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## Massachusetts Gaming Commission

### Meeting Minutes

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**Date/Time:** September 13, 2022, 1:00 p.m.  
**Place:** Massachusetts Gaming Commission  
VIA CONFERENCE CALL NUMBER: 1-646-741-5292  
PARTICIPANT CODE: 112 310 7862

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](#) (5:45)

Chair Judd-Stein called to order the 392<sup>nd</sup> Public Meeting of the Massachusetts Gaming Commission. Roll call attendance was conducted, and all five commissioners were present for the meeting.

2. Commissioners' Round Table Discussion on Responsible Gaming related to Sports Wagering

a. [Introduction of the Experts](#) (7:45)

Chair Judd-Stein introduced the responsible gaming experts who included Director of Research and Responsible Gaming Mark Vander Linden; Distinguished fellow from the International Gaming Institute from the University of Nevada at Las Vegas Alan Feldman; Founder and CEO of Doura-Schawohl Consulting Brianne Doura-Schawohl; Executive Director of the National Council on Problem Gambling Keith Whyte; Executive Director of the Massachusetts Council on Gaming and Health Marlene Warner; Professor of Psychology at Carleton University Michael Wohl; Vice President of Strategic Communications and Responsibility at the American Gaming Association Cait Debaun; and Elizabeth Lanza from the Office of Compulsive Gambling at the Pennsylvania Gaming Control Board.

b. Topics of Discussion:

I. [Voluntary Self-Exclusion](#) (30:30)

Mr. Feldman stated that academic literature related to the field of sports wagering was scarce and new. He stated that approaches to responsible gaming may change as further research is conducted. He stated that Voluntary Self-Exclusion (“VSE”) seemed to be the standard for responsible gaming programs, but was not used frequently by customers. He explained that customers had a negative view of VSE due to the language used and the somewhat extensive process for enrolling, and that he would like to see VSE reframed in a way to encourage customers to take breaks from gambling.

Mr. Wohl stated that a better understanding of the financial and interpersonal consequences of sports wagering needed to be reached. He reiterated Mr. Feldman’s point that the language around exclusion was viewed negatively and may dissuade participation. Mr. Wohl stated that some jurisdictions use the language of play break as VSE is perceived to only be for patrons who display problematic gambling behavior. He stated that an issue was that patrons did not understand that they would have to apply to be removed from the VSE list if they wanted to continue wagering.

Mr. Whyte stated that VSE is not truly exclusion from a consumer perspective, as the customer can enter casinos in other states and are not excluded from wagering elsewhere. He stated most customers on the VSE list are not identified until they have won a jackpot, which causes cynicism. He stated that Massachusetts handled VSE better than other jurisdictions, but that there were flaws with the program.

Ms. Warner stated that research into VSE is difficult as once a customer has self-excluded, they do not want to discuss gambling and were therefore less likely to respond to research and surveys. She noted that most customers on the VSE list in Massachusetts were not found after they had won, but by the GameSense advisors who monitored the game floor. She suggested that the players should be able to choose the length of time they would be on the VSE list, and that removing themselves from the VSE list should be a streamlined process. Ms. Warner noted that players could still interact with casino’s social platforms if they were on the VSE list, not engaged in gambling but still engaged with the casino’s products. She stated that almost all enrollments for VSE are done by the GameSense advisors, and that virtual enrollments have increased.

Ms. Doura-Schawohl stated that there are negative views of VSE because it is assumed that patrons only use these tools if they have a problem. She stated that VSE must be customer focused, and that less engagement would occur if there were barriers to entry. She stated that the Massachusetts policy requiring patrons who sign up for VSE to begin with a shorter duration prior to lifetime VSE was the best practice. She suggested the Commission return to those on the gambling VSE list and ask if they would also want to be excluded from sports wagering as well. Ms. Doura-Schawohl stated that as sports wagering is online, the VSE enrollment and other

consumer protections should be easily accessible from the online platform. Ms. Doura-Schawohl asked Ms. Lanza why Pennsylvania had separate VSE lists, and asked if it was a barrier.

Ms. Lanza explained that Pennsylvania was required to have separate VSE lists under different statutes. She stated that Pennsylvania developed a portal where patrons could enroll online for the four VSE lists. She stated that while it was preferable to have a quick streamlined process, sufficient explanation of the legal requirements was still necessary.

Ms. Debaun stated that broader conversations needed to occur regarding the differentiation between responsible gaming initiatives and problem gambling. She stated that online applications may have an easier time implementing self-exclusion. She stated that other technology should be considered for responsible gaming, and that the Commission should allow operators to consider what tools best work for their platforms and customer base.

Chair Judd-Stein asked if there had been advocacy for a single national VSE list, or reciprocity between states. Ms. Warner stated that something similar had occurred between the Sovereign Nations in Oklahoma, but that states have not implemented reciprocity. She stated the importance of offering VSE in different languages to ensure that patrons feel comfortable signing the VSE. Ms. Warner suggested that any mobile engagement to sign up for VSE should be offered in additional languages, as well. She suggested a companion piece to VSE be developed that allows for a third-party family member to enroll a patron displaying problem gambling behavior for self-exclusion.

Mr. Feldman stated that VSE should be consumer focused, and reframed not to be perceived as a penalty. He stated that the times attached to VSE were arbitrary and that the timeframe of VSE needed to be studied in order to better appeal to the consumers. He suggested that the customers should choose the duration of their VSE. He also suggested that players undergoing VSE should allow GameSense to notify a third-party of their exclusion, similar to a flight itinerary. He stated that larger operators that operate on the national level exclude players on the VSE from each of their properties, which caused issues if the player did not want to play locally but wanted to gamble on their vacation.

Mr. Whyte stated that third party vendors played a role in the information ecosystem. Director Vander Linden stated that he agreed with Mr. Feldman's recommendations. He stated that it would be administratively easier to have a single VSE list, which could give control to the patrons reaching out. Ms. Lanza stated that separate VSE lists had positives, but was difficult administratively. She noted that Pennsylvania had separate VSE lists for in-person sports wagering and online sports wagering. Mr. Wohl stated that players approaching GameSense were in an emotional state and offering too many options risked being overwhelming. He stated that patrons in other jurisdictions had not recollected that they had to re-enroll, and that the patron's cognitive state needed to be factored as a consideration.

Ms. Doura-Schawohl stated that approaches to problem gambling had not accessed the technology field sufficiently, and that sports wagering would be the proper time to implement more technology. She stated that another jurisdiction was the first to have artificial intelligence ("AI") implemented into the wagering platform, that could identify and flag problem gambling

behavior. She stated that other jurisdictions used applications like Betblocker and Gamban that blocked gambling and gaming adjacent behaviors. She stated these programs empower the customer and could be a potential substitute for VSE.

Ms. Debaun stated that many operators have already committed resources or developed responsible gaming technology, and suggested the Commission invite the potential operators to a meeting to discuss the available technology. Ms. Warner stated that the Massachusetts VSE program allows patrons to opt-in for a follow-up phone call a week later, and 30% of patrons signing up for the VSE opt in for this. She agreed with Mr. Wohl's point regarding the cognitive state of patrons as they enroll in VSE, and that they often just want to leave the casino.

Commissioner O'Brien stated that the sports wagering legislation prohibits pop-up advertisements directed to people on the VSE list, and asked if there is technology available to assist with that. Mr. Feldman stated that any advertisement directed from the company to customers is under the company's control, but advertising on a third-part website would not be. Ms. Doura-Schawohl stated that a proposed rule from the Ohio Gaming Control regarding push notifications was that the notifications were part of the VSE process, but harder to restrict on advertising platforms the operator does not control.

Ms. Debaun stated that there is nuance, as the language in the American Gaming Association code of conduct required a reasonable effort not to advertise to those on the VSE list, but the operator often had limited control over how the advertisement was executed. Commissioner O'Brien asked if the same applied to text messages, with the assumption that texts were easier to control. Mr. Feldman stated that the VSE can be screened when texting. Ms. Lanza stated that Pennsylvania regulations prohibited targeted marketing, regardless of form, to someone enrolled in the VSE.

Commissioner Skinner sought clarification regarding responsible gaming software that was mentioned. Ms. Debaun stated that Betblocker and Gamban were tools patrons could apply to a phone or computer to prohibit access to gambling sites, and that they included both regulated platforms and illegal gambling sites. Commissioner Skinner asked how this software was incorporated into regulations. Ms. Debaun stated that it was not incorporated into regulatory platforms, but operators offer the program to their players proactively. Mr. Whyte stated that Betblocker is free and Gamban is for purchase. Ms. Doura-Schawohl stated several Departments of Public Health have purchased subscriptions for their responsible gaming initiatives. Mr. Whyte stated that these tools identify internet gambling websites, but illegal gambling sites constantly switch URLs to evade these programs.

Commissioner Skinner asked which jurisdiction had implemented artificial AI into their wagering platforms. Ms. Doura-Schawohl stated that it was in New Jersey, which required operators to have responsible gaming staff and develop their own algorithms for AI testing. She stated that the AI was expected to go live in January, and that most operators had already developed algorithms to identify problem gambling behavior.

## II. [Adapting Responsible Gaming and Budgetary Tools to Sports Wagering and the Digital Space](#) (1:47:40)

Chair Judd-Stein stated that the meeting would conflate the two agenda items of budgetary tools and enforcement of age restrictions. She stated that the budgetary tool Play My Way (“PMW”) had launched at each of the three licensed casinos in Massachusetts. She raised the issue that horse racing only required patrons to be 18 to wager, while sports wagering and casino gaming required the patron be 21. Mr. Whyte asked what the age requirement was for fantasy sports wagering. Chair Judd-Stein noted that the Commission did not regulate fantasy wagering, and that she was unsure of the age requirement. Ms. Warner stated that she believed the age requirement was 18.

Director Vander Linden stated that the sports wagering legislation allowed for operators to include self-imposed limitations for patrons on their digital platform. He emphasized that this program is similar to PMW, but was broader as it could include win limits, time limits, bet limits, and other self-imposed limitations.

Mr. Whyte stated that more research would be required on advertising and the impact of advertising on youth. He noted studies from the United Kingdom showed a high percentage of youth are exposed to gambling marketing during sporting events, and he anticipated similar results for the United States. He stated studies from Europe found that children are more likely to engage in riskier gambling behavior when exposed to gambling advertisements, but that research needed to be conducted for the United States.

Chair Judd-Stein stated that these points regarding marketing will be discussed later in the meeting and wanted to pivot back to discussing technology. Mr. Whyte stated that expanding PMW to include additional limitations would be good, as self-initiated limits were beneficial to general players.

Mr. Feldman suggested deposit limits, withdrawal limits, limits on the frequency of deposits and frequency of play be implemented into PMW or operators’ online platforms. He stated that a win limit would likely be viewed negatively by customers. He suggested that if it was possible, there should be a measure of risk for each bet. He stated that PMW and GameSense were both easily compatible for online use. He stated that operators should have responsible gaming advisors in a separate role, as they have easier access to relevant data.

Mr. Wohl stated that the immediate accessibility and ubiquity of sports wagering marketing required increased responsible gaming education, and suggested an expansion of PMW for sports wagering. He raised the issue of prevalence of micro-bets that occur throughout the game, which provide consumers with flexibility. He noted that preliminary data suggested these in-game bets increased the speed and frequency of wagering, which could become excessive. He suggested that PMW could allow players to limit their spending over the course of the game, and include in-play wagers within their budget.

Ms. Warner stated that the group most likely to gamble on sports was young men, and that young men were also the risk group that were hardest to intervene with. She explained that for young men who aggressively gamble limit setting is about action and not about money. She stated that limitations would likely be more successful if they limited the number of bets within a time

period rather than money gambled. She stated that budgetary tools should be easily accessible, and suggested operator's mobile platforms should include a dashboard with constant reminders of the user's gambling data compared against normative data.

Mr. Wohl stated that research had created a positive play quiz which allowed customers to be provided with personal and normative feedback after wagering sessions. Ms. Doura-Schawohl stated that features that set limits are perceived by patrons to be for those with problematic gambling behavior, not as resources that encourage responsible gaming. She stated that there would need to be an increase in gambling literacy to address the public perception of responsible gaming tools. She suggested that budgeting tools in online platforms should be opt-out instead of opt-in. She stated that the Netherlands chose to forego loss limits as players left regulated gaming sites to utilize blackmarket wagering sites.

Ms. Debaun stated that DraftKings and other operators had utilized celebrity endorsements to highlight their budgetary tools and responsible gaming features. She stated that collaborations with operators was preferable to statutes, as it allowed for the use of existing frameworks the operators had already invested in. She cautioned against making judgments that were not based in existing research as they risked leading players to illegal markets.

Mr. Whyte stated that PMW is consumer-centric and voluntary, and could be expanded to be universal between the operators. He suggested centralizing PMW when architecting the system for responsible gaming for sports wagering.

Commissioner Hill asked if the Commission could mandate Massachusetts operators to have a program set up in their online platform for self-exclusion and budgetary tools. Chair Judd-Stein stated that the legislation allowed for budgetary tools for operators applications or digital platforms. Director Vander Linden stated that the legislation directed the Commission to implement responsible gaming programs, and that the Commission had discretion to implement measures they deem appropriate. He noted that the language from the legislation stated the operator may allow patrons to set limits upon joining, and that the features are voluntary.

Commissioner Hill stated that operators seem to understand the issue of responsible gaming and asked if it would be easier to implement as the operators have technology in place. Ms. Debaun stated that most operators have responsible gaming tools available in their sports wagering platforms, and the operators have shown continued commitment. Commissioner Hill expressed an interest in partnering with operators on responsible gaming messaging.

Mr. Feldman stated that while every operator has some form of responsible gaming tools, there was an issue of whether the tools were easily accessible. He stated that allowing companies to continue to utilize their own tools would be beneficial for customers' comfort. Mr. Whyte stated that little information was available regarding how many patrons actually use the responsible gaming tools available in operators' applications and mobile platforms. He stated that research from Australia showed that only one percent of patrons use these tools. He suggested operators should use incentives, such as promotional play, to encourage players to use the available responsible gaming tools

Commissioner O'Brien stated that while watching a sports wagering advertisement the problem gambling hotline's number was not prominent enough to discern without rewinding and stated she would like to see the federal standards for responsible gaming messages. Ms. Debaun stated that the use of a universal problem gambling hotline would help, and stated that fifteen states use an existing universal number. Commissioner O'Brien explained that the problem gambling helpline number for Massachusetts had to be approved by the Department of Public Health.

Ms. Warner corrected the previous statement that fantasy sports wagering was offered for patrons eighteen years or older in Massachusetts, and stated that fantasy sports wagering required users to be 21 years old to wager.

Mr. Wohl stated that a study had been published in the International Journal of Mental Health and Addiction which suggested patrons were more willing to use responsible gaming tools if they received rewards for engaging with the tools. He stated that additional research would be required.

### III. [Marketing and Advertising](#) (2:35:24)

Director Vander Linden explained that most of the Commission's concerns regarding marketing and advertisement were covered by the legislation, but that there were additional concerns regarding marketing from other jurisdictions outside the scope of the Commission's control.

Mr. Whyte stated that third-party affiliated marketing was unregulatable by the Commission. He stated that some jurisdictions regulate their operators to apply conditions and requirements upon their affiliates. Commissioner O'Brien stated that if advertisement teams received a portion of the total activity from the operator, they would be more motivated to be aggressive in their advertising. She expressed an interest in requiring advertisement and marketing companies to be registered or licensed by the Commission.

Ms. Debaun highlighted the issue of consumer education regarding gambling and explained that advertising could lead to consumers being led to illegal operators due to customer confusion and the time it takes to implement sports wagering regulations. She raised concerns about the increase of sports wagering legislation in other jurisdictions leading to an increase of national sports wagering advertisements.

Ms. Doura-Schawohl suggested operators create standalone responsible gaming advertisements as part of the licensure process. She stated that while there are concerns regarding celebrity endorsements promoting gambling, celebrity endorsements of responsible gaming tools could prove useful. She stated that the term risk-free should be prohibited in all advertising to prevent being misleading, and suggested sports wagering advertisements should not encourage excessive wagering.

Chair Judd-Stein asked the experts to send any research they had on sports wagering advertisements to Director Vander Linden. Mr. Feldman stated that the field of sports wagering advertisements was novel, and that regulations should keep flexibility in mind in case emerging

research changed best practices. He suggested educational programs that would have parents stop teaching their youth to gamble

Ms. Warner stated that she disagreed, and that without knowing the impact of cumulative advertising on vulnerable populations the regulations should err on the side of caution. Mr. Feldman agreed that paying attention to advertisements directed towards youth is a serious problem, but there was no data related to the effect of celebrity endorsements on the youth.

Mr. Wohl stated that there was a unique opportunity for an advertisement campaign about not purchasing lottery tickets as gifts for children. He stated that wagering advertisements emphasize the positive aspects of gambling, and skew consumer expectations. Chair Judd-Stein noted that the Commission does not have regulatory oversight over the lottery. Ms. Warner stated that casinos are cooperative partners with the lottery. Chair Judd-Stein stated that the collaboration was pursuant to G.L. Chapter 23K in order to support the benefit of the lottery for unrestricted local funds.

Chair Judd-Stein stated that due to time constraints the panel would have to reconvene at a later date for further discussion. She stated that this meeting would not have time to discuss the agenda items related to operator employee training on responsible gaming and other considerations for consumer protections and the promotion of social responsibility.

Ms. Debaun stated that sports wagering advertisements were only one percent of total broadcast advertisements. She noted that partners such as the NFL implement their own limits, only allowing an operator one advertisement per quarter, one pre-game advertisement, and one post-game advertisement. She stated that 60% of all sports wagering searches are for illegal sites and that the AGA marketing code required advertisements be placed in a format where 76.3% of the audience is expected to be of legal gambling age, tied to Nielsen and census data.

Chair Judd-Stein asked whether it was practical to assign a risk to each bet being placed on a sports wagering platform. Mr. Feldman stated that it would be complex, and that more research would need to be conducted to see if it was beneficial.

Chair Judd-Stein suggested the Commission should require sports wagering operators to have a percentage of their budget dedicated to standalone responsible gaming advertisements rather than adding responsible gaming language to every advertisement. She expressed interest in using some of the Commission budget for public service announcements about responsible gaming.

Ms. Doura-Schawohl stated that several other jurisdictions have considered standalone advertisements, and believed it was more efficient than simply including the helpline number in each advertisement. Mr. Feldman stated that the Commission should consider regular reports from the operators regarding their efforts towards responsible gaming marketing. The commissioners thanked the experts for their contributions in this meeting.

Hearing no other business, Chair Judd-Stein asked for 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. Meeting Adjourned.*

### **List of Documents and Other Items Used**

1. Notice of Meeting and Agenda dated September 9, 2022
2. [Meeting Packet](#) from the September 13, 2022, Open Meeting