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## Massachusetts Gaming Commission Meeting Minutes

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**Date/Time:** September 7, 2023, 9:00 a.m.  
**Place:** Massachusetts Gaming Commission

VIA CONFERENCE CALL NUMBER: 1-646-741-5292  
PARTICIPANT CODE: 112 162 7911

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 476<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. [Meeting Minutes](#) (00:47)

The *February 8, 2023, meeting minutes* were included in the Commissioner's Packet on pages 4 through 19. The *February 9, 2023, meeting minutes* were included in the Commissioner's Packet on pages 20 through 32.

Commissioner Maynard moved that the Commission approve the minutes from the February 8, 2023, and February 9, 2023, public meetings that are included in the Commissioner's Packet subject to any necessary corrections for typographical errors or other non-material matters. Commissioner Hill seconded the motion.

Chair Judd-Stein noted that the word “not” was omitted in the last paragraph of page thirteen of the February 8, 2023, meeting minutes and asked that it be corrected.

*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. [Administrative Update](#) (03:22)

Chair Judd-Stein noted that at the prior meeting, Chief Enforcement Counsel Heather Hall was selected as the Interim Director of the Investigations and Enforcement Bureau (“IEB”). She stated that certain logistics were not tended to due to the sendoff of Former IEB Director Loretta Lillios. She requested that the appointment of Interim Director Hall be memorialized in writing and stated that the Commission anticipated meeting in executive session at the next public meeting to discuss her compensation for her new role. She noted that the compensation could be retroactive.

#### a. [Responsible Gaming Education Month](#) (06:12)

Director of Research and Responsible Gaming Mark Vander Linden explained that September is responsible gaming education month. He stated that one way in which the Commission addresses responsible gaming is by promoting strategies that increase positive play. He stated that a study was conducted in 2020 researching the extent of positive play in Massachusetts and a follow-up was conducted in 2022.

Director Vander Linden stated that positive play is scaled based on the criteria of gambling literacy, personal responsibility, pre-commitment, and honesty and control. He stated most patrons in Massachusetts exhibited positive play traits. He stated that the theme for the month was “play it smart from the start” which would focus on play management tools with an increased focus on sports wagering applications. He stated that additional incentives were provided for GameSense advisors who increase enrollments in PlayMyWay.

Director Vander Linden thanked Plainridge Park Casino (“PPC”) for remodeling the back office of the GameSense information center and for donating gift cards to the responsible gaming education month efforts. He thanked MGM Springfield (“MGM”) for donating gift cards and noted that Encore Boston Harbor (“EBH”) recruited the GameSense team for their “feed the funnel” event. He stated that responsible gaming was good for the sustainability of the industry.

4. [Investigations and Enforcement Bureau](#) (16:27)

a. Plainridge Park Casino Request for Amendment to Gaming Floor Plan

Gaming Agents Division Chief Burke Cain stated that PPC had submitted a request to amend their casino floor plan. He stated that the request, if approved, would expand the casino floor's square footage and transform Flutie's restaurant into a sportsbook.

Casino Regulatory Manager and Interim Sports Wagering Operations Manager Andrew Steffen stated that PPC would be expanding their gaming floor by 6,425 square feet to 50,225 square feet. He stated that the additional gaming space would include a full-service sportsbook bar and restaurant that would include fourteen sports wagering kiosks. He stated that the IEB had inspected the location and verified that PPC had satisfied all requirements of 205 CMR 138.07(3)(a). He stated that the IEB had approved PPC's request for an additional 6,425 square feet for the sportsbook and restaurant.

Commissioner Hill asked what would be done with the temporary sports wagering area at PPC. Mr. Steffen stated that the counter would be used for promotions.

b. [Plainridge Park Casino Request for Amendment to Beverage License](#) (22:04)

Chief of the Licensing Division Karalyn O'Brien stated that PPC had requested an amendment to their gaming beverage license. She stated that the request would replace the area that was Flutie's Sports Pub with the Sportsbook at Plainridge. She stated that PPC also requested to change the licensed area manager. *PPC's Application and a Memorandum* were included in the Commissioner's Packet on pages 33 through 40.

Chief O'Brien stated that the licensing division completed a review of the application and that Chief Cain and Mr. Steffen had completed a walkthrough of the location. She stated that the licensing division found the application to be complete and recommended its approval.

Commissioner Hill moved that the Commission approve PPC's request to amend its gaming beverage license to include the Sportsbook at Plainridge as a licensed area as included in the Commissioner's Packet and discussed here today. 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.*

5. [Sports Wagering Division](#) (25:02)

a. Fanatics Betting and Gaming Quarterly Report (Q2)

Senior Regulatory Counsel from Fanatics Michael Levine, HR Director from Fanatics Stephanie Althouse, and Responsible Gaming Senior Manager from Fanatics Anthony D'Angelo presented Fanatics' Q2 quarterly report with topics including revenue, workforce diversity, vendor and supplier diversity, compliance, responsible gaming, lottery partnership, and community outreach. *Fanatics Q2 report* was included in the Commissioner's Packet on pages 41 through 55.

Commissioner Skinner stated that it was refreshing to see that the data presented on workforce and diversity were identical to what was presented during the application process. She noted that the goal of 3% diversity spend by 2025 would be \$2,500,000, and that during the application process Fanatics had stated a goal of \$21,000,000 by 2027. She asked if Fanatics would include more information regarding progress towards their goals in future presentations. Mr. Levine stated that Fanatics was hoping to meet its 2027 goal and that it anticipated diversity spending increasing as Fanatics expands.

Chair Judd-Stein stated that it was interesting that there was a stigma behind using responsible gaming tools. She stated that there could be a marketing opportunity to address that issue.

Commissioner Maynard asked what the durations for the time-outs were. Mr. D'Angelo stated that he would provide the Commission with the average number of days for timeouts. He stated that the largest timeout he had seen was approximately six weeks.

Commissioner Hill sought clarification regarding Fanatics' partnership with Make-A-Wish. Mr. Levine explained that Fanatics had many connections with athletes, teams, and sports venues that allowed it to grant Make-A-Wish foundation experiences to individuals.

b. [Betfair Interactive US, LLC \(FanDuel\) Quarterly Report \(Q2\)](#) (58:21)

Vice President of Product and New Market Compliance, Cory Fox, Senior Director of Diversity, Equity, and Inclusion, Keita Young, and Senior Director of Responsible Gaming Strategy, Jill Watkins, presented FanDuel's Q2 quarterly report with topics including revenue, workforce diversity, vendor diversity, compliance, responsible gaming, charitable impact, and the lottery. *FanDuel's Q2 report* was included in the Commissioner's Packet on pages 56 through 66.

Chair Judd-Stein sought clarification regarding the fourth internal interest group presented. Ms. Young stated that the United Kingdom office had started an interest group called Fame U.K. Commissioner Skinner asked if there was a barrier for gathering information about veteran employees. Ms. Young stated that the information was not being tracked and that FanDuel was working on implementing a self-disclosure plan.

Commissioner Skinner asked if FanDuel had engaged external consultants for supplier diversity. Ms. Young stated that they had hired a dedicated person who would be reaching out for external help to formulate a robust diversity program.

Chair Judd-Stein sought clarification regarding the difference between permanent and temporary account closure. Ms. Watkins stated that permanent closures were based on FanDuel's investigations, whereas temporary closures were based on the user requesting a timeout.

Commissioner Hill asked if the two-year commitment with Operation Hope would be providing \$1,000,000 per year or half each year. Ms. Watkins stated that it was \$1,000,000 total and that the relationship would be reviewed after the \$1,000,000 is paid.

Commissioner Hill sought elaboration regarding the conversation FanDuel had with the Massachusetts lottery. Mr. Fox stated that FanDuel had pitched a number of ideas that were presented to the Commission in their licensing hearing, and that the lottery seemed interested and engaged in those ideas.

Commissioner Maynard asked if there was anything to which FanDuel could attribute its zero underage users. Mr. Fox stated that the know-your-customer approach was successful in identifying who was registering for an account. He stated that underage youth are aware of the age requirements and most likely going to illegal unregulated applications.

Commissioner Maynard asked whether an underage youth accessing their parents account would be included in the report. Mr. Fox replied that it would. Chair Judd-Stein asked if the parent's account would be shut down if the parent reported an underage child had accessed their account. Mr. Fox confirmed that was correct.

c. [WynnBet Quarterly Report \(Q2\)](#) (1:27:28)

Vice President and General Counsel for WynnBET Jennifer Roberts presented WynnBET's Q2 quarterly report with topics including revenue, workforce diversity, vendor and supplier diversity, compliance, responsible gaming, the lottery partnership, and community outreach. *WynnBET's Q2 report* was included in the Commissioner's Packet on pages 67 through 87.

Commissioner Skinner requested that the Commission get a bigger picture of WynnBET's overall diverse spend. Ms. Roberts stated that the data in the presentation was a carveout of Massachusetts, but the overall diverse spending number would be included in future reports. Commissioner Skinner expressed interest in a comparison between Massachusetts and overall.

Commissioner Hill requested that online operators reach out to the lottery to develop a partnership, and that such a conversation occur before the next quarterly report.

## 6. [Racing](#) (1:56:52)

### a. Discussion of Race Horse Development Fund benefits for drivers and jockeys

Director Lightbown stated that this item was to discuss how much shall be paid annually by the horsemen's organizations to the jockey or drivers' organization for health, life, or other benefits to active and disabled jockeys pursuant to G.L. Chapter 23K § 60. She stated that the Racehorse Development Fund establishes a fund to be split between thoroughbred and standardbred racing. She stated that the Horseracing Committee was in charge of developing the percentage split of funds, which they then submitted to the Commission for approval.

Director Lightbown stated that the last meeting of the Horseracing Committee was in 2021, where they decided on a 50/50 split of the health and welfare benefit money. She noted that the Commission found that these funds and funds under G.L. Chapter 128A § 5 could be distributed without active thoroughbred racing.

Director Lightbown stated that funds under G.L. Chapter 23K § 60 went to active and disabled jockeys. She stated that there are no active jockeys, and that the Commission had previously voted to direct the Thoroughbred Horsemen's Association to give the Jockeys' Guild \$1,000 for each of the disabled jockeys, totaling \$4,000. She noted that complaints had been made that more funds were being paid out than received from the Racehorse Development Fund.

Commissioner Hill asked why the Horseracing Committee had not met in two years. Chair Judd-Stein stated that she believed the chair of the committee had resigned and the appointment of a new chair was still outstanding. She stated that the funds were still split 50/50 since 2021, and that thoroughbred horseracing had not begun again since that time.

President of the Harness Horse Association of New England ("HHANE") Robert McHugh stated that while thoroughbred racing helped advance horseracing in Massachusetts, thoroughbreds were not currently racing and were still receiving half of the available funds.

Executive Director of the New England Horsemen's Benevolent and Protective Association ("NEHBPA") Paul Umbrello stated that the thoroughbred industry was instrumental in writing the horseracing language for the 2011 gaming act and setting up the purse accounts, breeder accounts, and health and welfare accounts. He stated that both thoroughbred and standardbred should benefit from the language of G.L. 23K, § 60. He noted that the Jockeys' Guild gets paid \$65,000 under G.L. Chapter 128A. He stated that both the standardbred organization and thoroughbred organization agreed to leave the funding split at 50/50 in 2021. He expressed his belief that the funding should continue to be split 50/50 between the industries. He stated that this funding is needed for the breeder industries.

Counsel for the Jockeys' Guild Mindy Coleman stated that the Jockeys' Guild was the organization recognized by the Commission as representing the majority of jockeys in Massachusetts. She stated that the Jockeys' Guild distributed all funds received to individual qualifying jockeys. She noted that the NEHBPA funded excess insurance policies to provide benefits for jockeys in addition to the on-track accident policy.

Ms. Coleman stated that the jockeys receive \$65,000 through G.L. Chapter 128A and the additional benefits provided by the NEHBPA. She stated that it was the opinion of the Jockeys' Guild that the 50/50 funding split was reasonable.

Jockey Abad Cabassa stated that he was involved in horseracing since 1973 and was permanently disabled in 2012. He noted that the \$65,000 from G.L. Chapter 128A was not meant to supplant the funds from G.L. Chapter 23K § 60 but to supplement them. He stated that jockeys should be eligible for funds from both statutes. He noted that the Commission had previously determined that changes to the rate of funding could be retroactive.

Mr. Cabassa stated that he did not want to dip into the funding available to the standardbred association. He expressed that the additional insurance from the NEHBPA primarily benefitted the owners and trainers rather than the jockeys. He reiterated that the funds from G.L. 23K § 60 were meant to supplement the funds from G.L. Chapter 128A. He noted that the need for funds was larger than what was available.

Chair Judd-Stein noted that there were time constraints with the public meeting and suggested that Mr. Cabassa submit his thoughts in writing if the Commission had to move to other commentors.

Mr. Cabassa requested that the NEHBPA and the Jockeys' Guild provide better notice to the jockeys of public meetings. He stated that some interested jockeys were not informed of this meeting. He suggested forming a committee that represents Massachusetts jockeys as in other jurisdictions such as Delaware and California. He stated that not all jockeys feel they are properly represented by the Jockeys' Guild. Mr. Cabassa asked the Jockeys' Guild to lobby the legislature so that the statutory funding would include retired jockeys.

Jockey Edwin Molinari noted that the law stated that the Horseracing Committee would determine how much the horsemen's organizations would pay the jockeys' organizations. He noted that the Horseracing Committee had not met since 2021. Chair Judd-Stein stated that the 50/50 split of funds had not been challenged until now. Mr. Molinari stated that a determination still had to be made for the past two years.

Chair Judd-Stein stated that the issue did not come before the Commission in 2022. She stated that she would take responsibility for that as the Chair of the Commission. She expressed her understanding that the 50/50 split was status quo and accepted by all parties. She stated that she

was recently notified that it was an annual requirement and subsequently added the item to the Commission's agenda.

Chair Judd-Stein asked Mr. Molinari what his recommendation would be. Mr. Molinari stated that when racing was active, the jockeys received \$2,500 instead of \$1,000. He stated that he wanted the funds divided equally between the NEHBPA and the jockeys. He stated that retired jockeys were included in G.L. Chapter 128A and that G.L. 23K § 60 should be amended to include retired jockeys.

Mr. Molinari expressed that the Jockeys' Guild was not adequately representing all jockeys. He stated that the tax forms should indicate the payment is from the Commonwealth and not the Jockeys' Guild. He reiterated Mr. Cabassa's claims that the Jockeys' Guild does not sufficiently inform the jockeys of the ongoing process. Mr. Molinari stated that the funding rates should have been set during the past two years.

Chair Judd-Stein stated that she appreciated the public comments offered in this meeting and suggested that the Commission take time to reflect on the comments before taking any action on this matter. Director Lightbown noted that before this meeting and before the meeting in 2021, the Commission requested public comments on this issue. She noted that the jockeys' comments were included in the Commissioner's Packet on pages 99 through 110.

Director Lightbown stated that part of the comments from other jockeys were regarding eligibility issues. She stated that she spoke with Ms. Coleman and Ms. Coleman was planning on following up with those jockeys. Chair Judd-Stein stated that she appreciated everyone's participation and that it would be beneficial to reflect on the written materials and comments presented at this meeting.

b. [Review of Delegation of Authority Memorandum](#) (3:48:22)

The *Authorization for Director of Racing* was included in the Commissioner's Packet on pages 111 through 112. Commissioner Maynard stated that the authorization captured a series of discussions that clarified that should the Director of Racing exercise delegated authority, that there would be a notification to the Commission at the next meeting in addition to the yearly update.

Commissioner Maynard moved that the Commission approve the Massachusetts Gaming Commission Authorization for the Director of Racing as included in the Commissioner's Packet and discussed here today. 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.

Chair Judd-Stein stated that she had learned that the chair of the Horseracing Committee had not in fact resigned, and that her information presented during the prior agenda item was incorrect. She stated that she would double check whether there was a chair of the committee currently appointed and determine whether outstanding appointments needed to be made.

Chair Judd-Stein stated that an issue arose with the agenda item related to the addendum to the FY24 gaming research agenda and explained that item would be moved to a future meeting.

#### 7. [Sports Wagering Division](#) (4:35:28)

##### a. Requests for Temporary Waivers from 205 CMR 248.04(4)

###### I. Betr

Sports Wagering Business Manager Crystal Beauchemin explained that Betr had submitted a request for a waiver from the requirements of 205 CMR 248.04(4). She stated that Betr had requested an alternative method of authentication that had been approved, but that Betr needed until December 6, 2023, to implement and test the new authentication method. *Betr's Waiver request* was included in the Commissioner's Packet on pages 126 through 130.

Commissioner O'Brien asked if Betr was otherwise in compliance with know-your-customer protocols. Ms. Beauchemin stated that Betr was compliant and that they needed time to move into their newly approved know-your-customer process with increased protections.

###### II. [Fanatics Betting and Gaming](#) (4:41:01)

Ms. Beauchemin explained that Fanatics had submitted a request for a waiver from the requirements of 205 CMR 248.04(4). She stated that Fanatics had requested an alternative method of authentication that had been approved, but that Fanatics needed until September 15, 2023, to implement and test the new authentication method. Director of Sports Wagering Bruce Band noted that Fanatics had concerns where implementation of the new authentication method was crashing their system. *Fanatics' waiver request* was included in the Commissioner's Packet on pages 131 through 132.

###### III. [BetMGM](#) (4:42:27)

Ms. Beauchemin explained that BetMGM had submitted a request for a waiver from the requirements of 205 CMR 248.04(4). She stated that BetMGM had requested an alternative method of authentication that had been approved, but that BetMGM needed until September 15,

2023, to implement and test the new authentication method. *BetMGM's waiver request* was included in the Commissioner's Packet on pages 133 through 136.

IV. [WynnBet](#) (4:43:15)

Ms. Beauchemin explained that WynnBET had submitted a request for a waiver from the requirements of 205 CMR 248.04(4). She stated that WynnBET was part of the uniform waiver and was requesting further extension until September 30, 2023, to implement the new system. *WynnBET's waiver request* was included in the Commissioner's Packet on pages 137 through 139.

Chair Judd-Stein asked why Betr needed more time than the other operators. Ms. Beauchemin stated that Betr had more systems to implement. Ms. Beauchemin noted that BetMGM had also submitted a waiver from 205 CMR 238.39 regarding internal controls related to 205 CMR 248.04(4). She stated that the waiver from 205 CMR 248.04(4) would suffice, and that the other waiver was not necessary.

Chair Judd-Stein questioned whether technically a waiver would be required from 205 CMR 238.39 each time the Commission granted a waiver. Deputy General Counsel Carrie Torrisi stated that a waiver from 205 CMR 238.39 would be duplicative and could lead to a slippery slope if it was required to be waived alongside any waiver. Chair Judd-Stein asked if the regulation could be changed to make that clearer. Deputy General Counsel Torrisi stated that if the requirements of a regulation are waived it is implied that by default the operator would also have a waiver from the internal control requirements of that regulation.

Commissioner Hill moved that in accordance with 205 CMR 202.03(2) the Commission issue a waiver to Betr Holdings Inc. d/b/a Betr from the requirements outlined in 205 CMR 248.04(4) as included in the Commissioner's Packet through December 6, 2023, as granting the waiver meets the requirements specified in 205 CMR 102.03(4) and is consistent with the purposes of G.L. Chapter 23N. 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 moved that in accordance with 205 CMR 202.03(2) the Commission issue a waiver to Fanatics Betting and Gaming from the requirements outlined in 205 CMR 248.04(4) as included in the Commissioner’s Packet through September 15, 2023, as granting the waiver meets the requirements specified in 205 CMR 102.03(4) and is consistent with the purposes of G.L. Chapter 23N. Commissioner Maynard seconded the motion.

Commissioner Hill asked if the waiver dates in September should be uniform. Ms. Beauchemin noted that the times identified by the operators were different as they were implementing different approved processes.

*Roll call vote:*

*Commissioner O’Brien: Aye.*

*Commissioner Hill: Aye.*

*Commissioner Skinner: Aye.*

*Commissioner Maynard: Aye.*

*Chair Judd-Stein: Aye.*

*The motion passed unanimously, 5-0.*

Commissioner O’Brien moved that in accordance with 205 CMR 202.03(2) that the Commission issue a waiver to BetMGM from the requirements outlined in 205 CMR 248.04(4) as included in the Commissioner’s Packet through September 15, 2023, as granting the waiver meets the requirements specified in 205 CMR 102.03(4) and is consistent with the purposes of G.L. 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.*

Commissioner Maynard moved that in accordance with 205 CMR 202.03(2) that the Commission issue a waiver to WynnBET from the requirements outlined in 205 CMR 248.04(4) as included in the Commissioner’s Packet through September 30, 2023, as granting the waiver meets the requirements specified in 205 CMR 102.03(4) and is consistent with the purposes of G.L. Chapter 23N. 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.*

b. [Betr Request for Waivers from Certain Provisions of 205 CMR 248.16](#) (4:56:37)

Interim Sports Wagering Operations Manager Andrew Steffen explained that Betr had requested a waiver from 205 CMR 248.16 (1) through December 30, 2023, to allow for their software engineers to further test and implement the conspicuous notification upon the patron's first wager.

Mr. Steffen stated that Betr was seeking a permanent waiver from 205 CMR 248.16(2) as their internal policy was already more restrictive than the regulation, requiring that patrons wait thirty days before making self-imposed limitations less restrictive rather than the regulatory required next business day. *Betr's Waiver Request* was included in the Commissioner's Packet on pages 119 through 120.

Commissioner O'Brien stated that the thirty days was more in line with the attorney general's regulations regarding fantasy sports. She stated that the Commission could consider this if they chose to review the regulation in the future. She expressed support in granting the waiver.

Mr. Steffen stated that while a permanent waiver was requested, the sports wagering division had consulted with the responsible gaming division who had expressed an interest in reviewing data on this change. Director Vander Linden stated that he was concerned that the stricter requirement could have unintended consequences for patrons construing play management as punitive. He expressed concern that there could be disincentive to enroll and stated that the Commission should approve a shorter waiver to allow for review and assessment of the policy.

Chair Judd-Stein stated that a permanent waiver would assume that the operator continues with the same policies. Commissioner O'Brien noted that a permanent waiver was approved for another regulation related to responsible gaming, but there was no issue raised with that regulation regarding unintended consequences. She asked if there was a timeframe in mind for the assessment and review. Director Vander Linden suggested a nine-month waiver to gather information.

Commissioner Skinner stated that if the Commission granted a permanent waiver, the operator would be expected to report back to the Commission if they reverted to a less restrictive process. Chair Judd-Stein stated that there is a condition on permanent waivers that the operators' practice must remain the same, and that they would inform the Commission of any changes.

Commissioner Skinner sought clarification regarding whether the waiver was solely for the "conspicuously displayed" portion of 205 CMR 248.16(1). Mr. Steffen explained that Betr had implemented the notification for new account creation and first deposit, but that Betr was still working on the notification upon a patron's first wager.

Commissioner Skinner moved that in accordance with 205 CMR 202.03(2) that the Commission issue a waiver to Betr Holdings Inc. d/b/a Betr from the requirements outlined in 205 CMR 248.16 (1) as included in the Commissioner’s Packet through December 30, 2023, as granting the waiver meets the requirements specified in 205 CMR 102.03(4) and is consistent with the purposes of 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.*

Commissioner O’Brien noted that the fantasy sports regulations were more restrictive regarding patrons changing their self-imposed limitations to be less restrictive. Chair Judd-Stein asked if nine months was sufficient to study the use of play management. Director Vander Linden stated that the number of patrons who enroll in play management is small, and nine months would be needed to get a larger sample size.

Commissioner O’Brien moved that in accordance with 205 CMR 202.03(2) that the Commission issue a waiver to Betr Holdings Inc. d/b/a Betr from the requirements outlined in 205 CMR 248.16 (2) as included in the Commissioner’s Packet through Monday June 3, 2023, as granting the waiver meets the requirements specified in 205 CMR 102.03(4) and is consistent with the purposes of G.L. 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.*

c. [Penn Sports Interactive Request for Temporary Waiver from 205 CMR 248.16\(1\)](#)  
(5:17:25)

Mr. Steffen stated that Penn Sports Interactive (“PSI”) requested a waiver from 248.16(1) through September 30, 2023. He stated that this time would allow PSI’s software team to adequately test the functionality of this requirement. *PSI’s waiver request* was included in the Commissioner’s Packet on pages 116 through 118.

Commissioner Hill moved that in accordance with 205 CMR 202.03(2) that the Commission issue a waiver to Penn Sports Interactive from the requirements outlined in 205 CMR 248.16(1)

as included in the Commissioner’s Packet through September 30, 2023, as granting the waiver meets the requirements specified in 205 CMR 102.03(4) and is consistent with the purposes of 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.*

d. [Plainridge Park Casino – Update to House Rules](#) (5:20:30)

Mr. Steffen stated that PPC had updated its house rules in section fourteen to clarify that both voiding and paying out wagers with palpable errors required Commission approval. He stated that the house rules were also changed to replace all mentions of “Barstool Sportsbook” with “The Sportsbook at Plainridge Park.” He noted that PPC was working on removing all Barstool branding from their property. *PPC’s updated house rules* were included in the Commissioner’s Packet on pages 113 through 114.

Commissioner Skinner moved that the Commission approve the amendments to the house rules submitted by the category one sports wagering operator Plainridge Park Casino as included in the Commissioner’s Packet and discussed here 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.*

8. [Permanent Executive Director Hiring Process](#) (5:24:26)

a. Continued Discussion of Potential Use of a Search Firm

*A memorandum evaluating diversity, equity, and inclusion search firms* was included in the Commissioner’s packet on pages 140 through 157. Chief Financial and Accounting Officer (“CFAO”) Derek Lennon stated that the payment to a search firm for the executive director position would exceed the incidental threshold. CFAO Lennon stated that the Commission had previously discussed the possibility of a procurement exception with intentional spend utilizing a diverse firm. He stated that the Commission could use the best value process.

CFAO Lennon stated that Commission staff had enlisted the assistance of the Local Enterprise Assistance Fund (“LEAF”) and that HR had developed questions for potential search firms to answer. He stated that five search firms met LEAF’s criteria, and it was up to the Commission whether they wanted to use one or multiple search firms.

Chief People and Diversity Officer David Muldrew stated that HR recommended using multiple agencies to cast a wider net for candidates. He stated that he would be the liaison between the search firm and the Commission.

Chair Judd-Stein asked if the multiple firms recommended would be selected from the five search firms presented to the Commission. Chief Muldrew stated that was correct, and that he recommended that the Commission use two or three search firms. Chair Judd-Stein noted that one of the search firms had been certified since the August 17 discussion, and that only one of the five firms was yet to be certified. Commissioner Skinner asked which search firm was not certified. CFAO Lennon stated that it was Gumbs and Partners.

Commissioner Maynard asked if the firm would be paid upon providing candidates or upon providing a successful candidate. Chief Muldrew stated that the firms were contingency firms that would be paid within thirty to forty-five days after the candidate’s start date provided the candidate passes the background check. Chair Judd-Stein asked if there would be compensation if the candidate did not pass the background check. Mr. Muldrew reiterated that the payment to the firm is upon hiring. CFAO Lennon noted that some of the search firms may not agree to these terms.

Commissioner Skinner noted that four of the firms had a Massachusetts presence, and asked if their reach in terms of search were not limited to just Massachusetts. Chief Muldrew stated that one of the questions asked to the firms could be related to their experience conducting regional and national searches. Commissioner Skinner noted that one of the firms did not have experience conducting searches for executive level positions and expressed hesitancy with moving forward with that firm.

Commissioner Hill supported Chief Muldrew’s recommendation to use multiple firms. Commissioner O’Brien stated she shared Commissioner Skinner’s concern about one firm’s experience. Commissioner O’Brien asked if having too many search firms could cause issues. Chief Muldrew stated that one issue with using more firms would be that the search firms could identify the same candidates and raise the issue of who gets the referral fee. CFAO Lennon stated that there is not a perfect formula for the number of search firms to use, but that the Commission has the benefit of a highly involved HR department.

Chair Judd-Stein noted that there would also be a screening committee for the IEB director position, and asked if efficiencies could be created in terms of identifying search firms that could be used for both committees. CFAO Lennon stated that the search firms could be used for both processes. Commissioner Hill disagreed with using a search firm for the IEB director committee.

CFAO Lennon stated that the use of a search firm can be left as a potential option. Commissioner Hill stated he was amenable to a search firm being available as an option.

Chief Muldrew stated that HR could develop relationships with these firms for the hiring of other management positions to expand the Commission's efforts in reaching hiring goals.

Commissioner Maynard stated that while he would appreciate any candidate put forth, he would only want to pay a search firm for a successful candidate.

Chair Judd-Stein inquired whether the Commission could use its own HR approaches to draw in candidates if the search firm selected is not exclusive. CFAO Lennon stated that was correct, and that HR and the screening committee would be heavily involved in the hiring process while the search firm assisted in finding candidates.

Chair Judd-Stein noted that one of the search firms was not certified while four were. CFAO Lennon stated that the fifth firm was eligible for certification but had not undergone the process yet. Chair Judd-Stein stated that the certification process could take some time. CFAO Lennon stated that if the vendor is accredited during the fiscal year, the Commission would get credit for the spending after the certification happens.

Commissioner Skinner asked if the Commission should move forward with two search firms. Chief Muldrew stated that his experience had always been working with two firms, but three could be used. He stated he would not use more than three search firms.

Commissioner Skinner stated that another consideration in choosing a search firm would be how long the firm has been engaged in this type of work. Chief Muldrew stated that a representative from the Commission could interface with the five agencies to ask questions. Chair Judd-Stein stated that the focus of the questions could be on the importance of experience and certification. Commissioner O'Brien suggested that the screening committee select the search firms to use.

Chair Judd-Stein stated that there could be a potential conflict of interest if the screening committee selects the search firms, as it was suggested that these firms also be used for the IEB director screening committee.

There was discussion surrounding whether the search firm(s) would be selected by the Commission or by the Screening Committee. Outside Counsel from the law firm Anderson and Krieger Attorney Mina Makarious stated that typically the HR director or the full body chose the search firm. He stated that the screening committee typically works with the search firm after the search firm is selected.

Commissioner Skinner asked if there was anything preventing the position from being posted now. Chief Muldrew stated that he wanted to ensure the Commission was involved in the recruitment process and in developing additional steps for the process. Commissioner Skinner stated that it wouldn't hurt to post the job description now.



The Commission reached consensus to delegate the process of communicating with the five search firm candidates to the Commission staff, who will then select search firms to present to the Commission.

b. [Continued Selection of Screening Committee for Executive Director](#) (6:08:53)

Chair Judd-Stein stated that during a prior Commission discussion, a potential conflict of interest issue was raised regarding CFAO Lennon serving on the screening committee for the executive director. She noted that the CFAO position is appointed by the executive director.

Mr. Makarios stated that CFAO Lennon could serve on this committee if CFAO Lennon filed a disclosure under the state's conflict of interest law and received the Commission's approval that he could act impartially. Chief Muldrew asked if he would have to file a disclosure as he reports to the executive director. Chair Judd-Stein stated that it was different as the executive director appointed the CFAO by statute.

Commissioner Hill asked CFAO Lennon if he was still interested in serving on this committee. CFAO Lennon replied that he was. Commissioner Hill reiterated his position that the screening committee for the executive director should consist of Commissioner O'Brien, Commissioner Maynard, Chief Muldrew, CFAO Lennon, and Interim Director of the IEB Heather Hall.

Mr. Makarios stated that Interim Executive Director and General Counsel Todd Grossman would be the authority responsible for accepting the disclosure. Chair Judd-Stein noted that Interim Executive Director Grossman might be interested in applying for the executive director position and there would potentially be a conflict of interest. Mr. Makarios stated that the Commission would therefore have to accept the disclosure.

Commissioner Maynard asked if CFAO Lennon, Chief Muldrew and Interim Director Hall were interested in applying for the executive director position. They replied that they were not applying for this position. Commissioner Hill asked if CFAO Lennon would sign the ethics disclosure. CFAO Lennon replied that he would.

Commissioner Hill moved that the Commission name the following individuals to the executive director screening committee: Commissioner Eileen O'Brien, Commissioner Jordan Maynard, Dave Muldrew, Heather Hall, and Derek Lennon, subject to the filing and necessary disclosure statements of Derek Lennon and further that the Commission votes in its opinion that Mr. Lennon's interests are not so substantial to affect his work on the screening committee. 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.*

Chair Judd-Stein stated that as there was now a screening committee for the executive director position, steps could be taken to advance the selection process. Commissioner Skinner asked that the screening committee consider posting the job description.

9. [Research and Responsible Gaming](#) (6:22:39)

a. Addendum to the FY24 Gaming Research Agenda

Director Vander Linden asked that discussion on this item be held until a future meeting.

10. [Commissioner Updates](#) (6:23:04)

Chair Judd-Stein stated that a committee had been convened to amend the Commission's mission statement to better reflect the expansion of the Commission's duties in relation to sports wagering. She stated that Commissioner O'Brien was the chair of the committee and that the other members of the committee were Communications Division Chief Thomas Mills, Director Lighbown, Associate General Counsel Judith Young, Ms. Beauchemin, Interim Executive Director Grossman, Program Manager Lily Wallace, and Finance and Budget Manager John Scully.

Commissioner Hill stated that he and Commissioner Maynard had attended a conference in Saratoga. He stated that there was an interesting panel regarding new challenges and solutions related to technology in gaming. He stated that there were interesting discussions regarding increased revenue at retail locations with iGaming and using technology to gather patterns for responsible gaming purposes.

Commissioner Hill stated that another great panel was on consumer protections and the federalization of gaming. He stated that New York congressman Paul Tonko had proposed legislation that would ban all advertising related to sports wagering in the United States. Commissioner Hill noted that Massachusetts was mentioned three times for their progressive responsible gaming and advertising regulations. He stated that each jurisdiction had different proposals for how to advance harness racing.

11. [Other Business](#) (6:32:36)

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

Commissioner Hill moved to adjourn. The motion was seconded by Commissioner O'Brien.

*Roll call vote:*

*Commissioner O'Brien: Aye.*

*Commissioner Hill: Aye.*

*Commissioner Skinner: Aye.*

*Commissioner Maynard: Aye.*

*Chair Judd-Stein: Aye.*

*The motion passed unanimously, 5-0.*

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

1. [Revised Notice of Meeting and Agenda](#) dated September 5, 2023
2. [Revised Commissioner's Packet](#) from the September 7, 2023, meeting (posted on massgaming.com)