



Massachusetts Gaming Commission Meeting Minutes

Date/Time: December 22, 2022, 9:30 a.m.
Place: Massachusetts Gaming Commission

VIA CONFERENCE CALL NUMBER: 1-646-741-5292
PARTICIPANT CODE: 111 000 5870

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 416th 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](#) (01:10)

a. March 3, 2022, and March 10, 2022

Commissioner Hill stated that he was going to do two separate motions, as the first two sets of minutes were for meetings prior to Commissioner Skinner and Maynard being appointed to the Commission.

Commissioner Hill moved that the Commission approve the minutes from the March 3, 2022, and March 10, 2022, public meetings that were included in the Commissioner's Packets subject to any necessary corrections for typographical errors or other non-material matters. Commissioner O'Brien seconded the motion.

Roll call vote:

Commissioner O'Brien: Aye.

Commissioner Hill: Aye.

Commissioner Skinner: Abstain.

Commissioner Maynard: Abstain.

Chair Judd-Stein: Aye.

The motion passed unanimously, 3-0 with two abstentions.

b. [September 22, 2022](#) (02:33)

Commissioner Hill moved that the Commission approve the minutes from the September 22, 2022, public meeting that were included in the Commissioner's Packets subject to any necessary corrections for typographical errors or other non-material matters. Commissioner O'Brien seconded the motion.

Roll call vote:

Commissioner O'Brien: Aye.

Commissioner Hill: Aye.

Commissioner Skinner: Aye.

Commissioner Maynard: Aye.

Chair Judd-Stein: Aye.

The motion passed unanimously, 5-0.

3. [Legal](#) (03:35)

a. Sports Wagering Regulations

i.205 CMR 247: Uniform Standards of Sports Wagering and Small Business Impact Statement for initial review and possible emergency adoption

Deputy General Counsel Carrie Torrisi stated that 205 CMR 247 provided general parameters for wagers that may be offered by sports wagering operators. She noted that this regulation and 205 CMR 248 were drafted in collaboration with Gaming Laboratories International ("GLI"), outside counsel from the law firm Anderson and Krieger, and internal stakeholders from the Commission.

Deputy General Counsel Torrisi stated that the regulation: included the method for identifying sporting events that operators could offer wagers on; implemented the statutory mandate that operators must adopt comprehensive house rules for sports wagering; provided the process operators could use to request the Commission to approve wagering on new sporting events or new categories of wagering; and explained the process operators utilize to accept or process wagers. The *draft 205 CMR 247 and Small Business Impact Statement* were included in the Commissioner's Packet on pages 31 through 44.

Commissioner O'Brien sought clarification of whether this regulation set up the framework for what was authorized, or the specific events and wagers. Mina Makarious, counsel from the law firm Anderson and Krieger stated that the regulation was set up for the framework, and that the categories permitted would be voted upon at a later point.

Commissioner Hill sought clarification on why placing sports wagering bets on horseracing was explicitly disallowed in this regulation. Mr. Makarious explained that horseracing and simulcast wagering rules were already implemented and regulated under General Law Chapter 128A and 128C respectively, and that Massachusetts had chosen to keep those internal controls separate. Commissioner Hill asked if he would be able to wager on both sports events and horseracing within the same locations. Mr. Makarious stated that a licensee would have to be able to offer betting under an existing racing or simulcast license.

General Counsel Todd Grossman noted that under the Gaming Act, category one licensees could offer simulcasting, but none of the casinos had requested that ability. Mike Robbins, Digital Technical Compliance Specialist with Gaming Laboratories International ("GLI") stated that there was a separate licensing schema, and that the regulation did not intend to overstep anything in General Law Chapter 128A or 128C regarding the licensing of horseracing or simulcasting. Commissioner Hill stated that he wanted to ensure the citizens of the Commonwealth understood that distinction.

Commissioner Hill noted that it was possible a category one licensee may request a simulcasting or horseracing license in the future. Chair Judd-Stein inquired whether the Commission had the authority to grant the request without legislative approval. General Counsel Grossman stated that he believed the Commission possessed the requisite authority, but noted he would review the language in 23K to be certain.

Chair Judd-Stein asked if it would be possible for a patron to place a bet pursuant to General Law Chapter 23N, and a bet on horseracing in the same kiosk at Plainridge Park Casino ("PPC"). Joe Bunevith, Director of Client Solutions from GLI, stated that due to the difference in licensing structure between parimutuel horseracing, the technology for wagering on horseracing was separate from sportsbooks systems being implemented, since the repeal of the Professional and Amateur Sports Protection Act ("PASPA"). He noted that it was likely to be two separate systems.

Commissioner O'Brien noted that it was possible to bet on both with a live teller, but also highlighted that there was an issue with the dichotomy between the ages Massachusetts residents could bet on sports wagering and horse racing. Chair Judd-Stein clarified to the public meeting attendees that the age to wager on horseracing was eighteen; and the age to sports wager was twenty-one.

Commissioner Maynard stated that some sports wagering patrons may want to bet on larger horseracing events such as the Kentucky Derby. He asked if there was flexibility that would allow for that form of wagering within 23N. Gabe Benedik, Client Solutions Executive from GLI, raised the concern that odds in a sports wagering system would be different from those offered in a parimutuel system. Mr. Robbins noted that Colorado and New Jersey had fixed-odds

horse-race wagering. He stated that during internal discussions, horseracing was purposefully excluded, and that if the Commission wanted to consider fixed odds wagering, they would have to consider whether horse racing would be a sporting event or fall under the parimutuel horseracing framework.

Commissioner Hill stated that it was his understanding that sports wagering and horseracing wagers would be placed in separate locations within PPC. Commissioner O'Brien replied that PPC was not going to have sports wagering kiosks in their horseracing area, but that they did not explicitly say that bets on both horseracing and sports events could not be placed with the same teller. Commissioner Hill expressed that it was understanding that patrons would have their identification checked at the casino entrance.

Chair Judd-Stein stated that the operators could make an affirmative request to include horseracing as a sporting event, as well. Commissioner Hill noted that the taxation of horseracing and sports wagering were different and shared that it should be separated and returned to in the future. Commissioner Maynard stated he would be interested in returning to this matter as a policy discussion in the future.

Mr. Makarios noted that as it was written the draft of 205 CMR 247 would need to be changed, as horseracing events would be prohibited from sports wagering. He noted that the drafting of this regulation considered the rights and responsibilities regarding the existing horseracing licenses. He explained that legislative changes would not be necessary, but that the language was drafted to strike a balance with the existing horseracing legislation.

General Counsel Grossman agreed and noted that wagering on horseracing was under two existing laws for entities licensed under General Law Chapter 128A or 128C; and for gaming establishments that request such authority under G.L. Chapter 23K § 7(b). He stated that wagering on horseracing events may be permissible under G.L. Chapter 23N, but it would possibly infringe on the other authorities. He noted the language was drafted in order to protect the existing interests.

Commissioner Hill expressed hesitance in debating this topic at this time because the Commission would not have the benefit of hearing from interested parties. Commissioner O'Brien agreed. Commissioner Hill and Commissioner Maynard expressed that they would like to return to this topic at a future date. Commissioner Maynard stated he would be interested in hearing comments from any category one licensees who would like to host events related to or coinciding with the Kentucky Derby. Commissioner O'Brien stated she wanted to hear from those with the rights under G.L. Chapter 128, as parimutuel betting helps to fund horseracing and breeding in Massachusetts. She noted that the category one licensees had the opportunity to simulcast prior to the sports wagering statute passing.

Mr. Robbins noted that casino areas restricted to those over the age of twenty-one could have parimutuel kiosks next to sports wagering kiosks. Commissioner Skinner stated that further discussion was necessary to understand the implications of what had been proposed. Chair Judd-Stein requested Executive Director Karen Wells to note that this topic should be revisited with further comment from stakeholders in the future.

Chair Judd-Stein sought clarification on whether the house rules could be required to be published in additional languages other than English. Mr. Makarious stated that it was not addressed in the regulation, and that he was unaware of other jurisdictions that require translations. Mr. Robbins stated that it was a business decision and that sportsbooks with a predominant Spanish speaking userbase offered the house rules in both Spanish and English.

Commissioner O'Brien stated that it might be considered as part of responsible gaming, and it could be beneficial for the licensees to have Spanish and Mandarin translations of the house rules. Chair Judd-Stein stated that having the house rules in additional languages could be aspirational rather than mandatory at this point. She noted that the Commission was intentional around the issue of diversity, equity, and inclusiveness and expressed a desire to revisit this point as necessary.

Mark Vander Linden, Director of Research and Responsible Gaming, stated that it had not been difficult to get materials translated and that his team would be happy to help with translation resources. Chair Judd-Stein stated that the requirement does not need to be affirmatively included in the regulation but could be a goal for the licensees to work toward, in collaboration with the Commission.

Kevin Mulally, Vice President of Government Relations, and General Counsel from GLI noted that the Commission's regulatory framework required house rules need to be approved by the Commission. He stated that the Commission could request the house rules be translated in this process.

Chair Judd-Stein asked whether a certain year or timeframe to translate the house rules could be included. Mr. Makarious stated that the regulation would return to the Commission within ninety days, and they could revisit whether to include a translation requirement before the regulation becomes permanent. He stated that it could be appropriate to ask for it as a license condition for operators that wish to accept it. Chair Judd-Stein stated that there could be an equity issue with that approach, as some licenses had been issued without that condition attached.

Mr. Bunevith stated that imposing a translation requirement before launch may be demanding on operators. Commissioner O'Brien stated that she believed the operators would be able to comply quickly if it was required. Commissioner Maynard stated that given comments, the translation of house rules should be kept as aspirational. Commissioner O'Brien stated that it can be reviewed whether this provision be put into the responsible gaming regulations, and expressed an interest in input from the retail licensees to determine if the request was burdensome. Chair Judd-Stein stated that the translation of house rules could be a condition on licenses moving forward, and the Commission could talk to those already licensed to see if they would agree to that condition being applied uniformly.

Commissioner Maynard inquired whether events that were predetermined without the audience knowing the results, such as WrestleMania, would be able to be considered a sporting event that could be requested under 205 CMR 247.03(4). Mr. Makarious stated that the provision in 205 CMR 247.03(4)(a) regarding not allowing events determined solely by chance would be more

akin to prohibiting wagers on a coin toss. He stated that wagering on professional wrestling events would be a policy choice, but that wrestling was pre-determined, but not as arbitrary as a coin toss.

Chair Judd-Stein asked if wagering could be allowed on the Oscars. Mr. Makarios stated that the Commission would have to decide whether the criteria in 205 CMR 247.03(4) were met, but that the Commission could perceivably receive a request for betting on the Oscars.

Commissioner Maynard stated that with his knowledge of other jurisdictions, there were limitations on what predetermined events could be wagered on, and expressed concerns that WWE events might not be considered. Mr. Makarios stated that wagering on WWE could be dependent upon the controls in place to prevent the writers from changing the outcome depending upon their knowledge of the bets placed. He stated that there must be protections in place to protect the integrity of the events.

Chair Judd-Stein stated that guardrails could be implemented in the process of approving events. Mr. Makarios stated that the Commission could also ask questions to determine whether the events already had safeguards in place. He noted that events that do not meet the criteria in 205 CMR 247.03(4) could not be requested as events. Commissioner Maynard expressed concern that there was not enough flexibility in the regulation for wrestling events.

Mr. Makarios delineated that ‘predetermined’ was different than solely by chance and that they were differentiated by a human control element. General Counsel Grossman suggested the language could be changed to have the Commission consider the five criteria in this subsection in determining whether to allow the petition. Chair Judd-Stein stated that another reason for the prior language was to address if the Commission received petitions that did not meet the criteria. Commissioner Maynard stated that he would do a more liberal reading of the language for requests that appeared before the Commission.

Commissioner Skinner sought clarification of the term “sports governing body authorized by the Commission”. Mr. Makarios stated that it would be a sports governing body that met the statutory definition and regulatory requirements within 23N and 205 CMR.

Commissioner Hill stated that there was an upcoming meeting with the players’ association, and questioned whether language could be added for family protection. Mr. Makarios stated that the Commission had broad discretion with the regulation as written. He noted some bets were prohibited such as betting on the misfortune of an athlete. Chair Judd-Stein stated that the Commission would reserve the right to amend the regulation for particulars.

Mr. Makarios stated that there was an additional edit not in the packet to reference breaks, a category of payouts of wagers where the amount was split due to multiple winners in a pool, that required rounding. He stated that the proposed edit was at the end of 205 CMR 247.06 to add a provision requiring that someone attempting to get approval of a new event must also provide an explanation on how breaks would be calculated.

Mr. Bunevith stated that breaks were typically found in parimutuel wagering, and that splitting the payout could result in lingering decimals and odd cents. He noted that they are typically rounded down. General Counsel Grossman noted that breaks were defined in General Law Chapter 23N.

Commissioner O'Brien asked if rounding down breaks was due to an accounting principle or industry practice to date. Steve May, Client Solutions Executive from GLI, stated that it was practice to round down because otherwise operators would have to put money into the pool. Commissioner O'Brien questioned whether the adding of a partial cent could be considered the cost of doing business. Mr. May explained that the partial cents could add up significantly over time.

General Counsel Grossman noted that the breaks went into the Sports Wagering Control Fund. Commissioner O'Brien asked if there was a specific breakdown of where the funds would be used but noted that this conversation could occur on a future date. Chief Financial and Accounting Officer ("CFAO") Derek Lennon stated that the fund was used to fund the Commission's operations and to reduce the assessment on each licensee. Chair Judd-Stein asked if this was different from how it was handled under General Law Chapter 23K. CFAO Lennon confirmed that there were no breaks under 23K.

Chair Judd-Stein asked if any other jurisdiction had taken an alternative approach. Mr. May stated that Kentucky had passed a law reducing breakage from the nearest nickel to the nearest penny, which resulted in more money going back to the players. Sterl Carpenter, Regulatory Compliance Manager, stated that it would be rare to have breaks in sports wagering because of the fixed odds. Mr. Bunevith stated that the breaks for sports wagering typically occurred for sports wagering tournament brackets, such as March Madness.

Commissioner Maynard stated that a determination on the breaks could be made later and sought clarification whether the Kentucky model gave back more money to patrons. Mr. May stated that was correct because the Kentucky model reduced the amount. Chair Judd-Stein asked if breaks were sufficiently defined in the statute. Attorney Makarious stated the only change would be that breaks should be capitalized as a defined term.

Commissioner O'Brien sought clarification whether the phrase "area approved by the Commission" related to kiosk location gave the Commission further approval authority that would allow the Commission to ensure safeguards were adequately addressed. Mr. Makarious replied that her interpretation was a correct reading.

Mr. Makarious stated that the regulation prohibited credit cards from being used both directly and indirectly to such an extent the operator had the ability to stop it. Commissioner O'Brien asked if this language was used elsewhere. Mr. Makarious stated that it could be if preferred. Chair Judd-Stein suggested the provision be cross-referenced.

Commissioner Skinner stated that an applicant had a feature in their online platform that allowed patrons to edit a bet and asked if the language in 205 CMR 247.07(9) limiting the changing of

wagers would preclude that feature. Mr. Makarios stated he needed more information about how the edit occurred on that specific applicant's platform.

Mr. Bunevith explained that after the bet was placed, and leading up to the start of the event, the point spread may change to the detriment of the customer. He stated that the edit feature would allow patrons to edit the bet when the line was not in their favor, and that it only seemed to work in favor of the patron. He stated that he would need to ask the operator for more information.

Commissioner Skinner stated she would want to tweak the language if edits were in favor of patrons. Mr. Makarios suggested making it one-sided so that patrons could change the wager, but the operators could not. Chair Judd-Stein expressed that language may be too broad. She stated that the operators should have the option to have the feature, but they should not be required to offer the feature. Mr. Makarios suggested language to be more explicit that the changes would be to the extent permitted pursuant to the house rules. The Commission reached a consensus in support of this change.

Commissioner O'Brien asked if the promotional offers for new patrons being no more than ninety days in 205 CMR 247.09(3) was an industry standard. Mr. Makarios stated that it was based on other jurisdictions. Mr. Robbins stated that ninety days was typical of other markets. Commissioner O'Brien asked if any jurisdictions had less or more days on this requirement. Mr. Robbins stated he would have to do research, but ninety days was common. Commissioner O'Brien expressed an interest in seeing the data for all jurisdictions and any potential outliers.

Chair Judd-Stein asked if the ninety days could be used for this vote. Deputy General Counsel Torrisi stated that the regulation would return in sixty to ninety days, after it went through the promulgation process, for a final vote and that it could be amended at that point. Commissioner O'Brien expressed an interest in being as responsible as possible and stated that she would prefer sixty days if other jurisdictions contemplated a shorter time period. Mr. Robbins stated that in his research, Virginia was the jurisdiction with this provision for sports wagering and used ninety days. He noted that Massachusetts also used ninety days for daily fantasy sports wagering.

Commissioner O'Brien stated that the Attorney General's Office carefully crafted the fantasy sports wagering regulations and expressed that it gave her a general level of comfort with the ninety-day period. The Commission reached a consensus on having ninety days for promotional offers for new patrons.

Commissioner Skinner sought clarification of the sports wagering network wagering type. Mr. Benedik stated that it was a marketplace where bettors could browse wagers offered by other bettors, as peer-to-peer wagering. Chair Judd-Stein noted that the Commission was approving the framework and not the intricacies of the actual peer-to-peer exchanges. Mr. Makarios stated that the Commission would have the discretion to ask the questions and understand the intricacies of the wagering type in the approval process, and the authority to put appropriate conditions on that approval.

Mr. Robbins noted that the approval of an event or wager category was applicable to all operators. Mr. Bunevith stated that in 205 CMR 247.03(9), the Commission was required to

notify sports wagering operators of any changes to authorized sports or wagering categories. Chair Judd-Stein asked whether operators would need approval of the subset of events that could offer peer-to-peer wagering. Mr. Makarios stated that they would have to update their house rules and get approval from the Commission.

Deputy General Counsel Torrisi asked if the Commission wanted to revisit the language related to chance in 205 CMR 247.04(4). Chair Judd-Stein stated that General Counsel Grossman had suggested a change to the language. Mr. Robbins stated that the language was reasonable for the industry. Commissioner O'Brien stated that she wanted it to be clear what the Commission's thresholds and standards were and stated that she was not comfortable with the proposed change.

Chair Judd-Stein asked if someone could suggest language that would be a compromise between Commissioner Maynard's concerns and Commissioner O'Brien's concerns. Commissioner Maynard expressed an interest in the flexibility to make the decision on a case-by-case basis. Commissioner O'Brien stated that she wanted a minimum threshold for requests to the Commission so that the Commission is not inundated.

Commissioner Hill stated he liked the original language and that changes could be dealt with at a future date. Commissioner Skinner stated her understanding that the discussion would be tabled for another day so that the Commission would be more informed about the discussion.

Mr. Makarios stated that there were five criteria: that the outcome was not driven by chance; that the outcome was verified; that the event was conducted in a manner to ensure it was with sufficient integrity; that the outcome not be affected by wagers; and conformity with all applicable laws. He stated that the question was whether those criteria were for the minimum threshold for a request or an evaluative criterion.

Commissioner Maynard stated that the change in language suggested by General Counsel Grossman would give the Commission more latitude to decide on a case-by-case basis. Commissioner O'Brien stated that if the standards are met, as a minimum threshold, the Commission has absolute discretion. She expressed worry that the change in language is too broad and could invite abuse.

Commissioner Maynard stated that he wanted patrons to enjoy themselves and be able to wager on certain entertainment industries. He noted that there were multibillion dollar corporations that were publicly traded, engaging in these events.

Commissioner Skinner stated that she heard good points from both Commissioner Maynard and Commissioner O'Brien and asked that the Commission have time to do more information gathering about other jurisdictions. Commissioner Hill stated was fine with the language as proposed. He stated that the Commission could move forward with that language and continue the discussion once more information was gathered when the regulation returned to the Commission.

Mr. Mulally stated that the intent of the proposed language was to provide the Commission with as much discretion as possible in consideration of new wagering types while providing guidance to the industry as to the criteria being considered.

Chair Judd-Stein asked if other jurisdictions prohibited wagering on events determined solely by chance. Mr. Makarios explained that the definition of wager was a sum of money or thing of value risked on a certain occurrence. He stated that betting on the coin toss was more akin to a game of chance because of the lack of a human element.

Chair Judd-Stein sought clarification on whether betting could be placed on a wrestling event. Mr. Makarios stated that there were protections and that those who knew the results would be unable to wager, but that wagering could take place if the public was unaware of the results. He clarified that chance was something with no control, whereas wagers have human elements such as athletes on the field, or scriptwriters.

Commissioner Maynard asked if the Commission would be able to have the opportunity to review betting on an event such as the Oscars, or if the Commission would have to reject the request if it did not meet the chance criteria. Commissioner Skinner stated that as she understood the criteria, the Commission would be able to review it- as it was not based on arbitrary chance.

Mr. Makarios stated that the language did not prohibit the Commission's consideration of wagering on predetermined events, provided the results were not known to the public. He stated that games of chance were excluded because sports wagers involved betting on something happening with a basis of data for the consumer to decide on.

Chair Judd-Stein stated that the Commission could ensure integrity issues are addressed in the process of approving events. Commissioner Maynard stated he would not vote to limit the Commission's discretion. Chair Judd-Stein expressed concern that requiring the criteria as a threshold would limit the Commission's ability to hear an innovative proposal. Mr. Makarios stated that the language wouldn't limit innovation in any category, except wagers determined solely by chance, and that the other factors were not in dispute due to their interconnectedness with integrity.

Chair Judd-Stein asked for another example of something by chance. Mr. Makarios stated that it was hard to determine an example other than the coinflip, roulette, or a roll of the dice. He stated that this provision separated sports wagers from wagers on a game of chance. Mr. Robbins stated that the chance criteria was to prevent wagers on another person playing a slot machine or a pure chance-based game.

Chair Judd-Stein suggested that the criteria regarding chance could be moved so that this provision would be limited to integrity guardrails and allow the Commission more discretion to consider events that are could arguably be based on chance and allow the requestor to argue in favor of the events inclusion. Commissioner O'Brien expressed an interest in hearing whether there was a responsible gaming component that could be related to this. Commissioner Maynard stated that the issue could be weighed on a case-by-case basis. Commissioner O'Brien stated she would want more information before opening up the options.

Chair Judd-Stein stated that the Commission would evaluate the events and wagering category and that the Commission's commitment to responsible gaming could be addressed at that point. She stated that the chance criteria seemed misplaced with the other integrity criteria. Mr. Mulally stated that problem gambling was typically an impulse control issue, and that he was unsure whether the distinction between chance and sports wagering would materially impact it.

Director Vander Linden noted that he would need more information before weighing in on the current discussion. Chair Judd-Stein suggested the criteria related to chance games be moved away from the other criteria to allow the Commission discretion over that provision. Commissioner Skinner requested to look at the suggested language change.

Commissioner O'Brien noted that the other reason it was included in the criteria was to not overwhelm the Commission with requests. Chair Judd-Stein stated that other jurisdictions used that language General Counsel Grossman suggested earlier. Commissioner O'Brien requested information regarding how many jurisdictions use that language.

Deputy General Counsel Torrisi suggested that the chance criteria be moved to 205 CMR 247.03(3). Mr. Mullaly stated that this change would require the applicant to address the element of chance in their application. Mr. Makarious suggested that the language be left as is to be clear that integrity matters for all categories of games.

Commissioner Skinner asked what changes were being made to the criteria. Chair Judd-Stein stated that the chance criteria were being moved and would be part of the petition for a new event rather than the evaluation criteria. Commissioner Skinner said that she liked the change.

Commissioner Hill stated that the change seemed to adequately address Commissioner Maynard's concerns. Commissioner Maynard stated that he wanted the Commission to be able to take up as many events as the marketplace could contemplate and make decisions on a case-by-case basis. Commissioner O'Brien stated that as a policy matter, with the launch of sports wagering the change did not solve her concerns. General Counsel Grossman stated that the change offered the Commission slightly more discretion than the initial language.

Commissioner Maynard moved that the Commission approve the Small Business Impact Statement and draft 205 CMR 247 as amended in their conversation, and as included in the Commissioner's Packet, and further 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. He further moved that staff be authorized to modify chapter or section number or titles to file additional regulations as reserved or to make any other administrative changes as necessary to execute the regulation promulgation process. Commissioner Hill seconded the motion.

Commissioner O'Brien requested that the edited sections be listed. Deputy General Counsel Torrisi stated that the regulation was edited in 205 CMR 247.03(3), 247.03(4), 247.06(6), 247.07(7), and 247.07(9).

Roll call vote:

Commissioner O'Brien: Nay.

Commissioner Hill: Aye.

Commissioner Skinner: Aye.

Commissioner Maynard: Aye.

Chair Judd-Stein: Aye.

The motion passed, 4-1.

ii. [205 CMR 248](#): Sports Wagering Account Management and Small Business Impact Statement for initial review and possible emergency adoption (3:24:36)

Mr. Makarious presented 205 CMR 248, the regulation related to rules for the management of patron accounts. The *draft 205 CMR 248 and Small Business Impact Statement* were included in the Commissioner's Packet on pages 47 through 57.

Chair Judd-Stein noted that during presentations there was the option for dual-factor authentication during the account setup process. She noted that dual-factor authentication was required for account retrieval, but asked if the option should be available for patrons to have dual-factor authentication for logging in. She noted that the Commission received an inquiry from the media on this topic to the Communications Director. Mr. Robbins stated that New Jersey was the only jurisdiction he was aware of that required dual-factor authentication on login.

Chair Judd-Stein clarified that it should not be required but made available as an option for patrons. Mr. Robbins stated that he would look at other markets to see if any require it as an option. Chair Judd-Stein asked if the operators offer dual-factor authentication on login. Mr. Robbins stated that it was typically a best practice business decision rather than regulated.

Mr. Makarious noted that there were dual-factor authentication applications and websites available that add additional passwords, and that he would have to ask the operators whether there were factors that would block the use of such applications. Mr. Benedik stated that New Jersey and Pennsylvania required dual-factor authentication for sports wagering applications, but that they were new requirements.

Mr. Makarious noted that there had been a slight change to 205 CMR 248.19(1) to clarify that the deposits and withdrawals considered activity were customer generated. Commissioner O'Brien noted that money put into customers advanced deposit wagering ("ADW") accounts for parimutuel wagering was not treated as abandoned property when inactive for three years. She stated that she supported three-year inactive accounts being treated as abandoned property but noted that she wanted to amend the regulation related to ADW accounts, so that accounts were handled the same way.

Chair Judd-Stein stated that there were potential equity issues related to the preregistration of accounts prior to a sports wagering license being issued. Mr. Makarious stated that it was not addressed expressly in this regulation, but only sports wagering operators can solicit or set up accounts. He stated that an operator would need to get their license before engaging in preregistration.

Chair Judd-Stein stated that licensees under G.L. Chapter 23K and potential licensees under G.L. Chapter 23N had asked for guidance on the issue. She noted that GLI stated that preregistration was a standard practice in the industry. Mr. Makarious stated that it was not addressed in the current regulation.

Commissioner Skinner stated that she was not prepared to make a policy decision on that question in this meeting. Commissioner O'Brien stated that she did not want operators allowing money to be loaded into accounts until they received their certificate of operations. Commissioner Maynard stated that it would deviate from the industry standard, but that he wanted Commissioner Skinner to take the time she needed. Chair Judd-Stein stated that she would need more information due to the implicated equity issue and industry standard.

Mr. Robbins stated he consulted with his team and found that Ontario required the ability to use dual-factor authentication for login purposes, and that he did not foresee any issues if it was added to 205 CMR 248.07(1). Commissioner O'Brien stated that the option should be available. Chair Judd-Stein stated that at least two operator applicants had the feature available. The Commission reached consensus that the option to use dual-factor authentication for login on sports wagering platforms should be available to patrons. Mr. Makarious stated that the Ontario language could be used for editing.

Chair Judd-Stein asked for a motion, noting the amendment regarding dual-factor authentication in 248.07(3). Deputy General Counsel Torrasi noted that there had been an amendment in 248.19 as well.

Commissioner Maynard moved that the Commission approve the small business impact statement and draft 205 CMR 248 as included in the Commissioner's Packet and as amended today and as discussed by Deputy General Counsel Torrasi. He further 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 begin the regulation promulgation process, and 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 necessary as to execute the regulation promulgation process. Commissioner Hill seconded the motion.

Roll call vote:

Commissioner O'Brien: Aye.

Commissioner Hill: Aye.

Commissioner Skinner: Aye.

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

iii. [205 CMR 232](#): Discipline of Sports Wagering Operators and Other Licensees, and Registrants and Small Business Impact Statement for initial review and possible emergency adoption (4:06:30)

Mr. Makarios stated that this regulation was related to the discipline of sports wagering operators. He suggested that the discussion be presented at a future date, as Loretta Lillios, the Director of the Investigations and Enforcement Division, was not available. Commissioner O'Brien stated that it would not make sense to discuss the topic without Director Lillios. Chair Judd-Stein stated that Director Lillios was helpful in outlining the issues and was vital for this topic.

4. [Investigations and Enforcement Bureau](#) (2:36:12)

Chair Judd-Stein noted that Director of the Investigations and Enforcement Division Loretta Lillios was unavailable. She recommended that the preliminary discussion on marketing affiliates and registrations be delayed until a later meeting.

5. [Research and Responsible Gaming Division](#) (4:09:56)

a. M.G.L. 23N Sports Wagering Studies Updates

i. M.G.L. 23N Section 20: Research Study Examining the Feasibility Of Allowing Retail Locations in The Commonwealth to Operate Sports Wagering Kiosks

Director Vander Linden explained that the 2022 Sports Wagering Act mandated two studies. He stated that a research plan was brought before the Commission on December 9, 2022, to meet the statutory requirement within 23N. He noted that General Law Chapter 23N, § 20 required a research study examining the feasibility of retail locations in the Commonwealth offering sports wagering kiosks. He stated that General Law Chapter 23N, § 25 required a study into the participation by minority-owned business enterprises, women-owned business enterprises, and veteran-owned business enterprises in the sports wagering industry in the Commonwealth.

Director Vander Linden stated that the Commissioners' feedback from the December 9, 2022, meeting was helpful, and that he made several edits to the research plans outlined by the memo in the packet. The *Amended Research Plan for The Chapter 23N, § 20 Study* was included in the Commissioner's Packet on pages 82 through 93.

Commissioner O'Brien stated that she wanted to ensure that the crime-related impact did not focus solely on the building, but whether patrons could be marked and followed. Director Vander Linden stated that it could be changed to ensure that it includes both retail locations and patrons.

Research Manager Dr. Bonnie Andrews added that no changes were made to the draft to further define retail locations beyond the examples already given, and edits noted in the memo. Director Vander Linden explained that there was a December 31, 2022, deadline for delivering the research agenda to the Joint Committee on Economic Development and Emerging Technologies and that a vote was needed to meet that deadline.

Commissioner Hill moved that the Commission approve the Research Plan for Prospective Study of The Feasibility and Impact of Sports Wagering Kiosks in Retail Locations as included in the Commissioner's Packet and discussed here today. Commissioner Maynard seconded the motion.

Roll call vote:

Commissioner O'Brien: Aye.

Commissioner Hill: Aye.

Commissioner Skinner: Aye.

Commissioner Maynard: Aye.

Chair Judd-Stein: Aye.

The motion passed unanimously, 5-0.

ii. [M.G.L. 23N Section 25](#): A research study on the participation by minority business enterprises, women business enterprises, and veteran business enterprises in the sports wagering industry in the Commonwealth (4:21:25)

Director Vander Linden explained that the next study was related to minority business enterprises, women business enterprises, and veteran business enterprises involved in the sports wagering industry. The *Amended Research Plan for the Chapter 23N, § 25 Study* was included in the Commissioner's Packet on pages 94 through 103.

Director Vander Linden stated that one key change to the research plan was coordinating with Chief Administrative Officer to the Chair and Special Projects Manager Crystal Beauchemin in gathering information on diversity, equity, and inclusion in the sports wagering industry. He noted that in several places, the legislation referred to diversity in terms of racial diversity and gender diversity, but not in terms of veterans status or women-owned business enterprises. He stated that edits were made to the plan, to include those categories.

Commissioner Hill moved that the Commission approve the Research Plan for a Study of The Participation by Minority, Women, And Veteran Business Enterprises in The Sports Wagering Industry in Massachusetts as included in the Commissioner's Packet and discussed here today. Commissioner O'Brien seconded the motion.

Roll call vote:

Commissioner O'Brien: Aye.
Commissioner Hill: Aye.
Commissioner Skinner: Aye.
Commissioner Maynard: Aye.
Chair Judd-Stein: Aye.

The motion passed unanimously, 5-0.

The Commission reached a consensus to include the Commissioners' electronic signatures in the packet to be delivered to the legislature. Director Vander Linden stated that he would coordinate with General Counsel Grossman and Executive Director Karen Wells to ensure it was submitted correctly.

6. [Sports Wagering Update](#) (4:26:08)

a. Sports Wagering Kiosk Verification Process

Executive Director Wells explained that because the Commission passed 205 CMR 247 and 205 CMR 248, it enabled the Commission staff and GLI to move forward on the verification of sports wagering kiosks at the category one facilities, which would occur on January 16, 2023. Mr. Bunevith clarified that GLI could not take software for laboratory testing and that January 16, 2023, date was when they would verify the software's deployment onto the hardware for the category one licensees.

Commissioner O'Brien noted that the regulations do not go into effect until they are filed with the Secretary of the Commonwealth. General Counsel Grossman stated that Deputy General Counsel Torrisi was already on her way to file them. Chair Judd-Stein sought clarification of whether the verification was for point of sales or just kiosks. Mr. Bunevith stated that the verification was for both.

Executive Director Wells stated that if there is an affirmative determination by GLI the licensees can return to the Commission on January 27 for the Commission vote on the certificate of operations. She stated that the category one operators would do a soft launch on January 30 and a launch on January 31. Chair Judd-Stein stated that names were pulled from a cup to determine which Commissioner would be present at each soft-launch.

Commissioner Skinner noted that she was not available on January 30. Commissioner O'Brien stated that she had previously withdrawn her name due to having the opportunity to witness verification during the opening of casinos, but that she would be happy to step in if needed. Executive Director Wells stated that Commissioner Maynard was assigned to PPC, Commissioner Hill was assigned to MGM Springfield, and that Commissioner Skinner had been assigned to Encore Boston Harbor. Chair Judd-Stein asked if Commissioner O'Brien could attend at Encore Boston Harbor if Commissioner Skinner was not available. Commissioner O'Brien stated that she was available to do that, if necessary.

Chair Judd-Stein stated that the Commissioners could also go on the launch date to acknowledge the hard work and collaboration, and that would be on January 31. Commissioner Skinner inquired whether there was flexibility to do the launch date one day later, as she had communicated that she was unavailable on January 30. Chair Judd-Stein apologized for not keeping track of the schedule Commissioner Skinner emailed, but stated she was reluctant to postpone business due to one Commissioner's schedule. Chair Judd-Stein stated that she was trying to keep track of all the interests and issues involved with the launch of sports wagering.

Commissioner Hill requested that they stick with the existing schedule. Commissioner Skinner stated that she respected the current schedule and expressed her preference that the scheduling could have come before the Commission for a discussion. Executive Director Wells stated that the impetus for the date was because the Commission had announced publicly that they were going to launch sports wagering by the end of January, and that they wanted to meet that public expectation.

Commissioner Maynard asked if there was a way to move it earlier in the day to accommodate Commissioner Skinner's schedule. Executive Director Wells stated that the time was required for GLI's verification and the certificate of operations process. Chair Judd-Stein stated that the Commission had a commitment to the January deadline, but that Commissioner Skinner could visit during the launch. Commissioner Skinner stated that there appeared to be a consensus on not moving the date, and that it was okay if the Commission moved forward on this matter.

Chair Judd-Stein noted that the verification process was on the Friday before the launch and asked if Commissioner Skinner would be available on that date. Commissioner Skinner stated she was not available from January 25 through January 30 due to longstanding plans, and that these dates were communicated. Chair Judd-Stein apologized for the confusion and stated that the Commission would have to abide by the best practice of organizations and continue work while there was a quorum.

7. [Commissioner Updates](#) (4:51:41)

a. MGM Springfield litigation and reporting

Chair Judd-Stein requested this discussion be tabled as the Commission was unprepared to discuss it in this meeting.

The Commission thanked the Commission staff and outside consultants from GLI and the law firm Anderson and Krieger for keeping up with the strenuous work during the process of launching sports wagering.

8. [Other Business](#) (4:57:01)

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

Commissioner Hill moved to adjourn. Commissioner O'Brien seconded the motion.

Roll call vote:

Commissioner O'Brien: Aye.

Commissioner Hill: Aye.

Commissioner Skinner: Aye.

Commissioner Maynard: Aye.

Chair Judd-Stein: Aye.

The motion passed unanimously, 5-0.

List of Documents and Other Items Used

1. Notice of Meeting and Agenda dated December 19, 2022
2. [Commissioner's Packet](#) from the December 22, 2022, meeting (posted on massgaming.com)