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## Massachusetts Gaming Commission Meeting Minutes

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**Date/Time:** March 8, 2023, 10:00 a.m.  
**Place:** Massachusetts Gaming Commission

VIA CONFERENCE CALL NUMBER: 1-646-741-5292  
PARTICIPANT CODE: 112 709 9599

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

#### 2. [Legal](#) (2:52)

- a. 205 CMR 152 Individuals Excluded from Gaming and Sports Wagering: Amended Regulation and Small Business Impact Statement for review and approval to commence the promulgation process and/or adoption via emergency.

Outside Counsel from the law firm Anderson and Krieger Attorney Paul Kominers presented the proposed changes to 205 CMR 152. The *amended small business impact statement and draft 205 CMR 152* were included in the Commissioner's Packet on pages 3 through 13.

Commissioner O'Brien asked if it was assumed that an individual disrupting the outcome of the sporting event would be excluded from sports wagering. Mr. Kominers stated that the conduct would have to have a nexus related to sports wagering. He noted that it might also fall under the provisions related to criminal offenses and notorious or unsavory reputation. Commissioner O'Brien expressed concern about attempts to bribe an official or player. Mr. Kominers suggested adding the language "including, without implied limitation, attempting to corrupt a betting outcome of a sporting event". Commissioner O'Brien suggested that it should be "attempting to corrupt or corrupting". Mr. Kominers accepted the change.

Mr. Kominers explained that under 205 CMR 238, the operators' internal controls required them to submit a plan dealing with the overall substantive requirements of involuntary exclusion. He stated that after the regulation was approved there would need to be a one-week waiver for the operators' compliance as they would need time to submit their plans to the Commission.

Commissioner Skinner stated that the waiver made sense. She inquired as to whether one week would be sufficient time for the Commission staff to review the plans submitted. Director of the Investigations and Enforcement Bureau ("IEB") Loretta Lillios stated that the review time was manageable, but that an extra week would help. She noted that there were 58 individuals on the exclusion list. Chair Judd-Stein and Commissioner Maynard expressed that they approved of a two-week period. Director Lillios stated that the plans could be submitted within a week and approved by the second week. Executive Director Karen Wells stated that the waiver could go through the close of business on March 23, 2023. The Commission reached a consensus in support of the waiver period ending on March 23.

Commissioner O'Brien noted that the players associations discussed threatening conduct towards players and families at the round table, and asked where that change was implemented. Mr. Kominers stated that it was in section three, the criteria for exclusion. Commissioner O'Brien asked if additional language was required to encompass the changes mentioned by the players associations. Mr. Kominers stated that the language included any attempt to improperly affect the outcome of the sporting event.

Commissioner O'Brien inquired if this would include threats after the outcome of the event. Chair Judd-Stein questioned whether that would be considered as the intent to corrupt results going forward. Director Lillios stated that the scenarios were intensely fact specific. Commissioner O'Brien noted that the internet and social media could create jurisdictional problems for law enforcement and stated that she wanted to ensure sufficient protections were available. She stated that this regulation could be returned to if the Commission finds it to be insufficient.

Chief Enforcement Counsel Heather Hall stated that 205 CMR 152.03(1)(e) discussed preventing potential injurious threat to the interests of the Commonwealth. Commissioner O'Brien stated that the Commonwealth's interest included threats made against players and their families. Chief Enforcement Counsel Hall suggested adding the language "integrity and safety of sports

wagering in the Commonwealth”. Mr. Kominers noted that criminal acts related to sports wagering were likely covered under 205 CMR 152.03(1)(b) and stated that he would workshop the language prior to the final vote. Commissioner O’Brien stated that the players associations were directed to work with the Commission by the legislature and recommended gathering their input.

Commissioner Maynard stated that if a threat was made after a sport event concluded, he would want that individual on the exclusion list. Chair Judd-Stein noted that the Commission only had jurisdiction over those who sports wager and not each individual at a sporting event. Commissioner Maynard stated that those who make threats could still be placed on the exclusion list.

Commissioner Hill noted that the letter from the players association contained the language “if the Commission determines reports of violence, threats, or other acts of intimidation against players, coaches, officials or their families to be credible... Said determination was sufficient cause for exclusion from a sporting event”. He suggested this language be tweaked and added to the regulation. Commissioner Skinner asked how the Commission would be made aware of these threatening incidents in Massachusetts. Mr. Kominers stated that the players’ association can send a referral to the Commission pursuant to 205 CMR 152.041. He stated that some of this conduct has to be brought to the Commission.

Commissioner O’Brien suggested adding the language “or sporting event” to the IEB’s considerations in 205 CMR 152.03. Mr. Kominers stated he would incorporate that change. Chair Judd-Stein stated that this issue would be on the list of continuing matters for the legal team to consider. She stated that the corruption language seemed general enough to capture threats to family members and officials, but she wanted it to be reviewed.

Commissioner O’Brien moved that the Commission approve the small business impact statement and the draft of 205 CMR 152 as included in the Commissioner’s Packet and further discussed and edited here today and that staff be authorized to take the steps necessary to file the required documentation with the Secretary of the Commonwealth by emergency and thereafter to begin the regulation promulgation process; and further, that staff be authorized to modify chapter or section numbers or titles to file additional regulation sections as reserved or make any other administrative changes as necessary to execute the regulation promulgation process. Commissioner Skinner seconded the motion.

*Roll call vote:*

*Commissioner O’Brien: Aye.*

*Commissioner Hill: Aye.*

*Commissioner Skinner: Aye.*

*Commissioner Maynard: Aye.*

*Chair Judd-Stein: Aye.*

*The motion passed unanimously, 5-0.*

Commissioner O'Brien moved that in accordance with 205 CMR 202.02(3), the Commission issue a waiver to all licensed sports wagering operators from the requirements of 205 CMR 152.06(5) through close of business on March 23, 2023, as granting the waiver meets the requirements specified in 205 CMR 102.03(4) and was consistent with the purposes of General Law Chapter 23N. 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.*

b. [205 CMR 138](#): Uniform Standards of Accounting Procedures and Internal Controls (1:07:19)

Deputy General Counsel Torrisi explained that regulations were published by the Secretary of the Commonwealth in the Massachusetts Register on a bi-weekly basis. She noted that regulations go into effect upon that publication, but in cases of emergency regulations, they go into effect upon filing. She stated that the five regulations approved in the prior meeting would not be effective until March 17, 2023, and therefore the unedited emergency versions would be applicable on the March 10 launch date. She requested that those regulations receive an emergency vote.

Commissioner Hill moved that the Commission authorize staff to take the steps necessary to file the required documentation with the Secretary of the Commonwealth by emergency for the following regulations as included in the Commissioner's Packet and discussed and approved on March 2, 2023, and to thereafter take the steps necessary to file the required documentation with the Secretary of the Commonwealth to finalize the regulation promulgation process for 205 CMR 138, 205 CMR 238, 205 CMR 247, 205 CMR 248, and 205 CMR 254. 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. \*

3. [Sports Wagering](#) (1:37:59)

a. Approval of House Rules for Category 3 Operators

Director of Sports Wagering Bruce Band introduced Sports Wagering Operations Manager Sterl Carpenter to present the house rules from six of the category three sports wagering operators planning to launch on March 10, 2023, pursuant to 205 CMR 247.

Mr. Carpenter noted that one operator had submitted a plan to round payouts to the nearest five cents. Commissioner Hill expressed that numbers should only be rounded up. Commissioner Skinner agreed and stated that patrons should be entitled to every cent of their winnings. Commissioner Maynard agreed with Commissioner Hill. stated that it should be a patron-centered process. Commissioner O'Brien stated that if rounding was to occur it should be rounded up in the patron's favor. The Commission reached unanimous consensus that operators do not round down the patron's winnings.

Mr. Carpenter noted that the description of parlay wager rules the submissions ranged from two sentences to 168 references. Commissioner O'Brien noted that each operator other than FanDuel used the term "round robin" to describe tiered parlay wagers, and expressed concern that this could cause confusion. Director of Government Affairs from FanDuel Andrew Winchell stated that clarifying language could be added to the house rules to reference round robins.

Chair Judd-Stein stated that she wanted to ensure the language was ready for a vote during this meeting. Mr. Winchell stated he would add a bullet point noting that FanDuel offers round robins that were situated in the same format as the rest of the parlay wagers.

Commissioner Skinner asked if the range of detail provided from each operator regarding parlay wagers was sufficient. Mr. Carpenter stated that each operator answered the question sufficiently and that nothing was omitted. Commissioner Skinner asked if any sections required further information. Mr. Carpenter stated that the submissions addressed the questions and that operators could field further questions from patrons. Commissioner Skinner inquired as to what the process was for the Commission or IEB to receive a complaint about a patron's concerns. Mr. Carpenter stated that the licensees each used language provided by the Commission as to how to submit a complaint to the sports wagering division.

Commissioner Skinner asked if the complaints made to the operator could be audited by the Commission. Mr. Carpenter stated that each operator was required to provide the Commission with a report on all claims to be reviewed. Commissioner O'Brien noted that there was a vast difference between two sentences and 168 references. Mr. Carpenter stated that the licensee who had submitted two sentences was not appearing today and only offered a limited number of events.

Chair Judd-Stein sought clarification regarding the definition of obvious errors that would allow the voiding or cancellation of wagers. Mr. Carpenter stated that obvious errors were defined in the house rules. Chair Judd-Stein asked if any other jurisdiction allowed a bet to be voided without regulator approval. Deputy General Counsel Caitlin Monahan stated that some wagers

could be cancelled without Commission permission, such as if a particular player was not playing or the game location changed, and that all other instances required the operator to request Commission approval to cancel a wager.

Commissioner O'Brien noted that some of the definitions of obvious errors in the proposed house rules seemed to have subjective criteria. She expressed concern with how this rule would balance with consumer protection laws such as General Law Chapter 93A and federal statutes. She stated that an obvious error should be either a factual impossibility or illegal wager.

General Counsel Todd Grossman stated that some of the proposed definitions of obvious error in the house rules were agreeable, while others were less clear and could be refined. Director of Client Solutions from GLI Joe Bunevith stated that 205 CMR 238.35(3) allowed patrons to request a review of any wager declared cancelled or voided by the operator. Commissioner O'Brien expressed that she did not want that to be the exclusive remedy.

Mr. Carpenter presented BetMGM's definitions for obvious error.

Sports Betting and Gaming Senior Manager of Trading Compliance from BetMGM Alex Walder stated that 70% of the jurisdictions BetMGM was active in allowed the voiding of wagers without prior approval by the regulator. He noted that New Jersey and New York required regulatory approval. Chair Judd-Stein asked if the regulatory approval caused delays. Mr. Walder stated that it was a longer process, but BetMGM follows the process. He noted that each other jurisdiction BetMGM was active in had accepted the definition of obvious error in the proposed house rules.

Commissioner O'Brien expressed that she would prefer Commission approval prior to voiding wagers. She noted that some of the criteria listed in BetMGM's proposed house rules were subjective, such as "materially different odds" and "odds being clearly incorrect". Mr. Carpenter agreed that those provisions could be viewed as areas of weakness.

Commissioner O'Brien noted that Caesar's proposed definition for obvious error contained the same subjective criteria as BetMGM's submission. She stated that she was unsure how the consumer protections in General Law Chapter 93A would interact with this definition. She noted that the definition should be a specific list as opposed to Caesar's definition that it was not an exhaustive list.

Vice President of Trading at Caesars Entertainment Craig Mucklow stated that Caesars would work with the Commission to come to a decision regarding errors. Commissioner Maynard stated that he would be more comfortable with the Commission reviewing wagers before they were voided. The Commission reached a unanimous decision that potentially voided or cancelled bets come before the Commission for approval.

Trading Director from DraftKings Stephen Baumohl stated that he understood the Commission's concerns regarding subjectivity in the definitions. He stated that DraftKings only used these rules in extreme circumstances and that they would be happy to collaborate with the Commission. Mr. Walder agreed on behalf of BetMGM.

Executive Director Wells stated that a condition could be placed on the operations certificate that operators come to the Commission prior to cancelling wagers until the language of the regulation was amended. General Counsel Grossman stated that the Commission could also do a waiver to the regulations that mention obvious error, 205 CMR 247.07(10) and 205 CMR 238.35.

Vice President and General Counsel from WynnBet Jennifer Roberts sought clarification as to whether an operator could cancel a wager placed in error at the patron's request before the event takes place. Chair Judd-Stein asked if this was a general practice. Mr. Walder stated that there were some non-discretionary cancellations pursuant to the house rules where the operators were forced to cancel without discretion.

Deputy General Counsel Monahan noted that 205 CMR 247.03(11) required that operators immediately cancel and refund any wagers that were unauthorized or placed on unauthorized events. She wanted to ensure that this provision was not waived, and that the waiver was exclusive to the obvious error provisions.

Commissioner Skinner asked if there were any other scenarios where a bet could be voided without Commission approval other than the patron requesting a cancellation prior to the event and the non-discretionary cancellations. Head of Gaming from BetR Alex Ursa stated that there could be an error in the payout due to a mistake in information gathered from the leagues. Mr. Bunevith explained that data providers have a technical feed to sportsbook platforms and that there can be confusion with more subjective statistics such as sacks or assists. He noted that real statistical results need to be rendered appropriately for bets.

Mr. Carpenter noted that if a customer made an error their bet could be cancelled through the operator's internal controls, but it must be performed by a supervisor. Commissioner O'Brien requested that the Commission vote on this regulation the following day to provide more time to review 205 CMR 247.07(10). Commissioner Skinner and Commissioner Maynard agreed. General Counsel Grossman stated that amending the regulations would have to be added to the agenda for the next meeting.

Mr. Carpenter stated that the sports wagering division was in discussions with BetR regarding their methods of calculations. Chair Judd-Stein noted that BetR was not planning to launch on March 10, 2023, and would be returning with their house rules at a later date.

Commissioner O'Brien noted that there was a distinction between a game consequence following a penalty and betting on the penalty itself. Commissioner Maynard stated that some fouls and penalties were part of the game, and he did not foresee the statute banning wagering on penalties

banning wagers on free-throws. He stated that there was a distinction between fouls that were a part of the competition and technical fouls or injuries. Commissioner Hill and Commissioner Skinner agreed. General Counsel Grossman stated that this discussion would be helpful in drafting the language.

Commissioner Hill sought clarification regarding section four of BetR's methods of calculation. Chair Judd-Stein noted that BetR was not launching on March 10. Mr. Ursa explained that the 5.0 payout multiplier on a \$100 bet referred to the \$100 of the amount bet and the \$400 in winnings. He noted that BetR had used this calculation in other jurisdictions. Mr. Carpenter stated that it was different from the standards used by other operators and that the sports wagering division had the same concerns. Mr. Ursa stated that BetR would implement this feedback.

Chair Judd-Stein noted that outside of the definition of obvious error the changes discussed at this meeting were regarding the rounding down language submitted by Caesars and the clarification of round robin tournaments from FanDuel. Director of Regulatory and Corporate Compliance from Caesars Lisa Rankin stated that Caesars would be removing the rounding down language.

Commissioner Skinner expressed an interest in having more time to consider the proposed amended language. Commissioner Maynard stated that more times for comments was often beneficial, but the Commission had two goods options in terms of either the waiver or amended regulation. Commissioner Hill expressed his preference for the waiver for the two provisions and having the language return to the Commission on a future date.

General Counsel Grossman stated that the operators with specific amendments could make those changes and suggested that any wagers being cancelled or voided due to obvious errors reasons should come to the Commission for approval. Executive Director Wells stated that the changes should be submitted to Mr. Carpenter.

Mr. Walder asked if a provision could be added that the operator would seek Commission approval before voiding or cancelling bets but keep the examples of obvious errors to provide notice to the patrons of potential situations that can result in a voided bet. Chair Judd-Stein stated that would work. Commissioner O'Brien stated that the Commission did not address how they would change the definition of obvious error. Mr. Carpenter stated that the standard language would be helpful to include. He noted that there was an error in BetMGM's proposed house rules which cited 205 CMR 238.51 when it meant to reference 205 CMR 238.35. Mr. Walder stated that he would make the adjustment.

Chair Judd-Stein inquired as to what the language in this provision would consist of. Deputy General Counsel Monahan suggested the language "the operator would not cancel or void a wager due to obvious errors without prior approval of the Commission". Commissioner O'Brien suggested the additional language "and reserve the right to seek approval in the following



circumstances?”. She stated that this would incorporate how they define obvious error and put customers on notice.

4. [Commissioner Updates](#) (3:38:01)

*The Commissioners did not present any updates at this meeting.*

5. [Other Business](#) (3:30:03)

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

Commissioner Hill moved to adjourn. 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.*

**List of Documents and Other Items Used**

1. [Revised Notice of Meeting and Agenda](#) dated March 8, 2023
2. [Commissioner's Packet](#) from the March 8, 2023, meeting (posted on massgaming.com)