
Massachusetts Gaming Commission Meeting Minutes



Date/Time: August 8, 2023, 10:00 a.m.
Place: Massachusetts Gaming Commission
VIA CONFERENCE CALL NUMBER: 1-646-741-5292
PARTICIPANT CODE: 111 750 7290

The Commission conducted this public meeting remotely utilizing collaboration technology. 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 470th 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](#) (00:48)

Interim Executive Director and General Counsel Todd Grossman stated that environmental tests were performed, and it was confirmed that the Boston office was dry. He stated that tested air results would be available shortly. He stated that construction plans would be ready by the end of the week or early in the following week. He stated that Commission staff that work in Boston would continue to work remotely.

Interim Executive Director Grossman noted that efforts were underway to ensure the sports wagering division was properly constructed and staffed following Sports Wagering Operations

Manager Sterl Carpenter's departure from the Commission. He stated that he would report on the progress of these efforts shortly.

Interim Executive Director Grossman stated that the Commission's program collecting taxes on daily fantasy sports was up and running. He stated that issues arose concerning the boundary of sports wagering and daily fantasy sports. He noted that some daily fantasy sports operators were offering activities that might be considered sports wagering, and that these activities are being reviewed.

3. [Legislative Update](#) (03:56)

External Relations Manager Grace Robinson explained that the legislature had passed and the governor subsequently signed a supplemental budget that included an extension for horseracing and simulcasting until December 15, 2025. She stated that within the budget there was language amending G.L. Chapter 128C to allow horseracing and greyhound dog racing meeting licensees in Suffolk, Bristol, and Norfolk counties to simulcast at any location in those counties approved by the Commission.

Ms. Robinson stated that the legislature had sent the budget to the governor, who has ten day to review and sign the budget. Commissioner Hill noted that part of the budget included a change to G.L. Chapter 23K § 26 related to the enforcement, regulation, and distribution of alcohol at gaming establishments. He stated that Commission staff had reached out to the legislature and governor's office to request clarification on how the change would affect the Commission.

Commissioner Skinner asked that similar clarification be sought for the change in the simulcasting language. Commissioner Hill stated that a memorandum explaining the changes could be presented to the Commission.

4. [Sports Wagering Division](#) (08:56)

a. BetMGM Request for Extension of the Temporary Waiver from Provisions of 205 CMR 255.03

Sports wagering Business Manager Crystal Beauchemin explained that BetMGM had requested an extension to their waiver from the requirements of 205 CMR 255.03 through September 15. She noted that the current waiver expires on August 10. Commissioner Hill asked if BetMGM would have the update implemented by September 15, or if they were likely to request another waiver. Ms. Beauchemin stated that the delay was tied to a release that was delayed, but that the update was ready to launch.

Commissioner Hill moved that in accordance with 205 CMR 202.03(2) the Commission issue a waiver to BetMGM from the requirements outlined in 205 CMR 255.03(3) through September 15, 2023, as granting the waiver meets the requirements specified in 205 CMR 102.03(4) and is consistent with G.L. Chapter 23N. 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.

5. [Legal](#) (12:38)

Deputy General Counsel Carrie Torrisi stated that five regulations were returning to the Commission following a public hearing and review of public comments. She noted that 205 CMR 138, 238, 247, and 248 were in effect by emergency but that 205 CMR 257 was going through the regular promulgation process.

a. [205 CMR 138.00: Uniform Standards of Accounting Procedures and Internal Controls – Regulation and Amended Small Business Impact Statement for final review and possible adoption.](#) (13:37)

Outside Counsel from the law firm Anderson and Krieger Attorney Mina Makarious presented the changes to 205 CMR 138. The *amended small business impact statement and draft 205 CMR 138* were included in the Commissioner's Packet on pages 11 through 91. Mr. Makarious noted that the regulation received no additional comments and that no new changes were proposed.

Commissioner Skinner moved that the Commission approve the amended small business impact statement and draft of 205 CMR 138 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.

b. [205 CMR 238.00: Additional Uniform Standards of Accounting Procedures and Internal Controls for Sports Wagering – Regulation and Amended Small Business Impact Statement for final review and possible adoption.](#) (15:56)

Mr. Makarious presented the changes to 205 CMR 238. The *draft 205 CMR 238 and amended small business impact statement* were included in the Commissioner's Packet on pages 92 through 125. He stated that there were no proposed changes, but that some comments were received. *Public Comments related to 205 CMR 238* were included in the Commissioner's Packet on pages 171 through 173.

Mr. Makarios stated that the first comment, related to 205 CMR 238.11, suggested that the suggested the three layers of staffing for ticket writers was unnecessary. He stated that a change was not proposed as this provision already existed in the regulation prior to the most recent emergency adoption in April.

Mr. Makarios stated that Caesars had offered comments regarding 205 CMR 238.25 related to the operations of ticket writers and their handling of wagers. He noted that this provision was already in place and no other operators commented. He stated that the legal team did not recommend changes. He stated that this issue might be an opportunity for further discussions between the operator and the sports wagering division for clarification.

Mr. Makarios stated that comments were received from Caesars and FanDuel regarding the operators' ability to cancel a wager for obvious error. He noted that the Commission discussed this issue at length in April before adopting the current language. He stated that it would give too much discretion to an operator if they could determine what bets are made by human error and recommended that no change be made.

Chair Judd-Stein asked that if there was an error would the Commission be able to address the issue. Mr. Makarios noted that if a patron or ticket writer made an error the operator could cancel the wager, but that they would have to come to the Commission for approval to cancel any other wager.

Commissioner O'Brien moved that the Commission approve the amended small business impact statement and draft of 205 CMR 238 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.

c. [205 CMR 247.00: Uniform Standards of Sports Wagering - Regulation and Amended Small Business Impact Statement for final review and possible adoption.](#) (24:36)

Mr. Makarios presented the changes to 205 CMR 247. The *draft 205 CMR 247 and amended small business impact statement* were included in the Commissioner's Packet on pages 126 through 145. *Public comments related to 205 CMR 247* were included in the Commissioner's Packet on pages 173 through 176.

Mr. Makarios stated that the first proposed change was to 205 CMR 247.03. He stated that changes were discussed in April but erroneously left out of the emergency regulations. He stated that the change made it so only operators could request the approval of an addition to the wagering catalog. Chair Judd-Stein asked if operator only referred to Massachusetts operators. Mr. Makarios replied that was correct.

Mr. Makarios stated that an operator asked if 205 CMR 247.03 (1)(1) was limited to events or wager categories or inclusive of all unauthorized items. He stated that the provision was relevant to any unauthorized bet that would need to be cancelled.

Mr. Makarios stated that several comments were received regarding 204 CMR 247.07 regarding cancellation for obvious errors. He noted that the Commission had voted in favor of keeping the change from April in 205 CMR 238 and so no further change was warranted.

Mr. Makarios stated that changes were made to 205 CMR 247.09 in April to add in a disclosure requirement with respect to how long a patron would have to remain signed-up to redeem an online offer due to comments from the Attorney General's Office. He noted that DraftKings had requested it be reverted to 90 days, but that the legal team did not recommend this change.

Mr. Makarios stated that FanDuel and DraftKings had requested a change to 205 CMR 247.09(4) to allow promotions contingent upon the referral of patrons to the operator. He stated that whether this is allowed is a policy question for the Commission. Commissioner Skinner asked if any other jurisdictions allowed referral-based promotions. Mr. Makarios stated that he would have to research that topic. Commissioner Skinner noted that the comments received suggested that Massachusetts was the first state to prohibit this via regulations.

Mr. Makarios expressed the concern that referrals could lead to less regulated and less transparent third-party advertising. Commissioner O'Brien noted that cannabis regulations did not allow referrals in Massachusetts, and that the regulation was not inconsistent with how other industries in the Commonwealth were treated. Mr. Makarios noted that the Attorney General's Office had requested this provision to be added to the regulation.

Commissioner O'Brien moved that the Commission approve the amended small business impact statement and draft of 205 CMR 247 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.

d. 205 CMR 248.00: Sports Wagering Account Management - Regulation and Amended Small Business Impact Statement for final review and possible adoption. (38:33)

Mr. Makarios presented the 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 146 through 160. *Public comments related to 205 CMR 248* were included in the Commissioner's Packet on pages 176 through 187.

Mr. Makarios stated that an operator commented that the ability to verify an account-holder's name on a debit instrument is not always possible due to the third-party vendors that view the information. He noted that they had requested a feasibility standard be included. Mr. Makarios stated that other protections were in place to verify an account owner is the one registering.

Commissioner Skinner asked if the language suggested was too broad and asked that it be narrowed. Commissioner O'Brien suggested the language "unless impossible". Mr. Makarios stated that the language could be added, but that there were concerns that an account holder's information might not be entered the exact same way across different mediums. He agreed with Commissioner O'Brien's suggestion of "unless impossible".

Mr. Makarios stated that operators had commented on 205 CMR 248.04 stating that the proposed measures were not effective enough. He stated that the legal team did not recommend a change as the provision already allowed operators to identify alternative methods of age and identity verification. Chair Judd-Stein asked if the ability to request additional methods was in effect. Mr. Makarios stated that it was. Chair Judd-Stein noted that the Commission had yet to receive requests for alternative methods.

Mr. Makarios stated that changes were made to 205 CMR 248.06(3) to add in cross-references to the definitions of personally identifiable information and confidential information. He noted that a comment raised concerns that patrons might have confusion between state law and the regulations. He stated that the language in this provision was crafted with the Attorney General's Office and that the changes clarify what information is protected. He stated that the legal team did not recommend a change.

Mr. Makarios stated that BetMGM noted that automated decision-making and profiling in 205 CMR 248.06 (3) (j) were terms of art and that they recommended the state develop a uniform privacy law before addressing those terms and data privacy specifically for sports wagering. Mr. Makarios stated that if a state law supersedes the Commission's regulations then the regulations could be amended. He stated that there were unique concerns related to data privacy in sports wagering.

Mr. Makarios stated that an operator had asked if patrons who deposited money via credit card in other jurisdictions would be able to use those funds in Massachusetts. He stated that the patrons could not do that, and noted that the operator who asked did not accept credit cards in any jurisdiction.

Mr. Makarios stated that comments had requested clarity and pushed back on the requirement of a conspicuous display of self-imposed limitations. He noted that from a responsible gaming standpoint having the information be conspicuous was the point. He noted that there had already been a compromise when the language was drafted and recommended against further change.

Outside Counsel from Anderson & Krieger Attorney Annie Lee stated that changes were made to 205 CMR 248.19 to make the language consistent with 205 CMR 255. Mr. Makarios stated that the legal team did not recommend any changes to 205 CMR 248.19 as the legal team confirmed with the Treasurer's Office that this provision was appropriate regarding escheatment practices.

Commissioner O'Brien moved that the Commission approve the amended small business impact statement and draft of 205 CMR 248 as included in the Commissioner's Packet and further discussed here today and also 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.

e. [205 CMR 257: Sports Wagering Data Privacy - Regulation and Amended Small Business Impact Statement for final review and possible adoption.](#) (59:04)

Mr. Makarios presented the changes to 205 CMR 257. The *draft 205 CMR 257 and amended small business impact statement* were included in the Commissioner's Packet on pages 161 through 170. *Public comments related to 205 CMR 247* were included in the Commissioner's Packet on pages 187 through 210.

Mr. Makarios noted that some operators suggested striking this entire regulation and relying on existing state data privacy and data breach laws. He noted that the Attorney General's Office had urged the Commission to include this regulation. He stated that there were unique circumstances with sports wagering that warranted moving forward in a thoughtful and deliberate manner with 205 CMR 257, and that the regulation could be amended should a state law be passed that supersedes it.

Commissioner Hill agreed that there are unique circumstances with this industry, and that keeping 205CMR 257 was prudent. Commissioner O'Brien agreed and stated that the Commission has an obligation to have regulations such as this. Chair Judd-Stein agreed.

Commissioner Skinner suggested looking into which portions of 205 CMR 257 could be adopted for casino gaming. Mr. Makarios stated that there were provisions that could be applicable with

respect to casino's consumer data. Commissioner Maynard agreed with Commissioner Hill, Commissioner O'Brien and Commissioner Skinner.

Mr. Makarios stated that the operators had suggested that the definitions of personally identifiable information and confidential information were too broad and that the Commission should use the definition in G.L. Chapter 93H and 201 CMR 17. He noted that the Attorney General's Office had significant input in these definitions and that the legal team recommends no changes.

Mr. Makarios stated that clarifying language was added to 205 CMR 257.02 because operators had raised concerns that the provision was too narrow and could restrict the operator's ability to use the data in legitimate ways. Commissioner O'Brien sought clarification whether "defend against legal claims" was limited to claims that were filed. Mr. Makarios stated that the term suggests that the claims have to be filed and allows for the use of retained data to show that the data was being used correctly. Commissioner O'Brien noted that any vote she gave in the affirmative was for the use of data for applicable laws, regulations, and investigative demands, rather than public relations purposes against public claims.

Mr. Makarios stated that the language allowed for the best practices of keeping data in case of subpoena or filed claim. Chair Judd-Stein asked if this exception was envisioned to be used for private legal claims or government claims. Mr. Makarios stated that the language could be envisioned to include the investigative demand of a government agency. Commissioner O'Brien noted that she did not want to create an exception that swallows the rule.

Commissioner Skinner stated that she appreciated the inclusion of this provision but that she respected Commissioner O'Brien's concerns. Mr. Makarios suggested that the term be changed to "filed legal claims". The Commission reached consensus in support of this change.

Mr. Makarios stated that the next comments were related to 205 CMR 257.02, where some operators had expressed that an opt-in system would be too burdensome. He stated that the legal team recommended keeping the language as it was important for patrons to be aware of what they opt into when they sign up. Mr. Makarios noted that a change was made to 205 CMR 257.02 (c) to include language regarding intervening pages required to complete the opt-out process.

Mr. Makarios stated that a number of comments were received regarding 205 CMR 257.03 related to the use of information. He stated that the comments stated that using periods of dormancy for advertising was a standard marketing practice. He stated that while it may be standard in some industries it could encourage re-engagement and addictive behaviors in sports wagering.

Commissioner Skinner asked what other jurisdictions used opt-in rather than opt-out. She noted that the language had support from the Attorney General's Office, and that she did not mind if Massachusetts was the first to require this. She stated that she wanted to understand to what extent these regulations were modeled off of other jurisdictions.

Mr. Makarios stated that a lot of the recommendations came from the Attorney General's Office's response to the initial advertising regulation. He stated that no other jurisdiction has gone to this level of detail with data privacy specifications with respect to sports wagering. Ms. Lee stated that the regulation built on the general strong data privacy protections in Connecticut and Colorado. Chair Judd-Stein stated that she was comfortable with the language in the regulation as the Attorney General's Office provided expertise in drafting this regulation.

MR. Makarios stated that he did not believe it would be substantially technically different to have opt-in rather than opt-out as popups were not hard to program. He recommended that the language remain as opt-in. Commissioner Skinner noted that a comment indicated that operators would have to build a different process for opt-in for Massachusetts as it was not required in other jurisdictions. She stated that she was in support of the regulation as written but that she wanted to be mindful that there could be challenges in implementation.

Deputy General Counsel Torrisi stated that the regulation if approved at this meeting would go into effect on September 1. Chair Judd-Stein stated that if the requirement is onerous on operators, then they could request a waiver. Commissioner Skinner stated that she did not support a blanket waiver and that operators should show the need for a waiver. Commissioner O'Brien expressed support for the opt-in language.

Mr. Makarios stated that operators expressed concern that 205 CMR 257.02 (3) would consider the use of sports season information as a prohibited use of periods of dormancy. He stated that using information based upon personal data of what the patron prefers to wager on was allowed.

Mr. Makarios stated that some operators suggested that if regulated operators were required to use fewer targeted advertisements the unregulated market might try to capitalize on that. He stated that he did not find those comments persuasive in this context as there is an established sports wagering industry in the commonwealth.

Commissioner Skinner asked if operators must assume that a break in play is intentional or because someone is struggling with gaming during a period of dormancy. She expressed an interest in hearing the responsible gaming perspective on this provision. Mr. Makarios stated that the language was to prevent personal information about account dormancy to encourage specific wagers or promotional offers. He stated that an advertisement could be given based on a patron's interest in wagering on the NFL but not based on their account dormancy.

Mr. Makarios stated that the regulation was intended to ensure that operators did not use the patron's information in a way that would cause a greater likelihood of irresponsible wagering. He stated that criteria were identified by the Attorney General's Office and responsible gaming division to indicate that a participant was wanting to take a break.

Commissioner Skinner stated that she wanted to ensure that the categories of what was prohibited were clear. She requested that Director of Research and Responsible Gaming Mark Vander Linden provide input on this provision. Chair Judd-Stein noted that Director Vander

Linden was not available at this time. Commissioner O'Brien noted that she did not share Commissioner Skinner's concerns.

Ms. Beauchemin noted that if the regulation would go into effect on September 1 if finalized at this meeting, that requests for waivers would have to be received by the end of the week in order to be discussed at the August 24 meeting. Chair Judd-Stein stated that the alternative would be to provide a universal waiver to the operators. Ms. Beauchemin noted that the sports wagering division had only heard from one operator thus far, and would send out an operator update requesting that any waiver requests be submitted by the end of the week.

Commissioner O'Brien asked how long this language had been available. Mr. Makarious stated that the Commission had discussed this language in late May or early June. He noted that as this was a new regulation the Commission could also choose to file the regulation at a later date to allow waiver requests to come in. Commissioner O'Brien stated that the operators had the language for months and only one operator had voiced concerns. Commissioner Skinner stated that she was not in favor of blanket waivers and expressed an interest in holding the filing of regulations. Commissioner O'Brien stated that she was not inclined to delay filing based on one operator comment. Commissioner Skinner stated that she did not want to ignore the operator's mention of needing to build the opt-in process to satisfy the regulation.

Chair Judd-Stein asked if the Commission had flexibility regarding the filing date. Deputy General Counsel Torrisi stated that the four regulations in effect by emergency had to be filed before their emergency expired in the following week. She noted that there were also overlaps between topics and cross-references with 205 CMR 257 and the other four regulations.

Mr. Makarious stated that it was a preference that all five regulations be filed together. He stated that the emergency regulations had been in place with 205 CMR 257 being promulgated. He stated that the only effect holding 205 CMR 257 would have been ambiguity regarding the definition of personally identifiable information and confidential information. He noted that those definitions were also in 205 CMR 238 and that there was only one cross-reference to 205 CMR 257 in the other four regulations.

Ms. Beauchemin stated that some operators might need to extend their waiver as there was speculation as to how long implementing this regulation would take. Chair Judd-Stein reiterated that only one operator had raised concern thus far. Commissioner Skinner stated that if that one operator was unable to comply they could request a waiver by the end of the week. Chair Judd-Stein asked if the Commission could hold filing on 205 CMR 257. Mr. Makarious stated that it could be done with a little tweaking of language.

Commissioner Skinner asked why the waiver requests would have to be received by the end of the current week. Ms. Beauchemin stated that it was due to the timeline of the review process by the sports wagering division and needing to add the waiver to a meeting agenda.

Mr. Makarious noted that Director Vander Linden had reviewed the language of the regulation, but he was uncertain if Director Vander Linden had an opportunity to review the operators'

comments. He stated that no operators had raised issues from a responsible gaming perspective. He explained that the language in subsection f, g, and h were new recommendations from the Attorney General's Office.

Mr. Makarios stated that an operator had asked about their ability to retain data in order to comply with unforeseen legal issues. He stated that it was allowed by these provision and prior provisions.

Mr. Makarios stated that both operators and the Attorney General's Office had welcomed the provision allowing the use of data for intervention purposes. He stated that as this process moves forward the legal team would work with Director Vander Linden and get further feedback from operators on how to use information in this way.

Mr. Makarios stated that a comment was received about 205 CMR 257.03 regarding data sharing. He stated that the legal team was comfortable with the language as is, with the only change being the addition of the term "filed" before the legal claims language to be consistent with 205 CMR 257.02(1)

Mr. Makarios stated that one of the operators had commented that encryption is not commercially reasonable. He stated that many entities with smaller data protection requirements had encryption. He stated that the Commission could also choose to allow either encryption or hashing, which is a form of one-way encryption. The Commission reached a consensus to require either encryption or hashing.

Mr. Makarios stated that an operator had asked if this section also applied to de-identified data. He replied that it did not. He noted that a change was made related to including intervening pages. He stated that some operators expressed concerns that 205 CMR 257.04 (1)d would suggest that patrons could add whatever restrictions they wanted to data. He noted that this was not true as 205 CMR 257 sets out a process for responding to those requests.

Mr. Makarios noted an operator expressed concern that 205 CMR 257.04 (2)b was duplicative of the Attorney General's Office complaint process. He noted that the language in this provision was provided by the Attorney General's Office and that he did not recommend changes.

Mr. Makarios stated that an operator suggested inserting a threshold for data that does not have to be retained in 205 CMR 257.04 (3). He stated that edits were made to reflect this. He suggested including the highlighted list from 205 CMR 257.02 (1) in this section as well. He recommended that the phrase "(or retain it without the requested restriction)" to clarify that a threshold made sense for deleting data but not for imposing a restriction on data. Chair Judd-Stein offered a grammatical correction to help clarify the language.

Mr. Makarios stated that an operator had suggested including reasonableness standards. He noted that there is an implied standard of reasonableness throughout the regulations, and that the

onus is on the operators to explain themselves if they allege there was no overriding legal interest.

Mr. Makarious stated that a reasonableness standard was applied to 205 CMR 257.04 (4) to ensure that reasonable steps are taken to confirm the deletion of information. He noted that at some point it may be impossible to prove whether something was deleted.

Mr. Makarious stated that several operators suggested 205 CMR 257.06 be struck and that the Commission should rely on G.L. Chapter 93H. He stated that the idea was not to supersede state laws with the regulation but to make it clear in the set of regulations that regulate the sports wagering industry.

Commissioner Maynard asked where the five days in this provision came from. Mr. Makarious stated that the recommendation of five days came from the Attorney General's Office. He stated that while it may take time for data breaches to be resolved it was reasonable to request that investigations start immediately, and that the operator has consistent communication with the Commission. He stated that it was reasonable to have a starting point with a diligent completion standard.

Chair Judd-Stein asked if the operators would also have to notify the Attorney General's Office of the data breach. Commissioner Skinner stated that it would be beneficial to confirm any extent this regulation was not consistent with G.L. Chapter 93H. Mr. Makarious stated that the operators are still governed by G.L. Chapter 93H, but that the five days was recommended by the Attorney General's Office.

Chair Judd-Stein asked if the immediate notification to the Commission was consistent with G.L. Chapter 93H. Mr. Makarious stated that there was a requirement for immediate notification. He stated that issues are raised whether suspicion of a data breach rises to a level of knowledge of a data breach.

Mr. Makarious stated that an operator had suggested that the Commission's ability to request a forensic report from a qualified third-party in 205 CMR 257.06 (3) be limited to when medium or high-risk data would be involved. He recommended against this change as it would require the Commission to limit its authority.

Commissioner Hill moved that the Commission approve the amended small business impact statement and draft of 205 CMR 257 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 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.

6. [Commissioner Updates](#) (2:49:05)

The Commission had no updates to share.

7. [Other Business](#) (2:49:49)

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

Commissioner O'Brien 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 August 4 2023
2. [Commissioner's Packet](#) from the August 8 2023, meeting (posted on massgaming.com)