



Massachusetts Gaming Commission Meeting Minutes

Date/Time: December 15, 2022, 10:00 a.m.
Place: Massachusetts Gaming Commission

VIA CONFERENCE CALL NUMBER: 1-646-741-5292
PARTICIPANT CODE: 112 522 2264

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

Commissioners Present:

Chair Cathy Judd-Stein
Commissioner Eileen O'Brien
Commissioner Bradford Hill
Commissioner Nakisha Skinner
Commissioner Jordan Maynard

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

Chair Judd-Stein called to order the 413th Public Meeting of the Massachusetts Gaming Commission ("Commission"). Roll call attendance was conducted, and all five commissioners were present for the meeting.

2. [Review of Meeting Minutes](#) (00:56)

Commissioner Hill noted that the September 22, 2022, minutes were distributed later than the other sets, and wanted to ensure that the Commission had sufficient time to review that set of minutes. Commissioner Skinner noted that she had not had the opportunity to review the September 22, 2022, minutes and requested that the Commission move that vote until the following meeting. Commissioners agreed.

a. [9/13/2022 and 9/19/2022](#) (02:40)

Commissioner Hill moved that the Commission approve the minutes from the September 13, 2022, and September 19, 2022, public meetings that were included in the Commissioner's Packet

subject to any necessary corrections for typographical errors or other non-material matters. Commissioner Skinner seconded the motion.

Commissioner O'Brien suggested an edit to the September 13, 2022, minutes and Commissioner Hill confirmed they would make the change.

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.

3. [Administrative Update](#) (04:12)

Chair Judd-Stein introduced Assistant Director of the Investigations & Enforcement Bureau and Gaming Agents Division Chief Bruce Band to provide the casino update. Assistant Director Band stated that MGM Springfield ("MGM") had its sports wagering kiosks on-site and had begun installing them. He stated that MGM continued to host their toy drive and that MGM planned to shut down their ice rink after the holidays. He stated that Encore Boston Harbor ("EBH") had started a Feed the Funnel event providing meals for surrounding communities, with the goal to pack 400,000 meals. He stated that Plainridge Park Casino ("PPC") had hired their sportsbook manager Ryan Blake.

Commissioner O'Brien asked why MGM was closing the ice rink. Assistant Director Band stated that the information about the ice rink closing was recently received, and he did not yet have a chance to follow up. Chair Judd-Stein noted that the Commission would be interested in receiving an update on the issue.

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

- a. 205 CMR 138: *Uniform Standards of Accounting Procedures and Internal Controls* and Small Business Impact Statement for initial review and possible emergency adoption

Deputy General Counsel Caitlin Monahan introduced attorney Mina Makarious from Anderson and Krieger to present the internal control regulations. Mr. Makarious stated that the regulations implemented requirements to ensure operators have a plan to do everything they are required to run operations in accordance with the Commission's regulations and General Law Chapter 23N.

Mr. Makarious explained that 205 CMR 138 and 205 CMR 238 capture the security of accounts, how money was handled, staffing protocols and supervision. The *draft 205 CMR 138 and small business impact statement* was included in the Commissioner's Packet on pages 27 through 114.

Mr. Makarios stated that 205 CMR 138 was the existing internal controls for gaming licensees and that the regulation was being updated with respect to gaming licensees with sports wagering areas. He stated that new language was being added to 205 CMR 138 which provides that, with reference to the extent to which third parties provide any internal controls of the gaming licensees, the licensees must document what third-party operators are doing. Addition and language that if there was a conflict between 205 CMR 138 and 205 CMR 238 the licensee would have to describe any conflicts within their internal controls.

Mr. Makarios stated that similar language appears in 205 CMR 238, but this provision was specifically for gaming licensees. He noted that category two sports wagering licensees would be covered in 205 CMR 238. Chair Judd-Stein asked if there were any burdensome reporting requirements in the regulation. Assistant Director Band replied that there were not.

Mr. Makarios noted that the internal controls required the prohibition of the issuance of credit to sports wagering patrons. Commissioner O'Brien stated that the Commission would be addressing the specific definition of those terms when discussing responsible gaming and marketing. She asked if the definition in the regulation would be able to capture the future discussion. Mr. Makarios stated that the provision would capture those definitions, as it had licensees ensure they were meeting the Commission's requirements.

Mr. Makarios noted that the requirement that ATMs not be within fifteen feet of the gaming area was edited to include sports wagering areas as well. Commissioner O'Brien inquired whether this requirement also applied to category two licensees. Mr. Makarios stated that the term used for this provision was sports wagering facility which captures category two operators as well; he added that a catch-all would be included in the category two sports wagering regulations.

Commissioner O'Brien asked if the notification requirements for data breaches went above and beyond the state and federal requirements. Mr. Makarios stated that they did as it required additional details be reported out. Commissioner O'Brien asked if there was a separate notice requirement to the Commission in the case of a data breach. Mr. Makarios stated that the procedures included a required notification to the Commission in the case of a data breach.

Chair Judd-Stein asked if the Commission was comfortable voting on 205 CMR 138 at this time. Commissioner O'Brien stated that she would like to review 205 CMR 238 before voting on 205 CMR 138 due to the interplay between the regulations. Deputy General Counsel Monahan stated that 205 CMR 238 should be screenshared, as late typographical adjustments did not make it into the Commissioner's Packet.

b. [205 CMR 238](#): *Uniform Standards of Accounting Procedures and Internal Controls for Sports Wagering* and Small Business Impact Statement for initial review and possible emergency adoption (30:04)

Mr. Makarios presented 205 CMR 238 which related to the internal controls for sports wagering. Digital technical compliance specialist Mike Robbins from Gaming Laboratories International (“GLI”) stated that sections (f) and (h) reference 205 CMR 243.01 to tie in the technical security controls in GLI 33 that pertain to sports wagering systems. He noted that 205 CMR 243.01 also tied into the aspects of procedures and practices in Appendix A of GLI 33.

Chair Judd-Stein sought clarification if ‘chief sports wagering executive’ and ‘department’ were the defined terms, as the Commission staff used different terminology. Mr. Robbins explained that the terms used mirrored what existed in the casino gaming regulations, and that the terms referred to the operator not the Commission. Chair Judd-Stein stated that the clarification was helpful.

Mr. Robbins explained that 205 CMR 238 applied to all sports wagering categories, with the exception of when it discussed, the sports wagering counter or area which would only apply to categories one and two, given their in-person nature. Mr. Makarios stated that the regulation had some similarity to 205 CMR 138, but was profoundly impacted and edited to address the online components of sports wagering.

Chair Judd-Stein noted that the Commission received more direction on these matters in General Law 23K than they had in General Law 23N. She asked if the regulation could be interpreted as overextending. Mr. Makarios stated that the provisions were based within federal laws, and noted the Commission had the authority to require operators to comply with all applicable laws.

Chair Judd-Stein sought clarification about the language related to accepting sports wagering tickets as a tip. Mr. Makarios clarified that occupational licensees could not accept them, but that other employees could - provided they did not solicit the ticket or participate in the selection of the wager.

Mr. Robbins explained that the language related to ‘restricted patrons’ was separated from ‘prohibited persons’. He noted that a restricted patron was someone who could place wagers, but there were restrictions on what they could wager on. He used an example of a football player not being able to wager on a game he was playing in. Mr. Robbins noted that prohibited persons were those acting in violation of a prohibition, such as attempting to wager while on the voluntary self-exclusion (“VSE”) list.

Chair Judd-Stein asked for a quick review of the “change management” provision. Mr. Robbins stated that the provision tied back to 205 CMR 244.03 and was flagged during an internal review that it would be advantageous to create a cross-reference to include in this section.

Mr. Makarios stated that the data network security requirements were designed based on other jurisdictions with the assistance of GLI. Mr. Robbins stated that it laid out a framework for a quarterly vulnerability scan and added additional security measures due to the considerable risk factor of the internet.

Commissioner Skinner noted that she did not spend as much time reviewing this regulation as she would have liked, due to the aggressive application review schedule. She stated that she was

comfortable moving on the regulation in this meeting as Commissioner O'Brien had been focused on this regulation. She reserved her right to propose edits during the public comment process and before the Commission's vote to promulgate the regulation as final.

Commissioner O'Brien noted the provision on Document Retention required giving notice to the Gaming Enforcement Division at the Attorney General's Office, and asked if this was brought to the Attorney General's Office to ensure the timing was a reasonable request. Mr. Makarious stated that the language was identical to the existing 205 CMR 138, and that the only change was to make it explicitly clearer that if any entity identified in the regulation requests information be retained it should be complied with. Commissioner O'Brien stated she doubted the Attorney General's Office would want changes, but did think they should be notified.

Chair Judd-Stein noted that the Commission had the benefit of GLI's counsel in standing up sports wagering and stated that the Commission could revisit any regulation promulgated with an amendment. She stated that there was no time limitation if there was something the Commission could improve upon.

Commissioner Hill and Commissioner Maynard thanked Mr. Makarious for the presentation. Commissioner Maynard noted that any questions he had were secondary to the regulation and related to the policies and procedures that would be submitted. He stated that he had no issues with the framework.

Executive Director Karen Wells stated that next after promulgation of these regulations was to notify applicants of a due date for them to submit their internal controls for GLI to review in order to remain on schedule. Commissioner Skinner noted that the regulations had been posted to the website and thanked the Communications Division for posting them.

Commissioner O'Brien moved that the Commission approve the small business impact statement and the draft of 205 CMR 138 as included in the Commissioner's Packet and further discussed here today. 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.

Commissioner O'Brien asked if the existing regulation was being requested to be promulgated by emergency to remain consistent with the interconnectedness of 205 CMR 138 and 205 CMR 238. Deputy General Counsel Monahan stated that it was.

Commissioner O'Brien moved that 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 that staff be authorized to modify chapter

or section numbers or titles to file additional regulation sections as reserved or make any other administrative changes 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.

Commissioner O'Brien moved that the Commission approve the small business impact statement and the draft of 205 CMR 238 as included in the Commissioner's Packet and as discussed today. 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.

Commissioner O'Brien asked how putting this regulation in as an emergency would work with the existing timeline. Deputy General Counsel Monahan explained that it would take two to three months to promulgate the regulation not by emergency, and the internal controls would not be ready for the category one go-live date in January. Executive Director Wells explained that internal controls are a critical requirement of the operations certificate regulations.

Commissioner O'Brien moved that the staff be authorized to take the steps necessary to file the required documentation with the Secretary of the Commonwealth related to 205 CMR 238 by emergency, and thereafter to begin the regulation promulgation process and further that staff be authorized to modify chapter or section numbers or titles to file additional regulation sections as reserved or make any other administrative changes 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.

c. [205 CMR 254](#): Temporary Prohibition from Sports Wagering, and Small Business Impact Statement for initial review and possible emergency adoption (1:17:10)

Deputy General Counsel Carrie Torrisi and attorney Annie Lee from Anderson and Krieger presented the draft of 205 CMR 254 which created a cooling-off option for sports wagering as an alternative means for patrons to exclude themselves if they hadn't chosen to enroll in VSE. Deputy General Counsel Torrisi noted that the regulation had undergone changes the morning of the meeting. The *draft 205 CMR 254 and small business impact statement* was included in the Commissioner's Packet on pages 158 through 162.

Ms. Lee explained that cooling-off periods were inspired by the VSE list, but they may function closer to PlayMyWay on the implementation and administrative side. She noted that it differed from the VSE list because cooling-off was done on an operator-by-operator basis, rather than a combined list between all operators. She noted that cooling-off only applied to sports wagering platforms, and not retail locations.

Chair Judd-Stein asked if cooling-off was described by law or a policy decision. Ms. Lee stated that it was not prescribed by law, and it was used in the industry as a responsible gaming measure. Chair Judd-Stein sought clarification whether the cooling-off period only applied to a single platform. Ms. Lee stated that was correct.

Director of Research and Responsible Gaming Mark Vander Linden explained that the priority in cooling-off was that it was effective immediately. Chair Judd-Stein asked if there was a way to remove cooling-off if they decided they wanted to sports wager during that period. Director Vander Linden stated that there was no way to remove the cooling-off period until the designated time expired.

Ms. Lee stated that there were five options for the cooling-off period: 72 hours, one week, two weeks, three weeks, and four weeks. Chair Judd-Stein stated that there was a policy decision here and Commissioner O'Brien stated that she was unsure that the Commission had made this decision on cooling-off periods.

Chair Judd-Stein stated that as an underlying policy decision was being proposed and that the Commission should reflect on it. Commissioner O'Brien noted that the Commission had not asked in terms of technology whether the operators would have the technology to implement the VSE.

Director Vander Linden stated that the Commission has a Responsible Gaming Framework and had issued a white paper on sports wagering considerations. He noted that cooling-off was a priority for the Commission and the Responsible Gaming Division. Commissioner O'Brien asked if the Commission would have the jurisdiction to request all operators to adopt Penn Entertainment's policy that their cooling-off period would be universal for both the online

application and retail locations. She stated that the issue could be addressed in the upcoming responsible gaming regulations for sports wagering.

Commissioner O'Brien suggested that longer cooling-off periods should require additional notice that the temporary prohibition period would be ending, noting 24 hours' notice felt short. Director Vander Linden stated that it may be a question of what was feasible, and that a solution could be explored with GLI. Commissioner Hill stated that he had the same concerns and noted that further information would be helpful.

Chair Judd-Stein asked if the 24 hours' notice could be extended to 72 hours. Commissioner O'Brien stated that she wanted information on what was the best practice, and what was practical from a technological standpoint. She suggested a couple more days' notice on longer cooling-off periods.

Director Vander Linden stated that finding the best practices was a good question as evaluation of this type of feature was sparse. Deputy General Counsel Torrisi stated that if voted on today, this regulation would appear before the Commission in February for a final vote, where additional changes could be made. Chair Judd-Stein stated that from a technical point of view, it would not be difficult to add language in this meeting and then adjust it later. Commissioner O'Brien asked what the suggested language would be. Director Vander Linden stated that his recommendation would be to require a 72-hour notice for any cooling-off period longer than a week.

Commissioner O'Brien asked if language existed for days eight to thirteen of the cooling-off periods. Ms. Lee explained that the options for cooling-off were: 72 hours; one week; two weeks; three weeks; and four weeks. She added that a patron would not be able to customize a period of eight to thirteen days. Commissioner Maynard expressed concern by not allowing consumer choice in this feature. Director Vander Linden stated that simplicity was important, and that PlayMyWay uses a process with as few clicks as possible. He explained that people enrolling in a cooling-off period were in a state of mind looking to solve or prevent their problem. He stated he appreciated wanting to provide flexibility, but the five options presented made sense. Chair Judd-Stein noted that more options may also create backend technological challenges for operators.

Commissioner O'Brien stated that she was thinking of presentations the Commission heard about the patrons being precise with how long they want to cooling-off, but the five options could make the choice simpler. Director Vander Linden stated that the five options were his recommendation. Chair Judd-Stein posed that the 72-hour and one-week cooling-offs would remain a 24-hour notice while two weeks, three weeks, and four weeks would be changed to a 72-hour notice.

Commissioner Skinner stated that she recalled from prior presentations that the preset timeframes would be built into the platform. Commissioner O'Brien expressed that she had

thought the timeframe could be personalized and that she may have misheard it. Commissioner Skinner stated that the cooling-off period could be extended, but she recalled that four weeks was the maximum. Chair Judd-Stein agreed with Commissioner Skinner. Commissioner Maynard stated that the choice made it easy for a person to be more restrictive and impose boundaries on their wagering.

Ms. Lee stated that there was a notification that allowed patrons to select whether they wanted to renew their cooling-off period, apply for the VSE list, or resume sports wagering. Director Vander Linden asked if this notification was the same one mentioned previously, as he was under the impression that affirmative action was required to continue sports wagering. Ms. Lee stated that the notification was separate from the one previously discussed, and would only appear after the cooling-off period has ended. She noted that this notification would include an additional question about engaging in sports wagering again.

Director Vander Linden explained that with the VSE list there was a requirement of a reinstatement session with a GameSense advisor. He stated that the cooling-off period did not require that type of one-on-one interaction but that a decision to continue the cooling-off period or enroll in the VSE list would be included. Commissioner O'Brien asked if Director Vander Linden would suggest additional language based on his comments. Director Vander Linden stated that the provision covers what he recommended.

Commissioner O'Brien moved that the Commission approve the small business impact statement and draft of 205 CMR 254 as included in the Commissioner's Packet and discussed today, and in particular the edits discussed and agreed upon pertaining to 205 CMR 254.03. The motion was seconded by Commissioner Hill.

Deputy General Counsel Torrisi mentioned there was an additional small redline edit in 205 CMR 254.02. Commissioner O'Brien amended her motion to include the edit specifically discussed in 205 CMR 254.02 and 205 CMR 254.03. The amendment 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 inquired why this regulation was needed to pass by emergency. Executive Director Wells stated that the Commission would not want to launch mobile sports wagering without these protections in place for the vulnerable citizens of Massachusetts.

Commissioner O'Brien moved that 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 that staff be authorized to modify chapter or section numbers or titles to file additional regulation sections as reserved or make any other administrative changes 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.

5. [Commissioner Updates](#) (2:05:45)

Chair Judd-Stein thanked the attorneys from Anderson and Krieger for their presentations. No other updates were offered.

6. [Other Business](#) (2:06:07)

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 December 12, 2022
2. [Commissioner's Packet](#) from the December 15, 2022, meeting (posted on massgaming.com)
3. [205 CMR 238 Revision](#) for December 15, 2022