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## Massachusetts Gaming Commission Meeting Minutes

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**Date/Time:** April 25, 2023, 10:00 a.m.  
**Place:** Massachusetts Gaming Commission

VIA CONFERENCE CALL NUMBER: 1-646-741-5292  
PARTICIPANT CODE: 111 372 2009

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

#### 2. [Public Meeting Minutes](#) (00:50)

##### a. November 16, 2022

The November 16, 2022, public meeting minutes were included in the Commissioners Packet on pages 3 through 13.

Commissioner Hill moved that the Commission approve the minutes from the November 16, 2022, public meeting that were included in the Commissioner's Packet subject to any necessary

corrections for typographical errors or other non-material matters. Commissioner O'Brien seconded the motion.

Commissioner O'Brien noted that one of the phonetics was misspelled. Commissioner Hill stated that he would make that correction.

*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](#) (03:25)

#### a. FBG Enterprises Opco, LLC (D/B/A Fanatics) - Approval of House Rules

Sports Wagering Operations Manager Sterl Carpenter presented Fanatics' proposed house rules. *Fanatics' Proposed House Rules* were included in the Commissioner's Packet on pages 13 through 158. Mr. Carpenter stated that the changes addressed all areas of concerns previously found by the Sports Wagering Division, and that all areas of the house rules were in compliance with 205 CMR 247.02(3). He stated that Fanatics had removed all unapproved events and wagers.

Chair Judd-Stein asked if the section related to mechanisms for funding sports wagering accounts could be explicitly clarified to exclude credit-based funding pursuant to the General Law Chapter 23N. Mr. Carpenter stated that several operators had similar language and that the Sports Wagering Division would make the request to Fanatics.

Commissioner O'Brien expressed her understanding that PayPal and Venmo have the ability to distinguish whether money was loaded via credit card. Manager of Licensing with Fanatics, Alex Smith stated that providers could distinguish between credit and cash-based deposits. He stated that the internal controls made clear that the operator does not accept deposits based on credit. Chair Judd-Stein asked if it would be good practice to include language to this effect in operators house rules. Commissioner O'Brien stated that the Commission could ask other operators to clarify that sources of deposits cannot be funded by credit cards. Mr. Smith stated that this would be an easy change to make.

Commissioner Hill asked if the Commission could vote on the house rules knowing that they would be amended again. Chair Judd-Stein stated that the vote could be conditional on the changes being made.

Commissioner O'Brien moved that the Commission approve the house rules submitted by category three sports wagering operator FBG Enterprises Opco, LLC (D/B/A Fanatics) as included in the Commissioners Packet and discussed here today; and specifically that they would be amending the section "Funding of Wagers" to incorporate the reference to no credit card use as discussed in the meeting today. 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. [BetR Holdings, Inc. \(D/B/A BetR\) – Approval of Certificate of Operations](#) (11:51)

Director of Sports Wagering Bruce Band explained that BetR had no major findings or issues with their internal controls' submission, that BetR had their vendors and sports wagering employees approved, that BetR had passed GLI inspection of their software and geofencing tests; and that BetR was in compliance with all regulations of the Commission. He stated that the Sports Wagering Division recommended approval of BetR's operations certificate.

Commissioner Hill moved that the Commission find that the requirements outlined in 205 CMR 251 had been satisfied and that an operations certificate be awarded to BetR Holdings, Inc. (D/B/A BetR) for the purpose of operating a category three sports wagering operation; conditional upon BetR Holdings, Inc. (D/B/A BetR) completing operational audits of wagering procedures and practices and technical security controls, as required by the Commission's technical standards governing sports wagering at 205 CMR 243.01(1)(s); and 205 CMR 243.01(1)(x) within ninety days of the commencement of sports wagering operations. 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.*

c. [NFL Draft Event Catalog Report](#) (16:10)

Chair Judd-Stein noted that the NFL Draft would be held soon and expressed that it might be helpful for the Sports Wagering Division to report on the Commission's rules for the NFL Draft.

Director Band stated that the Sports Wagering Division had met with the NFL and that the Massachusetts procedures met all of the requirements of the NFL.

Mr. Carpenter stated that there were rules as to when a wager may be offered on a pick and when the wagers must close. He stated that he had reached out to the operators to ensure they would follow all of the stipulations related to draft picks.

Commissioner O'Brien asked if there were any jurisdictions that had different rules in comparison to Massachusetts. She noted that some jurisdictions seemed to block betting once the draft had started. Mr. Carpenter stated that the Massachusetts rules were based off of Michigan's rules as they have a successful draft structure that allows wagering during the draft.

Commissioner O'Brien noted that Tennessee also had similar rules.

Commissioner O'Brien inquired whether there were sufficient protections for the integrity of the process to protect from insider knowledge. Mr. Carpenter stated that the NFL does everything in their power to prevent information from leaking, and that the NFL had already suspended six players for violating their policies and procedures.

Chair Judd-Stein asked if an excited parent were to tweet out that their child had been drafted, would only the wagers placed after the tweet be disqualified. Executive Director Karen Wells stated that the regulations were structured to prevent the situation where a tweet would impact the outcome. Chair Judd-Stein stated that the report was helpful and noted that the Draft begins on Thursday, April 27.

#### 4. [Executive Director Annual Review and Setting of Compensation](#) (26:10)

Chair Judd-Stein stated that under the Open Meeting Law, the Commission was required to perform the Executive Director's annual review and setting of compensation in a public forum. She asked if the compensation went back retroactively based on the calendar year. Commissioner O'Brien confirmed that was correct.

Commissioner O'Brien stated that Executive Director Wells gives an outstanding performance each year. She stated that it was a tough year that required the launching of the sports wagering industry and quadrupling the number of licensees the Commission oversees. She stated that Executive Director Wells did a tremendous job balancing an aggressive timeline. She suggested the Commission either give Executive Director Wells a sabbatical or consider hiring support staff to assist the Executive Director.

Commissioner Hill agreed, and stated that the launch of sports wagering could not be done without the Executive Director's leadership. He stated that Executive Director Wells' communications skills continued to be excellent, and that he admired her ability to gather all necessary facts before finding solutions to difficult problems. He stated that her management skills continued to be great as she maintained a culture of transparency across the commission.

Commissioner Skinner stated that Executive Director Wells accomplished a herculean task in getting sports wagering launched within a challenging timeline. She stated that Executive Director Wells' ability to cultivate relationships made her a valuable leader.

Commissioner Maynard stated that he frequently heard high praise for Executive Director Wells when he was appointed to the Commission. He stated that Executive Director Wells was a thoughtful motivator who never compromised the end product.

Chair Judd-Stein echoed what the other Commissioners had stated. She stated that she appreciated Executive Director Wells as a professional partner and that Executive Director Wells has been recognized as an emerging leader in the field. She noted Executive Director Wells would always meet deadlines and was integral in the transition to the hybrid work model. She commended Executive Director Wells' implementation of the Diversity, Equity, and Inclusion action items and fair pay framework. Chair Judd-Stein noted that a *Memorandum* was included in the Commissioner's Packet on pages 179 through 180, that detailed the Executive Director Compensation in other jurisdictions. She noted that Executive Director Wells' current salary was set at \$207,400.

Commissioner O'Brien asked how merit increases, bonuses, and cost of living adjustments affected the pension differently. Chief Financial and Accounting Officer ("CFAO") Derek Lennon stated that merit-based increases and cost of living adjustments were salary increases which would impact the pension, but that bonuses were a one-time increase that would not impact the pension.

Chair Judd-Stein stated that the Commission had provided the staff team with a three-percent cost of living adjustment retroactive to the start of the fiscal year, July 1, 2022. She stated that Executive Director Wells could receive a combination of bonuses and a salary increase. She stated that the memorandum included jurisdictions with similar high costs of living. She stated that a three-percent cost of living adjustment would be consistent with the increase received by other employees, and that a larger merit or bonus increase can be considered. Commissioner Hill agreed with the three-percent cost of living adjustment.

Commissioner O'Brien stated that a three-percent raise would be \$213,622 and suggested \$215,000 as a rounder number. She stated that a merit bonus or other bonus for the sports wagering efforts should be discussed. Finance and Budget Manager, John Scully stated that a four-percent increase would be slightly over \$215,000.

Commissioner O'Brien stated that a sports wagering bonus was being considered for the staff, and that the budget for that would have to be discussed in considering a bonus for the Executive Director. Chair Judd-Stein stated that Chief People and Diversity Officer David Muldrew was going to work with Executive Director Wells on the budget issue. Chair Judd-Stein stated that a

merit bonus could be given in addition to the salary increase, and that the Commission could revisit whether they wanted to increase the bonus after the discussion regarding staff bonuses. Mr. Scully stated that the Commission was within budget and has the capability to bonuses.

Commissioner Skinner stated that the average of salaries from New York and Pennsylvania was \$217,308. She expressed an interest in a merit bonus to recognize Executive Director Wells' work in the past year. Commissioner Maynard stated that he was comfortable with a four-percent salary increase and a merit-based bonus. He expressed support for the \$15,000 bonus that HR had recommended. Chair Judd-Stein stated that a salary of \$215,000 made sense.

Commissioner Hill asked if the Commission had given bonuses to employees in the past, or whether bonuses were only given to management teams. Chair Judd-Stein stated that bonuses had been awarded to staff in the past. Commissioner O'Brien stated that bonuses were most recently contemplated for staff for Covid related reasons. CFAO Lennon stated that staff received individual bonuses for the opening of the first casino. Commissioner Hill stated that he supported \$215,000 and a bonus. Commissioner Skinner agreed.

Commissioner Hill expressed that \$15,000 for a bonus seemed slightly high and stated \$10,000 should be appropriate. Commissioner Skinner stated she would be comfortable accepting the \$15,000 recommendation from HR. Commissioner O'Brien stated that she did not believe \$15,000 was too high but suggested splitting the difference for \$12,500. She reiterated her belief that Executive Director Wells should receive a sabbatical. Commissioner Skinner stated that retention value should also be factored into the bonus. Commissioner Hill expressed support for a \$12,500 bonus.

Commissioner Maynard stated that he wanted to ensure the Commission retains talented people. He stated that the Commission should strive to be good stewards of tax dollars, and one way to do that was to ensure that the Commission has the best employees. He reiterated his support for the \$15,000 bonus recommended by HR. Chair Judd-Stein stated that the \$15,000 recommendation from HR reflects the efforts put in by Executive Director Wells in the past year. Chair Judd-Stein asked what date the salary increase would be retroactive to. Human Resources Manager Trupti Banda stated that the salary increase would be retroactive to January 1, 2023.

Commissioner O'Brien moved that based on the conversation today and the evaluation submitted by Executive Director Wells the Commission adjust the Executive Director's salary by increasing a four-percent cost of living retroactive to January 1, 2023, and in addition that the Commission authorize a \$15,000 merit-based bonus for the 2022 performance review period. Commissioner Skinner seconded the motion.

Chair Judd-Stein clarified that the bonus was separate and independent of the salary.

*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. [Legal](#) (1:46:21)

Deputy General Counsel Caitlin Monahan stated that the Commission had the regulations before the Commission had been previously approved, but that the Legal Division was seeking amendments. Outside Counsel from the law firm Anderson and Krieger Attorney Mina Makarios stated that the Attorney General’s Office and players associations had submitted comments on the related regulations as well.

Mr. Makarios noted that the Legal Division had worked with the Attorney General’s Office regarding data privacy and security provisions as well. He stated that this regulation would appear before the Commission shortly.

- a. [205 CMR 138](#): Uniform Standards of Accounting Procedures and Internal Controls – review of regulation and Small Business Impact Statement for possible emergency adoption and to begin the promulgation process (1:50:28)

Mr. Makarios presented the amendments to 205 CMR 138. The *Draft of 205 CMR 138* and Small Business Impact Statement were included in the Commissioner’s Packet on pages 184 through 266.

Chair Judd-Stein inquired whether the change to 205 CMR 138.02(7) impacted the potential future licensees. Mr. Makarios stated that it would not, and that the change was to reflect the Commission’s current practice of approving internal controls prior to operations certificates.

- b. [205 CMR 238](#): Uniform Standards of Accounting Procedures and Internal Controls for Sports Wagering – review of regulation and Small Business Impact Statement for possible emergency adoption and to begin the promulgation process (2:00:41)

Mr. Makarios presented amendments to 205 CMR 238. The *Draft of 205 CMR 238 and Amended Small Business Impact Statement* were included in the Commissioner’s Packet on pages 267 through 309.

Chair Judd-Stein asked if the language “adequate space for law enforcement” envisioned office space or standing space. Mr. Makarios stated that it would be space required for law enforcement to do their job adequately, which would likely include office space. Chief Band stated that office space would be required to do audits and complete daily work. Mr. Makarios

suggested changing the language to “adequate office and other space”. Chair Judd-Stein agreed and stated that surveillance space was also needed.

Chair Judd-Stein asked if the language regarding computerized algorithms was in previous versions of the regulation. Mr. Makarious stated that the language was previously in the data privacy provision of 205 CMR 138.73 but had been moved due to comments from the Attorney General’s Office and operators.

Chair Judd-Stein asked what permissible uses for the algorithm would be. Deputy General Counsel Monahan stated that algorithms could be used to find betting rings and those trying to influence bets. Commissioner Skinner expressed appreciation for the Attorney General’s Office’s insight on this matter and stated that anomalies could be flagged by the Sports Wagering Division. Commissioner O’Brien stated that the language forced operators to be more deliberate with their data and that the Commission could review for non-permissible use or have the data used for responsible gaming initiatives.

Commissioner Maynard stated that his initial reading of this language was that it was a disclosure regarding the operators’ rules. He stated that additional information may be needed on this subject over time. Mr. Makarious agreed that the language was for disclosure, and that the Commission would be able to discern what the operator was using the information for. Chair Judd-Stein suggested a slight change to the language. Mr. Makarious stated that he would like to run any changes to this language by the Attorney General’s Office for further comment.

Mr. Makarious noted that monthly invoices may have the unintended consequences of reminding the patron of their sports wagering account. Commissioner O’Brien asked if the Responsible Gaming Division was consulted regarding this change. Deputy General Counsel Monahan stated that the Legal Division could follow up with Director of Research and Responsible Gaming Mark Vander Linden. Commissioner O’Brien stated that she would like feedback for this provision.

Commissioner Maynard inquired as to how 205 CMR 238.35 interacted with 205 CMR 247.03(11). Mr. Makarious stated that there was a proposed cross-reference in the changes to 205 CMR 247 and 205 CMR 248.

Mr. Makarious stated that there was new language for how the operator would handle obvious errors and parlays. He stated an operator must have house rules to follow instead of making that judgement themselves. Mr. Carpenter stated that the process for a voided leg of a parlay wager must be addressed in house rules.

Mr. Makarious stated that the Attorney General’s Office had suggested moving the language from 205 CMR 238.45(2) into the data privacy regulations. He stated that the Legal Division suggested that the language be included within both regulations. The Commission reached unanimous consensus to include the language from 205 CMR 238.45(2) in both regulations.

c. [205 CMR 247](#): Uniform Standards of Sports Wagering - review of regulation and Small Business Impact Statement for possible emergency adoption and to begin the promulgation process (2:41:56)

Mr. Makarios presented the proposed changes to 205 CMR 247. The *Draft of 205 CMR 247 and Amended Small Business Impact Statement* were included in the Commissioner's Packet on pages 310 through 328.

Commissioner Maynard sought clarification regarding notification in section 11. Mr. Makarios stated that the change was due to the concern that an operator could interpret the previous language as not having to provide notice until after the refund if the refund was not simultaneous. Chair Judd-Stein sought a break to receive guidance from the Legal Division.

Deputy General Counsel Monahan advised the Commission to hold the conversation related to 205 CMR 247.03(11) until after the deliberations on potential non-compliance events were closed as discussions of this regulation could enter into that issue. Commissioner O'Brien expressed concern about the narrow window to discuss this issue should another potential non-compliance event occur. Commissioner Maynard expressed an interest in revisiting this issue soon.

Commissioner O'Brien sought clarification of the 940 CMR that was referenced. Mr. Makarios stated that it was part of the retail advertising regulations, and that the Attorney General's Office was clear that they did not believe this regulation to apply to sports wagering.

d. [205 CMR 248](#): Sports Wagering Account Management - review of regulation and Small Business Impact Statement for possible emergency adoption and to begin the promulgation process (3:08:28)

Mr. Makarios presented the proposed changes to 205 CMR 248. The *Draft 205 CMR 248 and Amended Small Business Impact Statement* were included in the Commissioner's Packet on pages 329 through 345.

Commissioner O'Brien asked if the responsible gaming team had offered opinions on whether it would be helpful or harmful to send re-notifications of responsible gaming limits upon deposits. Mr. Makarios stated that the comment regarding this issue was received the day before this meeting and that he had yet to discuss it with the Responsible Gaming Division. Commissioner O'Brien stated that she would like to have that information.

Mr. Makarios noted that the players associations had asked for a section regarding deference to collectively bargained agreements negotiated between leagues and the players association governing player safety, misuse of biometric data, coordination with injury in other states, and investigation of gambling related charges involving a professional athlete. He explained that this

comment was recently received and that the Legal Division did not yet have a chance to review it fully.

Commissioner Hill expressed that his first inclination would be to not adopt the deference to collectively bargained agreements. He requested information related to the language in other jurisdictions to see if any other jurisdiction had adopted similar language. Mr. Makarios stated that he was not aware of any other jurisdictions that have this language, and that some jurisdictions have language similar to Massachusetts' regarding reservation clauses that ultimate disclosure obligations were governed by collective bargaining.

Commissioner Hill moved that the Commission approve the Small Business Impact Statement and draft of 205 CMR 138 as included in the Commissioners' Packet and discussed here today; and 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 relative to this regulation. He further moved that the staff be authorized to modify chapter or section numbers or titles to file additional regulation sections as reserved or to make any other administrative changes as necessary to execute the regulation promulgation process. 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 Skinner noted that 205 CMR 238 and 205 CMR 248 were still awaiting clarification from Director Vander Linden and the Responsible Gaming Division. Chair Judd-Stein noted that the changes to 247.03(11) would not be voted on in this meeting due to the ongoing issues of potential non-compliance.

Commissioner Skinner moved that the Commission approve the Small Business Impact Statement and draft of 205 CMR 238 as included in the Commissioners' Packet, but only in extent reflected in discussions here today. She further 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 relative to this regulation; and further that the staff shall be authorized to modify chapter or section numbers or titles to file additional regulation sections as reserved or to make any other administrative changes as necessary to execute the regulation promulgation process. 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.*

Commissioner O'Brien moved that the Commission approve the Small Business Impact Statement and draft of 205 CMR 247 as included in the Commissioners' Packet, and specifically limited to our discussions here today; 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 relative to this regulation. She further moved that the staff should be authorized to modify chapter or section numbers or titles to file additional regulation sections as reserved or to make any other administrative changes as necessary to execute the regulation promulgation process. 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.*

Commissioner Maynard moved that the Commission approve the Small Business Impact Statement and draft of 205 CMR 248 as included in the Commissioners' Packet and specifically as limited to the Commission's discussion here today; and 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 relative to this regulation. He further moved that the staff be authorized to modify chapter or section numbers or titles to file additional regulation sections as reserved or to make any other administrative changes as necessary to execute the regulation promulgation process. 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.*

e. [205 CMR 256.05\(1\)](#): Sports Wagering Advertising – to remove the word “branding” from 205 CMR 256.05(1); and Small Business Impact Statement for possible emergency adoption and to begin the promulgation process (3:30:02)

The *Draft 205 CMR 256.05(1) and Small Business Impact Statement* were included in the Commissioner’s Packet on pages 346 through 348. Mr. Makarious explained that the Commission had discussed removing the term branding in regulations where it did not make sense, and that 205 CMR 256.05(1) had inadvertently kept that language. Deputy General Counsel Monahan stated that changing a regulation could lock up the regulation in the promulgation process, and as there were additional changes expected to the advertising regulation, the amendment would solely be limited to this particular subsection.

Commissioner O’Brien asked why branding should be removed from this section. Mr. Makarious explained that this subsection requires disclosure that you have to be twenty-one or older to partake in sports wagering. He noted that the term branding typically referred to logos and would require this disclosure anywhere a logo appeared. Commissioner O’Brien expressed concern about youth being able to see logos frequently and stated that having a logo that said, “must be twenty-one years of age or older” seemed appropriate. She noted that logos could be used for brand loyalty.

Sports Wagering Business Manager Crystal Beauchemin explained that the logo branding was also used on t-shirts, letterheads, business cards, and coasters. She stated anything with an operator logo would need the additional language. She noted that other industries that pose similar risks such as the alcohol industry did not require similar language. Commissioner Maynard stated that it became an issue when used for advertising.

Commissioner O’Brien noted that coasters tended to be in bars where patrons were already over the age of twenty-one. She expressed concern about children seeing the logo of a sports wagering operator on the Green Monster at Fenway. Commissioner Maynard asked if this level of branding was in-line with the requirements of casinos. Chair Judd-Stein stated that children at Fenway would also see alcohol branding. She expressed concern that the additional language would not satisfy the potential advertising issues.

Ms. Beauchemin stated that the Fenway advertisement by BetMGM included the required language. She noted that there was also an operator logo on the ice at Bruin’s games. Chair Judd-Stein stated that if the GameSense and age language was included on the Green Monster advertisement, it was not visible. Ms. Beauchemin noted that it may have been another advertisement at Fenway that included the language.

Commissioner Hill stated that he had no problem with removing branding from this regulation but that he understood Commissioner O’Brien’s concerns. Commissioner Skinner agreed with Commissioner Hill. Commissioner Maynard agreed with Commissioner Hill, but noted his concern about operators potentially claiming that advertisements were simply branding.

Commissioner Hill asked if there was a way to change the regulation or adjust the definition of branding to address Commissioner O'Brien and Commissioner Maynard's concerns. Mr. Makarios stated that a more nuanced provision could be drafted. He stated that a waiver might be needed to address the issue as it could take time to change some of the larger media. Commissioner Hill stated that he pulled up an image of Fenway, and that the advertisement on the Green Monster was just a logo without additional language.

Mr. Makarios stated that he would have to research if there was already a definition for branding that would have to be changed and stated that he did not want to define the term narrowly. Commissioner Hill asked if there was a potential alternative to the word branding.

Chair Judd-Stein stated that she agreed with Commissioner Hill. Ms. Beauchemin stated that other jurisdictions had used the term branding to refer to the use of a logo in the business context rather than the marketing context. Commissioner O'Brien stated his opinion that marketing branding should keep the language that patrons must be twenty-one years or older.

Commissioner Hill stated that he was willing to keep branding in the regulation until further clarification was received. Commissioner Maynard agreed. Chair Judd-Stein stated that there may be an issue with letterheads and branding if it was not addressed. Commissioner Hill stated that an exemption could be given until the Commission developed adequate language.

Commissioner O'Brien asked how long it would take to change the language. Mr. Makarios stated that it would be a couple of days, but it would depend on the Commission's timing for when it could be voted on. Chair Judd-Stein asked if there were legal restrictions to what the Commission could impose on branding. Mr. Makarios stated that there were limits, but requiring language regarding age was not likely outside of the scope. Mr. Makarios suggested a waiver for one or two weeks as the language was developed.

Mr. Makarios stated that separating branding for a business purpose should be easy, but there was still the question of whether the language should be applied to various other mediums. Deputy General Counsel Monahan stated that the waiver be for one month, and that the Commission might need to consider a second waiver when the change was implemented. Chair Judd-Stein suggested looking at what other jurisdictions had done on this issue and suggested contacting the American Gaming Association ("AGA") for feedback.

Commissioner Skinner stated that she was struggling with the impracticality of branding being included in this regulation as it would apply to shirts and hats with the logo. She stated that she was comfortable with a 30-day waiver. Commissioner O'Brien stated that a recipient of a static forced exposure in an event stadium was different than those who choose to purchase shirts, hats, or coasters. She expressed an interest in having the additional language on static exposure.

Commissioner O'Brien moved that in accordance with 205 CMR 202.02(3) that the Commission issue a waiver to all licensed sports wagering operators for the requirement currently outlined in 205 CMR 256.05(1) that branding stating that patrons must be twenty-one years of age or older to participate shall be in effect until May 25, 2023, as granting the waiver meets the requirements specified in 205 CMR 102.03(4) and was consistent with the purposed 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.*

#### 6. [Commissioner Updates](#) (4:10:13)

Chair Judd-Stein stated that an article was published in the Las Vegas Review Journal about illegal gambling websites continuing to prey on trusting players. She expressed an interest in the Commission looking at the impact legal sports wagering has on the illegal market, and suggested it be added to the Research Agenda Framework.

Commissioner O'Brien stated that the scope of the research was broad and would likely need to be more specific. Commissioner Skinner agreed with Commissioner O'Brien and stated that there might not be available data regarding the illegal market. She suggested a deeper dive into what the Commission might be able to research on this topic. Commissioner Maynard and Commissioner Hill agreed that they were interested in this research topic as well.

#### 7. [Other Business](#) (4:14:59)

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 April 21, 2023
2. [Commissioner's Packet](#) from the April 25, 2023, meeting (posted on massgaming.com)