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## Massachusetts Gaming Commission Meeting Minutes

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**Date/Time:** February 2, 2023, 10:00 a.m.  
**Place:** Massachusetts Gaming Commission

VIA CONFERENCE CALL NUMBER: 1-646-741-5292  
PARTICIPANT CODE: 111 723 8569

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 432<sup>nd</sup> Public Meeting of the Massachusetts Gaming Commission ("Commission"). Roll call attendance was conducted, and all five commissioners were present for the meeting.

### 2. [Administrative Update](#) (00:55)

Executive Director Karen Wells provided a brief report that the launch of the category one sports wagering in the Commonwealth had been successful. She stated that the Commission staff would continue to monitor for issues and update the Commissioners as necessary.

### 3. [Legal](#) (2:04)

#### a. Sports Wagering Regulations:

- i. 205 CMR 105: IEB: Regulation and Amended Small Business Impact Statement for final review and possible adoption.

Associate General Counsel Judith Young provided a brief overview that 205 CMR 105 was an existing regulation, and that amendments were brought before the Commission on November 10, 2022, to extend the authority of the Investigations and Enforcement Bureau (“IEB”) to include sports wagering authorized by General Law Chapter 23N. She stated that a public hearing was held on January 31, 2023, presided over by Commissioner O’Brien. She explained that no public comments were received at the hearing, but that written comments were received in advance of the hearing.

Attorney Mina Makarios, outside counsel from the law firm Anderson and Krieger, outlined the changes to 205 CMR 105. He stated that the legal team did not recommend that adoption of any suggestions within the public comments. The *Draft 205 CMR 105, Amended Small Business Impact Statements, and Public Comments* were included in the Commissioner’s Packet on pages 3 through 16.

Mr. Makarios presented a comment from BetMGM, suggesting a change to 205 CMR 105.01(4) that would require notice to operators whose information was shared with third parties including law enforcement. He noted that this could compromise an investigation and recommended against adopting this suggestion.

Mr. Makarios presented a comment from BetMGM, suggesting a change to 205 CMR 105.01(4) that would require any information shared with federal agencies to be done through secure methods. He noted that the IEB and Commission already place a high importance on confidentiality and security and stated that he did not recommend the change.

Mr. Makarios presented an additional comment from BetMGM, suggesting a change to the language in 205 CMR 105.04 to create a reasonableness standard. He stated that the language was misconstrued and that the purpose of the language was to suggest that the Commission may have other sources of authority. He recommended against making this change as well.

Mr. Makarios explained that two comments were received regarding the management of confidential or sensitive information by the IEB’s contract investigators. He stated that the suggested changes could unduly tie the hands of the Commission or investigators regarding the retention of information for the purposes of assisting law enforcement. He recommended against making this change.

With that, Commissioner Hill moved that the Commission approve the Amended Small Business Impact Statement and draft of 205 CMR 105 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 to finalize the regulation promulgation process. Commissioner Skinner seconded the motion.

*Roll call vote:*

*Commissioner O’Brien:           Aye.*

*Commissioner Hill:               Aye.*

*Commissioner Skinner: Aye.*  
*Commissioner Maynard: Aye.*  
*Chair Judd-Stein: Aye.*

*The motion passed unanimously, 5-0.*

ii. [205 CMR 243](#): Sports Wagering Equipment - Regulation and Amended Small Business Impact Statement for final review and possible adoption. (13:27)

Associate General Counsel Ying Wang explained that 205 CMR 243, related to the technical standards for sports wagering equipment, was voted to be promulgated by emergency on November 17, 2022. She stated that a public hearing was held on January 31, 2023, presided over by Commissioner O'Brien. The *Draft 205 CMR 243, The Amended Small Business Impact Statement, and Public Comments* were included in the Commissioner's Packet on pages 21 through 41.

Attorney Paul Kominers from Anderson and Krieger explained that 205 CMR 243 adopts the GLI 33 technical standards modified to conform with Massachusetts' statutes and industry best practices. He explained that the first edit was based on the comment from GeoComply to shorten the time between location checks to 20 minutes.

Mr. Kominers stated that DraftKings had submitted a comment that the provision preventing a sports wagering operator's employees from placing wagers with any sports wagering operator was more restrictive than the requirement within General Law Chapter 23N. He stated that GLI recommended a change so that the sports wagering operator employees would be prevented from placing bets with their employer and any operator tethered to their employer.

Chair Judd-Stein sought clarification regarding the language of the exception of private pools in this provision. Mr. Kominers stated that it corresponded to integrity concerns that an employee may have greater access to private information, but that the same integrity concerns do not occur when the betting was in a private pool.

Mr. Kominers explained that BetMGM suggested language to further clarify the provision requiring operators to forward independent security audits. He recommended the adoption of this comment.

Mr. Kominers presented BetMGM's suggestion that the Commission narrow the obligation to provide a remediation plan. He stated that the language offered would undermine the Commission's authority over security issues and concerns. He recommended that the language be partially adopted; with a new provision that retained the Commission's authority to order operators to take corrective action with respect to any item identified by the independent technical experts.

Mr. Kominers stated that GLI 33 required operators to obtain prior Commission approval for all wager cancellations, even those made within approved house rules and internal controls. He

explained that this requirement was inconsistent with 205 CMR 238.35. He presented edits that would conform to the regulation and streamline appropriate wager cancellations.

Mr. Kominers explained that DraftKings had noted the difference between sports wagering regulations and daily fantasy sports regulations regarding the minimum time period before players who set deposit limits could change or extend them. He noted that the sports wagering regulation had a time period of 24 hours, while daily fantasy sports had a time period of 90 days before the extension could be made. He noted that DraftKings wanted the time periods to be uniform, as they were required to conform with the daily fantasy sports law due to their shared platform for both types of wagering. He recommended this change not be adopted, and suggested DraftKings could request that the Attorney General's Office amend their regulation regarding daily fantasy sports.

Mr. Kominers stated that DraftKings had requested a change to multi-factor authentication requirements. He noted that GLI expressed the multi-factor authentication requirements were industry standard, that DraftKings complied with in other jurisdictions. Chair Judd-Stein asked if this was related to multifactor authentication being required for login purposes. Mr. Kominers clarified that the change was for transactions that required multi-factor authentication.

Commissioner O'Brien sought clarification regarding DraftKings comment regarding the time period for extending deposit limits. Chair Judd-Stein stated that because DraftKings has a shared wallet for daily fantasy sports and sports wagering, the Commission's sports wagering regulation would compete with the Attorney General's regulations on daily fantasy sports. Commissioner O'Brien stated that there was a big difference between the 24 hours for sports wagering and 90 days for daily fantasy sports.

Commissioner O'Brien asked if other jurisdictions had competing regulations where shared wallets were a concern. Mr. Kominers stated that he had yet to research this issue in other jurisdictions. Chair Judd-Stein expressed an interest in researching the other jurisdictions and having a conversation with the Attorney General's Office to learn their perspective on the issue.

Commissioner Maynard expressed that it was rare for an operator to request more restrictive regulations, and he wondered if there could be a technological challenge for companies that present both products.

Commissioner Skinner moved that the Commission approve the Amended Small Business Impact Statement and the draft of 205 CMR 243 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 to finalize 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 244](#): Approval of Sports Wagering Equipment and Testing Laboratories - Regulation and Amended Small Business Impact Statement for final review and possible adoption. (37:18)

Associate General Counsel Wang presented 205 CMR 244 related to the approval of sports wagering equipment and testing laboratories. She explained that the regulation was promulgated by emergency on November 17, 2022, and that a public hearing was held on January 31, 2023, presided over by Commissioner O'Brien. The *Draft 205 CMR 244, The Amended Small Business Impact Statement, and Public Comments* were included in the Commissioner's Packet on pages 42 through 53.

Attorney Annie Lee from Anderson and Krieger stated that she did not recommend adopting changes from any of the public comments that were submitted to the Commission. She noted that Penn Entertainment and Kambi had sought clarification regarding 205 CMR 244.03, and whether vendors could submit information to the Commission. She suggested the language be clarified to clarify that in accordance with GLI's change management program, the operator was responsible for change management even if a vendor was submitting the information to the Commission. Ms. Lee also clarified that with respect to 205 CMR 244.04(6), both laboratories must be certified by the Commission and that one laboratory must accept the others results for the provision to apply.

Ms. Lee presented two suggested changes from BetMGM. She explained that the first suggested change was to 205 CMR 244.026 to replace "promptly" with "within 48 hours". She noted that some serious issues require reporting as soon as the operator is aware and recommended against adopting this suggested amendment.

Ms. Lee stated that the second suggestion was to add a provision to 205 CMR 244.044 that logs communications submitted by the operator to the Commission should be made confidential. She noted that the Commission does not have authority over what is considered a public record, and that logs were not considered from public records withholding exceptions in the sports wagering act. She recommended against adopting this change.

With that, Commissioner Skinner moved that the Commission approve the Amended Small Business Impact Statement and the draft of 205 CMR 244 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 to finalize 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.*

iv. [205 CMR 143](#): Gaming Devices and Electronic Gaming Equipment - Regulation and Amended Small Business Impact Statement for Final Review and Possible Adoption. (48:15)

Deputy General Counsel Caitlin Monahan presented the draft 205 CMR 143, which was amended to require sports wagering operators and vendors to adhere to the technical standards of GLI 20. She stated that the regulation was promulgated by emergency on November 17, 2022, and had a public hearing on January 31, 2023 presided over by Commissioner O'Brien. She noted that there had been no changes or comments since the November 17, 2022, meeting. The *Draft 205 CMR 143 and Amended Small Business Impact Statement* were included in the Commissioner's Packet on pages 17 through 20.

Commissioner Hill moved that the Commission approve the Amended Small Business Impact Statement and the draft of 205 CMR 143 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 to finalize the regulation promulgation process. Commissioner Skinner seconded the motion.

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

4. [Commissioner Updates](#) (51:07)

The Commissioners had no updates to discuss or address.

5. [Other Business](#) (51:24)

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

Commissioner Hill moved to adjourn. 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.*

**List of Documents and Other Items Used**

1. [Notice of Meeting and Agenda](#) dated January 27, 2023
2. [Commissioner's Packet](#) from the February 2, 2023, meeting (posted on massgaming.com)