prior to the public hearing. Commissioner Skinner stated that if there is a hearing with significant comment to respond to, the Commission should have a process in place. Chair Judd-Stein stated

that if there was strong negative feedback, the Commission could reconvene to address it prior to the hearing.

Commissioner Maynard asked if the exclusion of merchandise or value awarded from the definition of cash prized was standard. CFAO Lennon stated that the statute mirrored the language of the gaming statute in that provision. Chair Judd-Stein stated that promotional play was a problem the Commission would need to address.

- b. [Draft 205 CMR 240: Adjusted Gross Sports Wagering and Adjusted Gross Fantasy Wagering Receipts Tax Remittance and Reporting, and Small Business Impact Statement](#) (30:22)

The *draft regulation and small business impact statement* included in Commissioner's Packet on pages 13 through 19.

Commissioner O'Brien moved that the Commission approve the small business impact statement and the draft of 205 CMR 240 as included in the Commissioner's Packet and discussed and amended here today. The motion was seconded by Commissioner Skinner.

Commissioner O'Brien noted that she bifurcated the motion to separate a discussion of whether staff be authorized to use the emergency promulgation process. Commissioner Maynard sought clarification on the bifurcation. Commissioner O'Brien stated that bifurcating the motion allowed the Commission to discuss the emergency process without specifically addressing the language of the regulation.

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.

Chair Judd Stein introduced Lon Povich from Anderson and Krieger to explain the emergency promulgation process. Mr. Povich stated that emergency regulations were permissible under the Commonwealth's regulatory scheme, and that General Law Chapter 23N stated the Commission might choose to utilize emergency regulations. He explained that the standard for emergency promulgation was to protect public health, public safety, and general welfare. He stated that there was an imperative in the legislation to move quickly on sports wagering, and that it seemed appropriate to use emergency regulations to protect the public interest. He stated that the decision was the Commission's, but it should be decided on a case-by-case basis.

Chair Judd-Stein asked if there was a significance that the emergency preamble was used by the legislature to enact the act immediately upon signing. Mr. Povich stated that there were three places the legislature's urgency was highlighted: first, that it was enacted as emergency

legislation; second, the inclusion of a somewhat unique provision that called for emergency regulations; and third, the inclusion of temporary licensing language.

Commissioner O'Brien stated that emergency regulations should be used on a case-by-case basis to allow the Commission the opportunity to discuss the regulations in public view. She stated that she had little concerns about this regulation as it mimics other statutory language. Commissioner Skinner inquired if this regulation should be promulgated on an emergency basis as the Commission had been advised their authority to collect taxes was retroactive to August 10, 2022. Chair Judd-Stein stated it was dependent upon how fast the Commonwealth wanted the money in a public deposit.

Commissioner Hill stated that from his experience in the legislature that they would prefer the collection to be expedited. General Counsel Grossman stated that there is no legal requirement to enact the regulation by emergency, but there was a policy question of how quickly the Commission wanted to begin the process of collecting taxes.

Commissioner Maynard asked if the caselaw had language related to the emergency promulgation process. Mr. Povich stated that it did not, but different forms of flexibility existed, and it should be decided on a case-by-case basis in order to identify tools to allow the process to more efficiently.

Commissioner Skinner inquired as to whether this regulation should be passed on an emergency basis. Chair Judd-Stein asked for Commissioner Skinner's opinion on the matter. Commissioner Skinner stated that she did not believe the regulation needed to be done through emergency promulgation as the Commission's ability to collect taxes was retroactive. She stated as the tax forms and registration forms would not be presented until the following week, she was unsure this regulation had to be enacted on an emergency basis. General Counsel Grossman stated that the emergency language was included in the draft motion to frame the issue for the Commission and that it was not intended to be a recommendation.

Commissioner O'Brien asked if the fantasy sports wagering funds had been dedicated to certain funds or if they were dedicated to the general fund. CFAO Lennon stated that the fantasy sports wagering taxes were to be disbursed between several funds including the general fund, public health trust fund, competitive work force trust fund and other funds set up by the legislature. Commissioner Skinner noted that 45% of the fantasy sports wagering funds would go to the general fund.

CFAO Lennon stated that the funds were remitted monthly, but if the money was not there the Treasurer's Office could do short-term borrowing, until those tax funds are received, to cover for the revenue. Commissioner Skinner inquired as to whether the tax collection for fantasy sports should begin prior to the tax process for sports wagering kicking in on the launch date. CFAO Lennon stated that there were potential issues in identifying the registrants for daily fantasy sports wagering.

Commissioner Maynard asked if registrants would benefit from the regulation being enacted by ordinary process rather than emergency promulgation and asked if it was a detriment to the

Commonwealth that there had not been a discussion with the registrants. CFAO Lennon explained that smaller operators may not be accruing tax funds or understanding their tax liability, and that notice must be made to the registrants. He stated that larger operators are likely already aware of their tax liability.

Commissioner Hill stated that he was concerned about smaller companies not being aware of their tax liability, and that it could be a financial hit if they are not prepared for retroactive collection. He stated that he did not foresee controversy with this regulation and was willing to implement it through the emergency construct.

Commissioner O'Brien raised the issue that the regulation was silent as to the consequences for failure to comply and asked if that should be addressed in the regulation. CFAO Lennon stated that the Attorney General's Office requested the regulation refer to their investigation regulations. General Counsel Grossman stated that criminal enforcement is under the purview of the Attorney General, but the Commission could impose civil penalties.

Commissioner O'Brien asked if the Commission or Attorney General could revoke a registrant's license if they did not pay their tax obligation. General Counsel Grossman stated that the fantasy sports wagering operators were not licensed, and that the only options available were a fine or criminal penalty. Commissioner O'Brien asked if the motion language was sufficient to incorporate the discussion following the vote. Commissioner Hill stated he felt more comfortable with voting again.

Commissioner O'Brien moved that the Commission approve the small business impact statement as well as the draft of 205 CMR 240 as included in the packet and as further discussed and amended here today. The motion was seconded by Commissioner Hill.

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.

Commissioner O'Brien moved 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 moved that staff be authorized to modify chapter or section numbers or titles to file additional regulation sections as reserved or to make any other administrative changes as necessary to execute the regulation promulgation process. The motion was seconded by Commissioner Hill.

Commissioner Skinner stated that her vote in favor was with the understanding that the finance team would have adequate timing to prepare for the implementation of the regulation.

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.

5. [Sports Wagering Application](#) (59:50)

Executive Director Karen Wells stated that there would be three components related to the sports wagering application, which would include presentation of the regulation, presentation of the draft application, and discussion of the sports wagering process.

[a. DRAFT 205 CMR 211: Category 1, Category 2, and Category 3 Sports Wagering Operator License Applications, and Small Business Impact Statement](#) (1:01:13)

Deputy General Counsel Carrie Torrisi presented a draft of 205 CMR 211 related to sports wagering applications. Deputy General Counsel Torrisi explained that the regulation outlined the process to apply for a sports wagering operator license, including information from the applicant and required fees. She stated that the language in the regulation incorporated language from the Commission's gaming regulations and similar sports wagering regulations from Indiana. The *draft regulation and small business impact statement* were included in the Commissioner's Packet on pages 22 through 26.

Chair Judd Stein sought clarification related to the scoping survey. Director of the Investigations and Enforcement Bureau ("IEB") Loretta Lillios stated that the survey, which was included in the Commissioner's Packet on page 20, assisted in identifying qualifiers at the entity and individual level for each applicant. She explained that the statutory factors defining qualifiers were ownership and control of the applicant entity. She stated that the scoping survey asked applicants to provide information about potential qualifiers, and that the IEB reviews the materials and designates entities and individuals that are required to submit to the background review process.

Commissioner Skinner asked if the survey was required to be completed prior to the application for an operator's license. Director Lillios stated that the scoping survey was a prerequisite to the application. Chair Judd-Stein asked if it had to be completed prior to the application, or if it could be submitted concurrently. Director Lillios clarified that it was the step prior to the application submission process. Executive Director Wells stated that for the purposes of the regulation the scoping survey is considered part of the application, as the Commission can't tell applicants which entities and individuals should be submitted as qualifiers until after the scoping survey is performed.

Commissioner Skinner sought clarification as to the language stating that failure to complete the scoping survey would deem the application administratively closed, as the application would not have been submitted when the scoping survey was performed. Deputy General Counsel Torrisi

stated that the scoping survey is part of the larger application being reviewed. Director Lillios noted that closing of an application could be cured by providing the survey and expressed an interest in assigning a deadline for the scoping survey to assist in processing anticipated timelines.

Commissioner Skinner asked how non-completion of the scoping survey could close the application if it is the step prior to filing the application. Executive Director Wells clarified that the survey was the threshold requirement for completing the application. Deputy General Counsel Torrisi suggested language to clarify this issue. Commissioner O'Brien inquired whether the confusion was due to not clearly delineating that there were multiple components to the application, and suggested the legal division should add language to address the applicant's right to cure the issue prior to the deadline.

Director Lillios stated that the Commission can't begin to take applications without undergoing the scoping survey first. Commissioner O'Brien suggested the breakdown of steps to apply should be included in the regulation. Chair Judd-Stein asked if there were any concerns about requiring the scoping survey be due prior to the application. The Commission had a consensus that there were no concerns. Deputy General Counsel Torrisi stated she would amend the regulation to include language identifying the required forms.

Commissioner O'Brien asked if there was a delineation between negligent misrepresentation or omission and intentional misrepresentation under the regulation. Mina Makarious from Anderson and Krieger explained that it would be beneficial to the Commission to have discretion afforded to them in the regulation, and that as written the regulation would not limit the Commission's disciplinary discretion.

Commissioner O'Brien sought clarification regarding the definition of extraordinary circumstances in the regulation. Deputy General Counsel Torrisi stated she would check to see if the language originally came from Massachusetts' gaming regulations or Indiana's sports wagering regulations. Mr. Makarious clarified that the language left room for discretion from the Commission.

Commissioner Hill asked if the scoping survey asked about the applicant's potential fines or penalties in other jurisdictions. Deputy General Counsel Torrisi explained the information related to penalties in other jurisdictions was included in the application itself. Director Lillios stated that IEB would summarize any self-disclosures from the Business Entity Disclosure ("BED"), and that compliance history and license history would be a part of that information. Commissioner Maynard stated the decision was made to remove that question from the application to make the application more navigable, and that the question was included in supplemental forms.

Commissioner O'Brien suggested the inclusion of a question related to whether an operator had submitted an application in another jurisdiction and been denied, but that she did not want to overburden the applicants. Executive Director Wells explained that the big issues are with licensing in other jurisdictions and compliance history, and that those will be concerns considered during the truncated suitability review process.

Commissioner Skinner stated that she did not recall a Commission discussion related to the truncated suitability criteria, and that four options had been presented to choose from, and was uncertain how this process would work with temporary licensing. Chair Judd-Stein stated that those questions could be saved for after the discussion of what to include in the application rather than the associated forms.

Commissioner Hill stated it would be acceptable to have the staff provide this information to the Commission, and it did not have to be included in the application. Commissioner Maynard stated a preference for allowing the IEB to use the forms presented for their investigation. Director Lillios stated the IEB would need authority for the BED and other supplemental forms.

Chair Judd-Stein explained her understanding that the scoping survey would be considered within the four corners of the application and asked if the other pieces of the application would have a deadline for submission. Executive Director Wells expressed that it may not be reasonable in the shorter timeframe, and they may be due at a later point. She stated that individual qualifiers could be reviewed for truncated suitability after the Commission had lowered the number of applicants down to seven finalists.

Commissioner Hill suggested that the Commission should wait on voting on this matter until edits were presented, and that he wanted to see the changes discussed made prior to voting. Commissioner O'Brien expressed an interest in putting out the regulation for public comment quickly.

Commissioner Skinner stated that she felt the agenda items put forth were based upon an arbitrary, pre-determined timeline that had yet to be discussed. Chair Judd-Stein stated the timeline was later in the agenda and there will be time for Commission input. Commissioner O'Brien agreed with Commissioner Skinner as the agenda items are so intertwined.

b. [Presentation of Sports Wagering Operator Draft Application Form](#) (1:55:32)

Executive Director Wells, General Counsel Grossman, Director Lillios, and Director of Research and Responsible Gaming Mark Vander Linden presented the sports wagering application. Topics included instructions, responsible gaming, technology, suitability, attestation, and waiver of liability, processing fees, public records requests, and compliance. General Counsel Grossman noted that highlighted sections would be edited to include information that was to be determined. The *draft application* was included in the Commissioner's Packet on pages 27 through 48.

Commissioner Skinner asked if the scoring criteria, to be discussed later in the agenda, would be incorporated into the application once it had been decided. Executive Director Wells stated that all potential applicants who filed notices of intent could be emailed information regarding the scoring criteria. Commissioner Skinner expressed an interest in that process as a matter of transparency. Commissioner O'Brien suggested language to the application to clarify that there would be no attempts to contact the commissioners during the application process.

Chair Judd-Stein asked what the means of payment for the nonrefundable processing fee would be. CFAO Lennon stated the applicants would contact the revenue office directly, as there had been issues in the past with wiring instructions and bank accounts being public. Chair Judd-Stein asked what the processing fee funds would be used for. CFAO Lennon stated that the fees would offset the cost of investigation and be used for background suitability and the competitive application process.

Executive Director Wells stated that staff recommended keeping the application electronic and submitting files through the Commission's secure file transfer site. She stated that Commission staff would work with the applicants related to any issues regarding electronic notarization. Commissioner O'Brien suggested edits to clarify section numbers.

Commissioner O'Brien stated that the casino licensing process was successful in notifying the applicants of which forms submitted may not be exempt from public records requests. Commissioner Maynard asked why a section giving legal advice to the entities would be included in the application. General Counsel Grossman stated that there was an option to direct the entities to the Attorney General's policy on public records, but it could lead to a lack of uniform understanding regarding the Commission's discretion as keeper of records to apply the law as interpreted.

Chair Judd-Stein sought clarification about the discretion and stated that the Commission has the obligation to abide by public records laws. General Counsel Grossman stated that whether a submission is a trade secret or detrimental to the entity is not always clear. Chair Judd-Stein stated some licensees may have confusion about the notion of confidentiality, and she was uncertain if the Commission should open up discretion. Commissioner O'Brien noted it would be helpful information to the applicants to inform them what the Commission did not consider to be trade secrets.

Commissioner Maynard stated concerns that the information given may not necessarily comply with the Secretary of the Commonwealth's findings. Commissioner O'Brien stated that notice regarding which categories would not be exempted from the public records law should be provided. Chair Judd Stein stated that the applicants should be on notice that they are subject to disclosure. General Counsel Grossman explained this section was based on the success of similar sections in the RFA-2 process for casino gambling, and applicants could identify which documents they believed were exempt.

Chair Judd-Stein noted that even if the Commission presumes items are exempt, that presumption could be rebutted by the requestor. Chair Judd-Stein asked if the Commission had lost any of their presumptions related to exemptions of public records requests. General Counsel Grossman stated that the Commission had never been challenged regarding the dissemination of information under the RFA-2 process.

Commissioner O'Brien suggested flagging documents the Commission did not believe to be part of the statutory exemption. Commissioner Skinner agreed with Commissioner O'Brien, and Commissioner Hill stated approval in including the language in the application. Commissioner Hill stated that some of the applicants might not be from Massachusetts and have limited

understanding of Massachusetts' unique public records law. Commissioner Maynard expressed an interest in educating applicants on this issue, but asked that the Secretary of the Commonwealth review the information in the application. Commissioner Skinner asked if the Secretary of the Commonwealth provided advisory opinions. Mr. Povich stated that he was unfamiliar with that office providing formal opinions, but it doesn't hurt to ask. Executive Director Wells stated that public records requests would be returned to later.

Commissioner O'Brien suggested edits to clarify the entity's identifying information in the case of potential foreign applicants. Director Lillios noted that applicants are typically US based entities even if qualifiers are foreign, but that inclusive language could be used.

Commissioner Skinner sought edits to clarify the language related to information regarding the number of bets placed. CFAO Lennon explained the information may be duplicative with other portions of the application. Chair Judd-Stein stated some of the language would be duplicative, but compliance was core to the decision and the Commission wanted straightforward answers to the question.

Commissioner Skinner asked if the staff anticipated sharing operator applications with the Commission for the Commission to review all attachments. Director Lillios stated that dependent upon the timeline IEB may have to bifurcate entity qualifier investigation from individual qualifier investigation. She stated any applications received would be available to the Commission for the competitive process and suitability analysis.

Commissioner O'Brien suggested including a question to ensure horseracing operators would provide additional information about their plans to prevent underage patrons from placing sports wagers. Commissioner O'Brien noted that there was not a question about diversity equity in the ownership and corporate structure of entities, and suggested language to include that.

Commissioner O'Brien suggested a question tailored to understanding the applicants' Massachusetts spending. Commissioner Maynard stated that question might fit better in the community engagement section. CFAO Lennon stated that community engagement was typically with chambers of commerce and Massachusetts marketing partnerships to promote Massachusetts businesses, but the language could be more clear.

Commissioner Hill stated that requesting estimated marketing budget would risk the entity's disclosing confidential information. Chair Judd-Stein asked whether advertising as a percentage of overall budget would be preferable. Director Vander Linden stated that operators may prefer a percentage of their budget rather than a precise number. CFAO Lennon stated that the percentage of overall budget would not give a precise perspective as it scaled based upon the size of the operator. Commissioner O'Brien suggested the application note that the Commission raised concerns and ask applicants how they plan to mitigate concerns.

Commissioner Hill suggested that instead of asking for the applicants' marketing budget, the application could require portions of their marketing budget to be utilized for responsible gaming policies. Chair Judd-Stein stated that there were concerns over the intensity and frequency of sports wagering advertisements, and that the Commission should know the applicant's plans for

mitigation. She expressed she was unsure she could parse the percentage information to understand if it matched Commission goals, and suggested the language be open-ended. Commissioner O'Brien suggested a question related to whether the operator had received responsible gaming recognition or awards.

Commissioner O'Brien asked if there was merit in including a question about whether the applicant had been sanctioned in other jurisdictions for technological defects, as she had heard about an issue in another jurisdiction where operators had been sanctioned for accepting credit cards when it was prohibited. Regulatory Compliance Manager Sterl Carpenter noted the jurisdiction mentioned was in Iowa. Executive Director Wells stated that this concern is addressed in the general information section.

Commissioner Skinner asked if the vendor contracted to assist in drafting regulations could review the technology section of the application. Executive Director Wells replied that the contract was not yet in place, so staff would have to wait to do that. CFAO Lennon stated that new platforms might not have as much information available to submit until the applicant submitted their testing information. Executive Director Wells suggested additional language in the regulation to allow the Commission to ask for supplemental information

Commissioner O'Brien suggested the question related to diverse ownership should be moved to the diversity and inclusion provision rather than the financial stability section, and Commissioner Maynard agreed. Commissioner O'Brien asked how long the application would be posted for public comment. Chair Judd-Stein stated that the public comment period was dependent upon the timeline, and as the timeline keeps coming up as a factor that topic should be moved up in the agenda.

6. [Sports Wagering Implementation Timeline Discussion](#) (4:24:34)

a. Potential launch dates

Executive Director Wells presented a draft timeline for commencement of sports wagering and stated that the proposed timeline was not definitive and should be used to guide the conversation. Commissioner Skinner asked for the rationale behind the compressed timeline. Chair Judd-Stein stated that the truncated timeline did not necessarily mean the timeline was unreasonable or presented more risks.

Executive Director Wells stated that one issue is the uncertainty of the number of applicants for untethered category three licenses, as it was unclear how many of the entities which filed notices of intent would file applications. She explained that staff expected approximately twelve to fifteen applications for this category, but it may be more. She explained that significant numbers of applications and qualifiers would slow the suitability process. She explained the second issue with the speed of this process was the emergency regulation promulgation process, and in order to hit the proposed February launch date most regulations would have to be promulgated as an emergency.

Chair Judd-Stein asked if an assumption was being made about truncated suitability. Executive Director Wells stated that the sports wagering law, General Law Chapter 23N, distinguished itself from the casino gaming law, which required full suitability prior to licensure, and pushed for temporary licensing of sports wagering operators.

Executive Director Wells stated that the timeline was more efficient than other jurisdictions. Commissioner Skinner asked why this aggressive timeline was being offered over other timelines. Executive Director Wells stated that the proposed timeline was the earliest possible launch of sports wagering. Chair Judd-Stein asked if there were concerns about compromising integrity. Executive Director Wells replied that the timeline was consistent with the law and noted that many of the applicants had completed suitability in other jurisdictions, which may help alleviate concerns.

Chair Judd-Stein asked if qualifiers would be reviewed in the truncated temporary licensing review process. Executive Director Wells stated that qualifiers would be investigated after the applicant field was narrowed to seven following the competitive process. CFAO Lennon stated that GLI had seen similar processes in other jurisdiction and have knowledge related to addressing concerns and mitigation factors.

Director Lillios stated that this process is the inverse of the suitability investigation for gaming casinos, and that due the timeline most of the review would be on self-disclosed attested information rather than independently validated information. Chair Judd-Stein asked how long the process would be if individual qualifiers were not reviewed until later. Director Lillios stated that it would take a team a couple of weeks to perform truncated suitability, and full suitability would be performed after the issuance of a license.

Commissioner Maynard stated that if full suitability was required prior to launch it would be 2024 before a wager could be placed, and that the timeline presented was patron-centered. Commissioner O'Brien agreed it was patron-oriented, but as a regulator she wanted the process to be done in a manner maximizing benefit and minimizing harm. She stated that truncated suitability seemed to have been decided for the purpose of the timeline without a commission consensus and expressed frustration over the lack of conversation on this issue. She expressed concern that there may be more applicants than expected, which would extend the proposed timeline.

Executive Director Wells stated that the scoping survey would be returned prior to the application due date so that the IEB could begin the scoping process while awaiting applications. Chair Judd-Stein sought clarification as to whether scoping would include individual qualifiers. Executive Director Wells stated that scoping at this phase was limited to entity qualifiers. Executive Director Wells said ideally the scoping survey would be returned within five to seven days, and that the application and BED for entity qualifiers would be submitted within thirty days.

Executive Director Wells stated that in order for the structure to work, the assumption is made that qualifier entities would have recently filled out a BED for another jurisdiction, and that an entity not in another jurisdiction may struggle to complete the form on time. Chair Judd-Stein

asked if the entities may compete the BED prior to hearing back from the IEB. Executive Director Wells stated that scoping standard and the applicants should have an idea that it will need to be submitted. She stated that the advantage to this timeline is that the structure gets moving quickly, but stated that a disadvantage is applicants being deterred by an aggressive timeline.

Chair Judd-Stein stated that the timeline assumed 30-days between posting the application and the application deadline. Commissioner O'Brien stated that 30-days may be enough for category one applicants, but category two applicants had indicated they might not be postured for that period. She suggested a 60-day application window for category three licensees as they are not as situated currently. She expressed concern that a shorter timeline would limit smaller entities' ability to apply, and that staggering categories one and two would alleviate pressure on the timeline.

Commissioner Skinner agreed with Commissioner O'Brien and stated that a shorter timeline could create disadvantages to those newer to the sports wagering industry. Commissioner Skinner inquired whether the Commission should delay voting to finalize the timeline until they had a clearer understanding of how many applicants there were for category three.

Commissioner O'Brien expressed she did not believe it to be responsible to release the application without a period of public comment. Commissioner Maynard stated that concerns over smaller entities could be addressed by holding the awarding of some of the seven licenses for applicants who were not as immediately situated. He stated that none of the companies at the operator roundtable expressed concerns about completing the application on time. Commissioner Skinner noted that the operator roundtable focused on specific questions, and she did not expect them to comment on that issue. Commissioner O'Brien stated that the Commission could query interested parties to see if 30 days was too short or 60 days was too long.

Commissioner Hill asked how long the public comment period on the application would be, expressed an interest in the first bets to be placed by the Superbowl, and suggested a 45-day application window as a compromise. Chair Judd-Stein noted that the proposed timeline accommodated for a category one launch date prior to the Superbowl. Commissioner Hill stated that he wanted to launch category three operators for the beginning of March Madness NCAA finals. Commissioner O'Brien stated that she envisioned a two-week public comment period due to the upcoming holiday shortening the following week.

Commissioner O'Brien suggested posting the application for two weeks for public comment, returning to the Commission on October 27, 2022. Commissioner Maynard agreed with Commissioner Hill's goal of launch prior to the Superbowl and expressed an interest in compressing some of the public comment days.

Commissioner Skinner raised concerns that the timeline may not be consistent with best practices or without risk. Chair Judd-Stein stated that the timeline was a product of the Executive Director and staff input. Commissioner Skinner clarified that she had concerns related to advancing the Superbowl as a deadline prior to the timeline being discussed. Commissioner Maynard stated that he wanted the timeline to be more aggressive and patron centered. Executive

Director Wells stated that the starting point for the proposed timeline was the minimum amount of time required to launch sports wagering. She stated that policy implications would have to be discussed but adding to the timeline would delay the launch date.

Executive Director Wells noted that category two applicants were not included in the timeline as more information related to their plans and partners was needed. Commissioner O'Brien echoed Commissioner Skinner and asked what the best practice would be if the proposed timeline was the minimum time required to launch.

Chair Judd-Stein asked what the industry standard is for timelines and expressed concern that a March launch may not be viable. Executive Director Wells stated that the timeline was dependent upon several factors, such as public comment period, and that extra days could cause the Commission to miss the Superbowl deadline. Commissioner O'Brien stated that the launch date of the Superbowl was found by establishing a launch date and working back and asked realistically how long it would take to process the applications.

Chair Judd-Stein suggested a compromise of a one-week public comment period. Executive Director Wells put a placeholder deadline for the application for 45 days. CFAO Lennon stated that the 30-day application deadline was the bare minimum for completion of the application, and if the bare minimum is used the staff should advise the Commission of the unique risks. He stated that a shorter application period would negatively impact smaller entities, effect the timeline, and limit the best applications coming forward. He stated that if the Commission could accept those risks a 30-day application deadline is acceptable but suggested at least 45 days if the Commission is not willing to accept those risks.

Commissioner O'Brien expressed concerns over not doing an open-source public record search for individual qualifiers during the truncated review process. Executive Director Wells stated that individual suitability analysis would occur later in the timeline. Commissioner O'Brien stated that she was not comfortable with that risk and asked how the timeline would be affected by moving some initial individual qualifier investigations to the frontend of the process. Director Lillios stated that the multijurisdictional personal history disclosure form would be challenging for the applicants to complete in the timeframe allotted.

Chair Judd-Stein asked if the proposed review of individuals would be for each of the applicants or the seven finalists after the competitive process. Commissioner O'Brien expressed an interest in an open-source search for all applicants. Director Lillios stated it would be difficult to consider how the timeline would be affected until the number of applicants was known.

Executive Director Wells suggested the use of self-scoping with identification of potential individual qualifiers. Director Lillios stated that the process could work with 45 days and the self-identification of individual qualifiers.

Chair Judd-Stein asked if the regulation process in the timeline seemed reasonable to the legal division. David Mackey from Anderson and Krieger stated that his firm was confident in being able to draft the regulations for whatever timeframe the Commission envisioned. Deputy General Counsel Monahan stated that extra time would be beneficial for the legal division for the

regulation review process. She suggested an additional week between each regulation for time to consult with stakeholders and Commission review. Executive Director Wells stated that the proposed timeline prioritized regulations for category one operators, and that there is concern that extended review time might delay the retail sports wagering launch.

Deputy General Counsel Monahan stated that there was a lot of overlap between the regulations for categories one and three. Chair Judd-Stein stated that prioritizing category one's launch may delay category three's launch should the Commission vote on a staggered launch. Commissioner O'Brien noted that the Commission only had thirty days to review the applications in the proposed timeline, in addition to the other processes required for launch.

Chair Judd-Stein stated that thirty days to review and score applicants was an aggressive timeline, but it is where she would start to launch category one operators on time. Commissioner Maynard stated that the scoping survey and application should be released as soon as possible to learn how large the field of interest in the application is. Director Lillios suggested the applicants have seven days to complete the scoping survey. Commissioner Maynard suggested that the scoping survey be due the following Monday due to a shortened holiday week. Commissioner Skinner noted that in order to release the survey, the regulation would have to be promulgated as an emergency and expressed concern over public comment. Executive Director Wells stated that the emergency promulgation process allowed for public comment after the survey had been posted.

Executive Director Wells stated that the advantage of retail sports wagering was that the operators had already been identified and were working with gaming agents. Commissioner Skinner stated that the regulations required for category one also overlapped with regulations required for category three and expressed concern that the regulation timeline would not give staff enough time to comply with the compressed timeline.

Commissioner Skinner inquired what issues would arise if retail sports wagering was not launched by the Superbowl. Commissioner Maynard stated that the legislation expected quick procedure, and similar emergency regulations had been implemented in Iowa, Indiana, and Connecticut. He expressed concerns that Massachusetts residents would place wagers with illegal operators, which was a concern for public safety.

Commissioner Skinner stated that while these were valid reasons, she did not want to compromise the process and wanted the public to have the opportunity to weigh in. Commissioner O'Brien agreed and stated that speed is not the sole measure of performance. She expressed reservations on a date-determinative outline when compared to best practices. Chair Judd-Stein asked what date Commissioners Skinner and O'Brien would be comfortable with. Commissioner O'Brien expressed a preference for whatever time the staff reasonably needed, as the legal division stated they would prefer more time.

Executive Director Wells stated that the legal division may need more time than envisioned to complete the regulation promulgation process for the category one launch. General Counsel Grossman stated that the timeline was possible, but the legal division might need more opportunity for review of the regulations, and that developing a timeline for the regulations

would be difficult currently. Chair Judd-Stein stated that the Commission could pivot to accommodate teams but expressed concern about delaying the timeline.

Director Lillios expressed confidence in the IEBs ability to review the category one operators and vendors prior to the proposed launch date.

Chair Judd-Stein asked if the Commission was comfortable voting on a staggered retail launch date in January. Commissioner Skinner raised concerns in the legal division being able to complete their duties by January. General Counsel Grossman stated that the legal division could be ready for a January launch.

Commissioner Maynard stated a staggered launch is acceptable, but he was worried about a lull in preparations between the launch of category one and category three. Commissioner Hill expressed an interest in one vote for staggered launch dates and another vote for the timeline of category one launching before the Superbowl. Chair Judd-Stein stated that category one applicants and category three applicants should both receive a timeline, and one should not be voted on without the other.

Commissioner O'Brien noted that the Superbowl is on February 12, 2023. Executive Director Wells stated that there is some flexibility for launch dates prior to the Superbowl. Commissioner O'Brien addressed concerns about a launch date for category three as there was an unknown number of applicants.

CFAO Lennon clarified that staff was asked what was required to open prior to the Superbowl and expressed areas of concerns they had. He stated that it was not the case that staff couldn't meet the deadline, but that it was a matter of how much risk the Commission was willing to take.

Chair Judd-Stein sought clarification of the potential risks. Executive Director Wells identified the risks as the risk to applicants related to the deadline of the application; the risk of a shorter timeline being too burdensome on the staff and applicants; the risk of having less time to review the regulation drafts; the competitive process and evaluation criteria; and less time for public comment periods.

Chair Judd-Stein noted that 200 regulations had been identified as necessary, and only two had been approved currently. She expressed concern about communicating timelines and milestones to the operator. Commissioner O'Brien stated that the Commission had reached consensus on releasing the amended application for comment, had asked the legal division to create a regulation authorizing the application, and that there had been a consensus as to the category one operator's launch date.

b. [Continued Review of 205 CMR 211](#) (7:17:21)

Deputy General Counsel Torrisi presented the edits made to the draft of 205 CMR 211 pursuant to the discussions earlier in this meeting.

Chair Judd-Stein sought clarification as to whether failure to complete the scoping survey by the deadline was a disqualifier. Commissioner O'Brien stated that the shorter deadline on the scoping survey was because it was a prerequisite and missing the survey deadline could be cured by providing both the survey and application by the application deadline. Deputy General Counsel Torrissi stated that the language related to curing the survey was taken from the gaming regulations. Commissioner O'Brien stated that extending the application deadline should only be for extraordinary circumstances. Commissioner O'Brien suggested edits to clarify the Commission's discretion in authorization of extension of the scoping survey deadline.

Commissioner O'Brien asked when the scoping survey would be posted. Executive Director Wells stated it would be posted the following morning and due the following Friday. Commissioner O'Brien suggested the deadline be changed to allow the applicants a full week due to the upcoming holiday. Commissioner Skinner asked if the scoping survey and regulation would be distributed to those who filed notices of intent. Executive Director Wells stated that the information would be sent out shortly. Deputy General Counsel Torrissi stated that the regulation would be posted to receive comment once it had been voted on.

Commissioner O'Brien moved that the Commission approve the operator and vendor scope of licensure initial survey and that the due date be set by close of business on October 17, 2022.

Chair Judd-Stein offered an amendment to clarify it is the initial scoping survey. Commissioner O'Brien accepted the amendment. The motion was seconded by Commissioner Hill.

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.

Deputy General Counsel Torrissi finished presenting the changes to the draft version of 205 CMR 211. Chair Judd-Stein asked if any commissioner objected to promulgating 205 CMR 211 on an emergency basis. The Commission had no objections.

Commissioner O'Brien moved that the Commission approve the small business impact statement and the amended draft 205 CMR 211 as discussed and edited here today and as included in the Commissioner's Packet and further the 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 moved staff be authorized to modify chapter or section numbers or titles to file additional regulation sections as reserved or make any other administrative changes necessary to execute the regulation promulgation process. The motion was seconded by Commissioner Hill.

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.

Chair Judd-Stein noted that the Commission had yet to discuss the application scoring process and would need a regulation on the application review process. She inquired whether it was permissible to approve the regulation on the application and post the application prior to having the scoring process in place. General Counsel Grossman stated he did not believe there was a risk associated with posting the application for public comment. He explained that the statute supported an application and that regulations were designed to clarify the statute's points and ensure potential applicants were put on notice of the application's contents.

Commissioner O'Brien moved that the Commission approve the sports wagering operator application form as included in the Commissioner's Packet and discussed and edited here today and further that it be posted for public comment consistent with the Commission's discussions today. The motion was seconded by Commissioner Hill.

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.

7. [Discussion of Simultaneous vs. Staggered Launch Dates](#) (7:37:44)

Chair Judd-Stein noted that a staggered launch date for retail and mobile operators had been utilized successfully in other jurisdictions. She reiterated that some of the entities at the operator roundtable were opposed to staggering these two launch dates due to equity concerns. She stated that she had concerns over equity the longer category three operators have to wait for a launch and asked when the mobile launch should occur after the February retail launch.

Commissioner Skinner stated she understood the Chair's concerns and suggested waiting to vote on the retail and mobile timelines at the same time to prevent inequity. Commissioner Maynard echoed the concerns about equity, but stated he was willing to take a vote on expeditiously launching category three operations. Commissioner Skinner cautioned that putting pressure on an expeditious timeline may also put undue pressure on staff. Commissioner Hill expressed an interest in a timeframe, if not a date, for the staggered launch. He suggested a March 14, 2023, launch for category three operators, which would be before the NCAA March Madness finals.

Commissioner O'Brien stated she was comfortable with a staggered launch for retail and mobile, and setting the timeline for category one to be launched prior to the Superbowl. She stated that

she wanted to move quickly with category three's launch for March, but there was a caveat that the number of applicants was unknown.

Chair Judd-Stein stated that the March Madness date might be a compromise with the aggressive timeline, with the understanding that the launch date may need to be moved if there were a large number of applicants. Commissioner O'Brien stated she was uncomfortable with giving an exact date with the uncertainty of the number of applicants. Commissioner Skinner stated that she was only comfortable voting on a launch date for category one operators. Commissioners Maynard and Hill stated that they were okay with the March date.

Executive Director Wells stated that February 10, 2023, would be the latest launch date to have wagering available for the Superbowl. Commissioner Maynard stated that the March launch date for category three operators should be classified as a goal, but he did not want to vote on one category's launch date without the other.

Commissioner O'Brien suggested separating the votes on staggered launches for category one and three from the vote for specific launch dates. Executive Director Wells suggested a recess until the following day due to time constraints. General Counsel Grossman stated a recess could be used instead of reposting the meeting as an emergency.

Chair Judd-Stein stated that she was not comfortable taking a motion for staggered timelines without a motion clarifying dates. Commissioner Maynard stated the vote should be held the following day.

Commissioner O'Brien moved that the Commission vote to approve staff to proceed with a staggered retail and mobile launch process. The motion was not seconded.

Chair Judd-Stein stated that the meeting would enter a recess and reconvene at 12:00 PM on the following day, October 7, 2022.

[Meeting Reconvenes](#) (4:31)

Commissioner Skinner asked when the due date was for public comment for the application that had been approved. Deputy General Counsel Torrissi stated that public comment would be due by October 17, 2022.

Chair Judd-Stein asked Chief Mills for an update from the Communications Division. Chief Mills stated that some regulations were on the Commission's website for public comment, and that the scoping survey would be posted as a component of the sports wagering operator application. Commissioner Skinner asked if the scoping survey was also being sent directly to entities that submitted a notice of intent. Commissioner O'Brien suggested the survey be communicated to all entities who participated in the operator's roundtable, and not limited to those that filed notices of intent.

Deputy General Counsel Torrissi noted that both regulations voted on the prior date were promulgated through the emergency process. Executive Director Wells stated that one option

would be to notify entities who filed notices of intent during the public comment period, so they can begin the process earlier. Chair Judd-Stein suggested language be included in the application to put potential applicants on notice that the Commission might decide to change a question on the application.

Executive Director Wells noted that the due date was 45-days past posting. Commissioner Hill sought clarification that the timeline with retail launch for the Superbowl was possible with a 45-day application window. Executive Director Wells stated that a launch prior to the Superbowl was still possible. Commissioner O'Brien clarified that the 45-day application window was a compromise between the minimum time needed to launch and the 60-day application window she had requested.

Chair Judd-Stein asked Executive Director Wells for her proposed timeline. Commissioner Skinner asked Executive Director Wells to also list the risks involved with the speed of the timeline.

Executive Director Wells stated that the proposed timeline from the previous day allowed for a mid-December category one launch date, but she suggested pushing the retail launch date to late January to allow the legal team extra time to review regulations. She stated that there were less risks for category one operators as the operators had been identified, unlike the category three operators. She stated the staff could make the deadline, but there might not be as thorough an internal review. She stated that she was comfortable with a late January launch for category one operators and suggested an early March launch for category three.

Commissioner Skinner asked if the due date for the application had been identified. Executive Director Wells stated that it would be due on November 21, 2022. Executive Director Wells noted that suitability for category one operators would not take as much time as suitability for category three operators as category one applicants were known to the Commission as gaming licensees.

Commissioner Skinner sought clarification as to whether the Commission's 30-day internal review was to occur during the 30-day public process. Executive Director Wells clarified that they would be separate processes. Commissioner Skinner sought clarification regarding the truncated suitability process for category one. Executive Director Wells stated it was not comparable to initial suitability as category one operators did not need to submit BEDs.

Commissioner Skinner asked if the truncated review was also going to occur for vendor licensing. Executive Director Wells stated that the category one retail operators had submitted fifteen vendors. Director Lillios stated that there would be an abbreviated process designed to address time concerns.

Commissioner Skinner noted that the attestation process for identifying vendors for licensure had not been voted on and asked what preliminary work was done to identify the vendors. Director Lillios stated that the three casinos had self-identified the potential vendors.

Commissioner Skinner raised the issue that the timeline was directed towards launching for a sporting event. Chair Judd-Stein stated the proposed timeline was a launching point for discussion and asked if Commissioner Skinner had any suggestions. Commissioner Skinner suggested a timeline that would not be taxing to the Commission staff and not centered around sporting events. Chair Judd-Stein asked what date Commissioner Skinner would be comfortable with. Commissioner Skinner stated she was not offering a timeline but was deferring to staff. She stated that it was her understanding that the timeline was doable but concerned that it was built around a sporting event.

Commissioner O'Brien stated that she shared Commissioner Skinner's position regarding the presupposition about the launch date and would have preferred an open-ended discussion to discuss potential dates. She stated that she was focused on compromise, but that she was uncomfortable setting a category three launch date without knowing how many applicants will apply. She stated she was not confident a release date for March was realistic.

Commissioner O'Brien stated all presented timelines assumed the Commission would assume maximum risk in each category, and asked to discuss the levels of scoping, identity, and self-disclosure for vendor licensing as it affects the timeline. Chair Judd-Stein asked if Commissioner O'Brien would perform the licensing any differently. Commissioner O'Brien stated that the request was for a deeper conversation related to vendor licensing regulation.

Commissioner Hill suggested that a motion with a proposed date should have language that if an issue was identified by staff or through public comment that might delay the launch date, the Commission would meet to discuss and take further action. He stated this would allow the Commission to address issues as they arose. Chair Judd-Stein stated that language could be built in because delays would need to be explained to the applicants and the industry.

Commissioner Maynard stated that risks had been outlined and asked if there were risks of not implementing launch dates given the unregulated market's operations. Executive Director Wells stated that illegal, unregulated sports wagering was occurring and that it risked loss of revenue, not having responsible gaming initiatives, and the unregulated sports wagering connected to organized crime.

Chair Judd-Stein asked for a vote on the timeline. Commissioner O'Brien requested a discussion for vendor licensing first, as it was prior to the timeline on the original agenda and relevant to her comfort level with the proposed dates.

8. [Vendor Licensing Process](#) (54:14)

a. DRAFT 205 CMR 234: Sports Wagering Vendors, and Small Business Impact Statement

The *draft regulation and small business impact statement* was included in the Commissioner's Packet on pages 199 through 219.

Director Lillios stated that G.L. Chapter 23N did not provide explicit guidance on how to address vendors but gave the Commission broad authority to license entities other than operators. She stated that it was widespread practice in the industry to license vendors, and that the Commission may prioritize certain vendors to ensure adequate background reviews of vendors.

Director Lillios explained that the proposed regulation 205 CMR 234 distinguished itself from the gaming equivalent, 205 CMR 134, as it only had two vendor tiers. She explained that sports wagering vendors were those directly or routinely involved in the sports wagering operation, and under the proposed regulations would be required to be licensed by the Commission. She explained that non-sports wagering vendors were vendors to the operators who were not involved in the sports wagering operations. She stated that non-sports wagering vendors would be reported by the operator to the IEB, who would make a determination as to whether the vendor needed to go through a registration process, and that certain vendors were exempt from licensing.

Director Lillios stated that there were two options for the temporary licensure of vendors which allowed for a balance of operational needs, accelerated pace, and integrity.

Director Lillios explained that Option A mirrored the gaming regulations and would require the IEB to perform a preliminary review of the licensee including the application, entity qualifiers, and individual qualifiers with independent verification of key markers. She explained that Option B was the attestation process where the applicant entity certified to certain items under the pains and penalties of perjury. She stated that under Option B the operators utilizing the vendor must state to the best of their knowledge that the vendor is qualified to Commission standards.

Director Lillios stated that a full suitability review would occur at the backend as part of the full licensure process. Commissioner O'Brien asked how the two options fit into the proposed timelines being discussed. Director Lillios replied that Option A required full scoping of vendors and application intake of all identified qualifiers, which would be difficult but not impossible with the January timeline as only fifteen vendors had been identified by the casinos. Commissioner O'Brien sought clarification of the term key markers. Director Lillios stated that key markers included litigation checks, a review in law enforcement databases, and an independent evaluation of sports wagering licensure status in other jurisdictions.

Commissioner Skinner asked what the risks were of not using Option A, as that process was successfully used in casino gaming. Director Lillios stated that risks for vendors were lower than those of operator platforms as many products provided by vendors can be sourced from another vendor. She stated that most vendors are licensed in other jurisdictions, and vendor investigations were less intrusive.

Commissioner Skinner asked if there was less risk in not conducting a full suitability review for sports wagering vendors when compared to gaming vendors. Director Lillios stated the risks were the same, but the statutes were different as G.L. Chapter 23N did not have a provision on vendor suitability. Commissioner Skinner stated that if the risk is the same the same rules should be applied for sports wagering vendor licensure.

Chair Judd-Stein asked how many vendors were identified. Director Lillios stated that the casinos identified fifteen vendors. Chair Judd-Stein stated that there may be overlap in vendors between the retail and mobile operators and asked if the IEB had begun work. Director Lillios stated that she spoke to the vendors regarding their product line but a regulation was needed to begin investigation.

Director Lillios stated that G.L. 23N was silent regarding vendor licensure and allowed flexibility in process for licensing vendors. Chair Judd-Stein asked if these practices were used in other jurisdictions. Director Lillios replied that most jurisdictions license vendors for sports wagering and have different levels of vendors specified.

Commissioner O'Brien expressed hesitation in licensing vendors as she wanted third-party marketers to be under the control of the licensing process. She stated that there were different levels of how integral a vendor was, and that she was less comfortable with Option B for geofencing vendors. She suggested a tweaked Option B that required affirmative proof of licensing in another jurisdiction and a release to run CORI and background checks on qualifiers. She inquired whether the vendors could be further tiered for the prioritization of vetting.

Executive Director Wells stated that she discussed this with Kevin Mullaly, the Vice President of Government Affairs and General Counsel for GLI, and he indicated that there was low risk on suitability of vendors as the vendors are likely licensed in multiple jurisdictions. She suggested it may make the Commission more comfortable to ask the vendors to identify the jurisdiction they were most recently licensed. Commissioner O'Brien asked if the vendor could submit their license from another jurisdiction as part of the temporary licensing process. Executive Director Wells stated questions could be added in Option B to require vendors to attest to where they were licensed.

Commissioner O'Brien stated she wanted an affirmative production of documents rather than an attestation. Executive Director Wells stated that jurisdictions are constantly cross-communicating on license status, and it may be possible to do quick checks with bigger jurisdictions such as New Jersey or Pennsylvania. Director Lillios stated that the prioritization of certain vendors would not be addressed during the initial investigation for the issuance of temporary licenses, but they could be prioritized during the full licensure investigation.

Commissioner O'Brien expressed an interest in information related to the types of vendors to prioritize. She stated that a vendor that stood out to her was third party marketers, and she had concerns that the licensing exemption for television, radio, newspaper, and similar media in 205 CMR 234 §3(a)(2) would encompass third part marketers. Director Lillios stated that the exemption quoted covered media outlets and not marketing affiliates, and that third-party marketing affiliates would likely be on the registrant level. Commissioner O'Brien stated she was not comfortable with third-party marketing affiliates as registrants and believed they should be licensed.

Chair Judd-Stein asked if this issue could have been captured elsewhere. Director Lillios stated that marketing affiliates were not explicitly identified in the proposed regulation. Chair Judd-Stein suggested language to distinguish similar media from marketing affiliates.

Director Lillios explained that G.L. Chapter 23N did not specifically address the initiator for civil administrative penalties for vendors. She stated that the casino gaming language could be used, substituting Commission in place of the IEB as the body that issues fines, and allowing the provision to be returned to for edits in the future. Chair Judd-Stein asked to remove this provision in 205 CMR 234.11 due to an underlying legal concern Anderson and Krieger wanted to review. Director Lillios raised concern about eliminating a provision, even if temporarily. Mr. Povich stated that the issue could be handled by adjusting the language or deferring to a later point. Commissioner O'Brien stated that she was comfortable replacing IEB in the regulation with Commission.

Commissioner Skinner sought clarification about the requirement for licensure required for a person owning more than 15% of the applicant. Director Lillios explained that the language was so that those who own over 15% could not waive their investigation and were considered an entity qualifier. General Counsel Grossman stated that under language in G.L. Chapter 23K qualifiers were considered to be licensed, but a further license was not required.

Chair Judd-Stein stated that the timelines presented assumed Option B was used for vendor licensing. Executive Director Wells stated that Option B was sufficient. Commissioner Skinner stated she had trouble that there were different rules for sports wagering vendors and gaming vendors despite the same risks. She stated that she hoped to revisit the regulation to impose a more stringent suitability review for the temporary licensing process. Commissioner O'Brien expressed she had similar concerns to Commissioner Skinner, and suggested a sunset period for Option B that would default back to Option A.

Commissioner Maynard asked if the legal division was comfortable with the required attestation sections in Option B, as someone might look for a loophole. Director Lillios stated that self-disclosure would likely be truthful because repercussion to the applicants affect not only their Massachusetts licensing but their licensing in other jurisdictions. She stated that the Commission would be the arbiter to evaluate if something attested to was a misstatement. She stated that reliance on attestation appeared in other jurisdictions and was not unique to Massachusetts.

Commissioners Hill, Skinner, and Maynard supported the suggestion of a sunset provision. Chair Judd-Stein raised concerns if Option B was sufficient, that a sunset provision might make the IEB require additional testing for those not ready to launch by the launch date. She suggested revisiting the vendor licensing process later rather than sunset.

Commissioner Maynard sought clarification as to whether all gaming vendors underwent Option A. Director Lillios confirmed that they did. Chair Judd-Stein noted that gaming required full suitability prior to launch, and that sports wagering was under a different structure. Director Lillios stated that it would take a team of investigators two to three weeks to perform the investigation.

Commissioner O'Brien stated she was not comfortable with Chair Judd-Stein's suggestion as she did not want to promulgate the regulation knowing it will be changed later. She stated that her comfort level with Option B was to have GLI identify vendors that required a more robust review for temporary licensure and to put the onus on the vendor to produce documentation of licensure in another jurisdiction. She stated that absent that she preferred Option A or a sunset provision.

Chair Judd-Stein stated that as G.L. Chapter 23N was silent as to vendor licensure, the Commission would have to vote on whether vendors should be licensed prior to deciding on Option A or Option B.

Commissioner O'Brien moved that the Commission determined to license vendors under G.L. Chapter 23N and direct staff to draft and promulgate a regulatory scheme to implement vendor licensing under G.L. Chapter 23N. The motion was seconded by Commissioner Skinner.

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.

Chair Judd-Stein asked if there was a consensus between Option A or B and stated that a timeframe would be needed if the Commission chose to utilize a sunset provision. Commissioner O'Brien stated that a sunset provision would be tied to the launch but had concerns as she heard at the operator roundtable that category two operators might not be able to launch until April. Executive Director stated that a timeline for category two would be made once more information was made available by the licensee.

Commissioner O'Brien stated that assuming there is a category three launch in March she would want the sunset provision to revert to Option A no later than April 30, and asked if that was sufficient. Director Lillios stated that timeframe might not be available to category two to utilize, and suggested language designating a certain number of months after the initial launch of each category. Commissioner O'Brien suggested using the fiscal year which ended on June 30, 2023. Commissioner Hill stated that he had envisioned the sunset provision to be through the end of the calendar year to ensure every operator was up and running.

Commissioner Skinner asked how long the full suitability process would take instead of the temporary suitability process. Director Lillios stated that full suitability balanced with IEB's other workload can take over a year.

Commissioner Maynard raised concerns that the sunset provision would negatively impact smaller or more diverse vendors who would join the market later. He suggested revisiting the regulation rather than sunseting it. Chair Judd-Stein stated she agreed with coming back to

review the licensing in a later session but understood Commissioner O'Brien's stance that Option A was preferred.

Commissioner O'Brien raised concern over Commissioner Maynard's suggestion as there was risk of the future discussion not coming to a solution. She suggested a compromise of September instead of the full calendar year, defaulting to option A after the sunset provision date.

Chair Judd-Stein sought clarification of what information would make Commissioner O'Brien comfortable with Option B. Commissioner O'Brien stated that the Commission should talk to GLI and insert language to Option B that would identify vendors that required additional vetting.

Commissioner O'Brien moved that the Commission vote to approve Option B as included in the Commissioner's Packet today, under a sunset provision that any application for temporary license received after September 1, 2023, would then be subject to what is described as Option A, in the proposed regulation 205 CMR 234.07. The motion was seconded by Commissioner Hill.

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.

Chair Judd-Stein stated that the regulation also needed a vote and that she assumed the emergency promulgation process would be used. Deputy General Counsel Monahan stated that if the regulation was promulgated through the emergency process the legal division was authorized to file it with the Secretary of the Commonwealth prior to the public comment period ending. Commissioner O'Brien stated that ideally emergency regulations should be posted for comment the week prior to voting on them, to allow the Commission to amend the regulation by emergency. Deputy General Counsel Monahan stated regulations could be put out for public comment when the Commissioner's Packet is released.

Commissioner Skinner echoed Deputy General Counsel Monahan's idea of posting regulations on the website when the materials in the Commissioner's Packet are released prior to the meeting as it would allow the Commission to incorporate public feedback into the meeting. The Commission reached a consensus for publicly posting regulations the day they are made available in the Commissioner's Packet.

Commissioner Hill moved that the Commission approve the small business impact statement and the draft of 205 CMR 234 as included in the Commissioner's 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 move that staff should be authorized to modify chapter or section numbers or titles to file additional regulation sections as reserved or to make any other

administrative changes as necessary to execute the regulation promulgation process. The motion was seconded by Commissioner Maynard.

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.

b. [DRAFT 205 CMR 202: Sports Wagering Authority and Definitions](#) (2:44:58)

Deputy General Counsel Monahan explained that the proposed regulation 205 CMR 202 set out the Commission's authority to promulgate regulations and the initial set of definitions to be used in the regulation process. She stated that it would likely need to be amended later in the regulation promulgation process to incorporate more definitions that arise during the process.

Chair Judd-Stein asked Commissioner O'Brien if she wanted to affirmatively include third-party marketers in the language related to sports wagering vendors. Commissioner O'Brien stated that would be the safer way to do it and suggested edits accordingly.

Deputy General Counsel Monahan replied that marketing affiliates should fall under the sports wagering vendor definition. Commissioner Skinner asked for clarification of the role of third-party marketing affiliates, e.g., whether they are responsible for marketing promotional play incentives. Commissioner O'Brien explained that marketing affiliates were marketing teams used to attract customers to the applications, and most were paid a portion of play or per customer.

Commissioner Hill moved that the Commission approve the small business impact statement and the draft of 205 CMR 202 as included in the 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 move that staff shall 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. The motion was seconded by Commissioner Maynard.

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.

9. [Timeline Discussion Continued](#) (2:51:58)

Executive Director Wells recommended a retail launch for late January for category one operators. Commissioner O'Brien suggested going two weeks back from the Superbowl. Executive Director Wells stated the Superbowl was on February 12, 2023, and two weeks prior to that would be January 29.

Regulatory Compliance Manager Carpenter stated that there was typically a two-week betting period prior to the sporting event, and that casinos were worried about being overrun by the crowd size of bettors if betting opened only a few days before the event. He stated it would be preferable for the operators to start on a non-busy night two weeks prior to the event.

Commissioner Hill stated that January 18, 2023, would have been preferable as that's when the playoffs start. Commissioner Skinner noted that launch date conflicted with the original proposed timeline. Commissioner Maynard asked Executive Director Wells if the 29th would fulfill her late January timeline; she confirmed that it would.

Commissioner Hill asked if the other commissioners would be willing to compromise for January 22. Executive Director Wells stated that staff would need as much time as possible to enact regulations prior to launch. Commissioners O'Brien and Skinner stated they had already compromised for the January 29 date.

Executive Director Wells stated she had been notified that January 29, 2023, is the date of the NFL Conference Championships. Regulatory Compliance Manager Carpenter stated that opening that day could be volatile unless it was an end of day launch. Commissioner Skinner stated that the date that mattered was Executive Director Wells recommended, and the Commission should focus on staff needs rather than the date of the sporting event.

Chair Judd-Stein stated that the potential issues that arise at the casinos are also a concern for public safety. Commissioner Skinner stated that she would like to see a timeline that maximizes protection to the public and suitability reviews to ensure the launch is effective, expeditious, and without compromising standards.

Executive Director Wells stated that the launch date could be finalized after casino input. Chair Judd-Stein stated the exact date could be returned to but concerns about public safety factors needed to be considered. Commissioner O'Brien suggested a launch date of the Monday after the Conference Championships, as it would avoid the safety concern of patrons rushing to the sportsbook and still allow two weeks for wagering.

Commissioner Maynard stated that the first date proposed by Executive Director Wells was January 26, but he would defer to Executive Director Wells about what is best for the team. Executive Director Wells stated that GLI is scheduled to come on board, and that they could help with the timeline due to their experience. Chair Judd-Stein asked for the GLI information to be submitted for the following week.

Commissioner O'Brien asked if the Commission was comfortable releasing a range for launch rather than a date. Chair Judd-Stein stated that the range for category one was in late January and asked what the recommendation was for category three. Executive Director Wells stated that the tethered and untethered category three operators would have a universal launch date, with the caveat that some operators may not be prepared by the launch date. She stated that there was uncertainty due to the unknown factor of how many applicants there would be, and that additional time would be needed if there were more applicants than expected.

Executive Director Wells stated that the timeline gave 30 days for the public review for the Commissioners to evaluate the applicants and 45 days for the certificate of operations process and individual qualifier review. She stated that there could be flexibility in the 75 days available.

Commissioner O'Brien stated that the assumption of fifteen applicants may be low, and it would not be realistic to review a greater number of applicants in a 30-day public period. Commissioner O'Brien stated that other Commission obligations might impact the schedule.

Chair Judd-Stein stated that the two milestones seemed to be a late January launch for category one operators and an early March launch for category three operators. Commissioner O'Brien stated that she agreed regarding category one but believed the launch date for category three was overly aggressive and unrealistic based upon the time it takes for hearings, adjudicative processes, and deliberations. Chair Judd-Stein asked if Commissioner O'Brien had any suggestions. Commissioner O'Brien stated that a timeline could not be informed until the Commission was aware of how many applicants there were, and that the March Madness date may not be reached if there were a significant number of applicants.

Commissioner Hill asked if there would be separate motions for the launch dates for category one and three. Chair Judd-Stein expressed concern that separating the motion might cause an equity issue. Commissioner O'Brien stated she would prefer the motions be bifurcated as the timelines presents ignored category two, and therefore there would still be an equity concern. She stated that she was comfortable with the category one launch timeline but was not comfortable with category three due to the unknown number of applicants and asked to separate the votes.

Chair Judd-Stein clarified that category two operators would be able to launch retail at the same time as category one in theory. Executive Director Wells stated that the casinos already had sportsbooks carriers and that category two would need to catch up, and that they may not have the same timetable. She stated that both category two licensees required more time to gather information prior to the development of the timeline for category two.

Commissioner Hill moved that the Commission identified late January as the launch date for category one sports wagering operators in the Commonwealth of Massachusetts on the condition that the Commission may reconsider these dates should there be staff, extraordinary circumstances, or public comment brought up that would not allow for launch on these dates.

Commissioner Maynard suggested amendment language barring any unforeseen circumstances affecting the public health safety and welfare of the citizens of Massachusetts, that the

Commission identified early March as the launch date for category three sports wagering operators in the Commonwealth of Massachusetts. Commissioner Hill accepted the amendment.

Commissioner O'Brien offered further amendment that the recommended timeline for category three also be subject to the same criteria listed by Commissioner Hill for category one in addition to the fact that the Commission may need to reconsider the date based upon the number of applicants received pursuant to the application process for category three. Commissioner Hill accepted the amendment. The motion was seconded by Commissioner O'Brien.

Roll call vote:

Commissioner O'Brien: Aye.

Commissioner Hill: Aye.

Commissioner Skinner: Abstain.

Commissioner Maynard: Aye.

Chair Judd-Stein: Aye.

The motion passed unanimously, 4-0 with one abstention.

10. [Presentation of Sports Wagering Scoring Process](#) (3:27:34)

Executive Director Wells stated that the scoring criteria for the evaluation process was expected to be in a regulation, and that the Commission should give criteria to guide the legal division in drafting the regulation. She stated that scoring criteria should be available prior to the application deadline. She stated that Chief Mills stated that the information would be sent to those who filed notices of intent and would be posted publicly.

Executive Director Wells outlined the seven sections of the application including financial stability, economic impact, diversity and inclusion, information technology, platform, prior experience and background, and responsible gaming. She stated that the Commission had broad discretion in the process and some procedures to consider might be scorecards, developing a weight for each category, options for the scoring system such as points. She stated that the Commission could use the initial period of the evaluation to narrow down the top candidates which could be presented to the Commission.

CFAO Lennon stated that commissioners may have different opinions on different sections and recommended a consensus scoring. He suggested bringing in a consultant as an impartial party. He stated that some categories would have assistance from IEB analysis, but it might not work if there were more applicants than expected.

Mr. Povich stated that the criteria was dependent upon the volume of applicants and agreed with Executive Director Wells' recommendation for two rounds of evaluation if there were more than the expected number of applicants. He suggested the use of a number scoring system.

Commissioner O'Brien sought clarification about weighting as one commissioner may value a category over another. Mr. Povich stated that weighting of categories was not required. Chair Judd-Stein asked if the Commission had an obligation to include information related to the assessment process when posting the application. CFAO Lennon stated that there is no

requirement to post anything other than the areas being reviewed and that that the seven criteria mentioned earlier could act as that guidance.

General Counsel Grossman stated that the goal was to ensure decision-making was not arbitrary or capricious, and to ensure the process performed was reflected in the regulations. He stated that the process described in the regulation stating what activities the Commission may engage in was to give notice to applicants of the process being used.

Chair Judd-Stein asked if the Commission could decide late to do interviews or have the operators present oral presentations at a meeting. General Counsel Grossman stated that it would be helpful to develop a consensus if scoring would be part of the process so that the legal division could include it in a draft regulation, but that those options could wait until the time comes to vote on the process.

Commissioner O'Brien asked if scoring was part of the process for the RFA-1 and RFA-2 processes for casino gaming. General Counsel Grossman stated that there was no scoring in the RFA-1 process, but RFA-2 reviewed suitability. He explained that there was not numerical scoring, but five categories and related subcategories were reviewed, and the Commission had the flexibility through a wholistic review of the quality of the applications.

Chair Judd-Stein sought clarification of the multi-round processes to address concerns with the volume of applicants. General Counsel Grossman stated that one option was to numerically score the batch of applicants and draw a bright line to identify top applicants, then use a wholistic review based on metrics to select the application in the best interest of the Commonwealth. He stated it would be a bifurcated process and could be reserved as an option by regulation.

CFAO Lennon clarified that top tiers would filter applicants, and scores could be revised based on later answers. Mr. Povich stated that Anderson and Krieger's perspective was skeptical of numeric scoring, but the Commission should remain flexible until the number of applicants is known.

Commissioner Skinner asked if the Commission would have the opportunity to get a more comprehensive presentation on their options. Chair Judd-Stein stated that more understanding would be needed to understand the risk involved, and that this agenda item was to set the stage for discussion.

Executive Director Wells stated that the additional time in the application window would allow for more room to consider the tools utilized and criteria evaluated. Chair Judd-Stein suggested a regulation be drafted encompassing best practices for the evaluation process. Commissioner O'Brien suggested looking for a similar regulation from casino gaming.

General Counsel Grossman stated that he considered proposing this process after the RFA-2 process with some tweaks. Commissioner O'Brien noted that mobile operators would not have a physical location unlike casinos. General Counsel Grossman stated that the legal division could produce an open-ended draft for the Commission to help visualize what the process looks like and other available options.

Commissioner O'Brien asked that the legal division only needed pull the RFA-2 regulations as they already had a lot on their plates. General Counsel Grossman stated that it would be helpful to get everyone on the same page for one approach for the review process. General Counsel Grossman stated that he had a video of a similar competitive review process performed by the Commission for Region A, and that the Commission weighed a variety of factors based off certain criteria. He stated he would review caselaw for components determined not to be arbitrary or capricious.

Chair Judd-Stein asked if other jurisdictions who had gone through the competitive process could be considered. Regulatory Compliance Manager Carpenter stated research would be required, but Illinois is the most similar to the process considered here.

CFAO Lennon stated that jurisdictions such as New York utilized a point system, but other states such as Illinois and Virginia used a more general system. Commissioner O'Brien asked if Maryland had used a competitive process. Regulatory Compliance Manager Carpenter stated that Maryland's process was competitive, but their limitation on operators was too high and the review process took the committee sixteen months. Mr. Povich stated that the Massachusetts Supreme Judicial Court might be able to inform about criteria.

Chair Judd-Stein asked if the Commission had a consensus to empower CFAO Lennon to procure a consultant on this matter. CFAO Lennon stated he would procure a management consultant from the statewide contract. He stated that the casino regulation would give the consultant a good idea of what the Commission wanted to capture. Commissioner O'Brien asked if a commissioner could take part in the selection process rather than it being only staff. CFAO Lennon agreed. Commissioners O'Brien and Hill expressed an interest in volunteering for the selection process. Chair Judd-Stein stated that a vote would not be held on that issue as it would create a subcommittee.

Commissioner Skinner asked if the management consultant could potentially act as the neutral third party in the evaluation process. CFAO Lennon stated that the consultant could and could keep track of discussions and comments. Chair Judd-Stein asked if the legal division would be delayed without a vote. General Counsel Grossman stated it was not a concern and the issue could be advanced to next Thursday's meeting.

11. [Other Business](#) (4:07:14)

Commissioner Hill asked if the application addressed the Secretary of the Commonwealth's concern related to the preservation of the lottery. Chair Judd-Stein stated she did not think of the lottery concerns for the application, but it could be included. Commissioner Skinner stated she believe the sustainability of the lottery was more of a matter for house rules or internal controls.

General Counsel Grossman stated that the Secretary of the Commonwealth's abandoned property concerns were addressed in the regulatory framework, but it did not include a commitment to protect the lottery. He stated that it could be included as an attestation as part of the application process, a condition to the operator's license, or through other approaches.

Chair Judd-Stein asked if the application had been posted yet; Chief Mills confirmed that it had. Chair Judd-Stein sought clarification as to whether the attestations were included in the application. Chief Mills stated that the ones discussed yesterday were included, and an attestation relevant to the lottery could be drafted and added.

Commissioner Maynard asked if the Secretary of the Commonwealth sought provisions that mirrored the regulations governing the existing gaming licenses. He suggested that prior to receiving a license the operators should present a plan to mitigate the impacts to the lottery and require licensees to partner with the lottery.

Commissioner Maynard moved to add a question to the sports wagering application in line with the Secretary of the Commonwealth's requests. The motion was seconded by Commissioner Hill.

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.

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

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

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.

List of Documents and Other Items Used

1. Notice of Meeting and Agenda dated October 3, 2022
2. [Commissioners' Packet](#) from the October 6, 2022, meeting (posted on massgaming.com)