

FINAL-FORM RULEMAKING

PENNSYLVANIA GAMING CONTROL BOARD

58 PA.CODE CHS. 421a, 423a, 425a, 427a, 429a, 431a, 433a, 435a, 437a, 440a, 441a, 461a, 465a, 609a, 623a, 633a, 643a and 645a.

In accordance with the Pennsylvania Race Horse Development and Gaming Act (Act), the Pennsylvania Gaming Control Board (Board), under the general authority in 4 Pa.C.S. § 1202(b)(9) - (23)(relating to general and specific powers) and the specific authority in 4 Pa.C.S. §§ 1205, 1206(f) and (g), 1207(1) and (2), 1208(1)(iii), 1209(b), 1212, 1213, Chapter 13 (relating to licensees), §§ 13A11, 13A12, 13A13, 13A14, 13A15 and 1802 proposes to amend chapters 421a, 423a, 425a, 427a, 429a, 431a, 433a, 435a, 437a, 440a, 441a, 461a, 465a, 609a, 623a, 633a, 643a and 645a to read as set forth in Annex A.

Purpose of the Rulemaking

This rulemaking is a comprehensive amendment package addressing eighteen chapters in Subpart B (relating to licensing), Subpart C (relating to slot machine licensing), Subpart E (relating to slot machines and associated equipment) and Subpart K (relating to table games). This rulemaking should provide clarity, delete redundant provisions, decrease the number of copies of applications required, allow for an increase in ownership of licensees by institutional investors and ensure that a background investigation is completed on nongaming employees every four years.

Explanation

General revisions

The Board is referenced throughout the chapters in Subpart B and C; however, many of the provisions currently listed as functions of the Board are functions associated with a specific bureau within the PGCB. To provide some clarity to the regulated community, the term 'Board' has therefore been replaced with a specific bureau, where relevant.

Additionally, all references to the Board's website address were removed from the chapters. The Board's website address was added to the definitions in § 401a.3 (relating to definitions) applicable to all of Part VII (relating to Gaming Control Board)

in final-form rulemaking 125-156. This was done because the Gaming Board's website has again changed. Moving the address into the definition section will eliminate the need to revise all chapters should the address be changed again in the future.

Chapter 421a - General Provisions

In § 421a.1 (relating to general requirements), references to the term 'approval' were replaced with 'authorization' to reflect that gaming service providers (GSP) may receive an authorization to conduct business prior to being certified or registered with the Board or may be authorized to conduct business and exempt from the gaming service provider certification/registration requirements as provided in § 437a.1 (relating to general gaming service provider requirements).

In subsection (b), reference to the type of investigation conducted was deleted from this section. Investigations are addressed in § 421a.3 (relating to investigations; supplementary information).

Language was added to subsection (e)(2) and requires applicants for and holders of licenses, permits, registrations, certifications or qualifications to report changes in circumstances that may render the applicant or holder unsuitable or ineligible to continue to apply for or hold a license, permit, certification, registration or qualification. This requirement is not new but was simply moved, with no revisions, from chapter 435a (relating to employees). It was necessary to move these provisions into this section because chapter 435a is applicable to key, gaming and nongaming employees; however, this standard is applicable to anyone with a license, permit, registration, certification or authorization.

The language in subsection (f) was redundant with the language moved into subsection (e)(2) and was therefore deleted. Language in subsection (h) was also deleted as redundant with language in subsection (a).

In accordance with the Act, applicants for and holders of a license, permit, registration or certification have an ongoing duty to report information to the Board that may impact the applicant or holder's suitability or eligibility to hold a license, permit, registration or certification. If applicants or holders do not maintain suitability or eligibility, the Board may revoke, suspend or not issue or renew a license, permit, registration or certification. The language in subsection (i)

was therefore added to reiterate that any person regulated by the Board has an ongoing duty to maintain suitability and eligibility in accordance with the Act and the Board's regulations.

Language was also deleted from subsection (i). The Board does not believe the language contained in this section provides specificity as to which parties might be jointly and severally liable for conduct. The chapters on management companies, gaming service providers, manufacturer designees, etc. address joint and several liability with slot machine licensees.

Subsection (j) was deleted from the regulations. This provision is a requirement of the Board not the regulated entities. It is a statutory requirement of the Act and is therefore unnecessary to recite in the regulations.

In § 421a.2 (relating to disqualification criteria), the language in subsection (a)(4) was amended. The Board believes the new language contained in this section provides a clearer standard regarding the circumstances under which the Board may deny, suspend or revoke an applicant for or holder of a license, permit, registration or certification.

Subsection (a)(6) was existing language moved from § 435a.1(o). As stated above, chapter 435a relates to key, gaming and nongaming employees but this requirement is applicable to all individuals applying for a license (including principals), permit, registration or qualification. The new language in subsections (b)-(e) is existing language which was also moved from § 435a.1(e)-(j).

In § 421a.3, a new subsection (c) was added which requires all applicants to reimburse the agency for actual expenses incurred in conducting background investigations. This is existing language moved from § 427a.2(c), 429a.2(c), 431a.2(c), and 435a.2(d). Because all applicants are required to reimburse the Board for actual expenses it made logical sense to include this provision in the general requirements applicable to all applicants.

The provisions on presuitability determinations contained in § 421a.4 were amended to delete the requirement that a request for the presuitability determination be made by petition to the Board. Typically if a presuitability determination were conducted, the Bureau of Investigations and Enforcement (BIE) would already be investigating the applicant's eligibility and

suitability in conjunction with an underlying application for a license or in conjunction with a petition for change of control or ownership. Requiring an additional petition for a presuitability determination would therefore be redundant and unnecessary. Instead, a request may now be made directly to the BIE.

The provisions relating to presuitability determinations contained in § 421a.4 are applicable to licensees but have not been applied to gaming service providers that are registered or certified. The reference to certification or registration in subsection (c) was therefore deleted.

In § 421a.5 (relating to undue concentration of economic opportunities and control), subsection (a) was amended to replace the word 'other' license with 'principal' license. Principals, specifically, are those individuals and entities that have ownership interest in or control over a licensee.

Language was added to subsection (c)(1)(iii)-(v) to reflect the legalization of table games. Subsection (c)(1)(vi) was deleted as this provision would not be applicable in making a determination as to whether there was an undue concentration of economic control of a slot machine licensee. Gross terminal revenue, not ticket-in, ticket-out, is indicative of overall play.

Chapter 423a - Applications

In § 423a.1 (relating to general requirements), language was added to subsection (b) to reflect that gaming and nongaming employees file applications electronically using the agency's SlotsLink system.

Subsection (c) was deleted as redundant. The requirements contained in this section are covered under subsections (b) and the new (d).

In the new subsection (c), the term 'Board staff' was added because the Bureau of Licensing (BOL) or BIE may need additional information from an applicant in order to process an application or complete an investigation.

The language in the new subsection (d) was combined with the existing language in subsection (f). The remaining sections were re-lettered.

In § 423a.2 (relating to preliminary submission review), language was added in (a)(3). Applicants may be required to execute authorization forms for the release of information from other entities such as credit bureaus or banking institutions. The term 'other entities' was therefore added.

Subsection (c) was deleted as inconsistent with current practice. The agency does not return applications but may deem the application abandoned or denied if an applicant doesn't cure deficiencies.

In § 423a.3 (relating to application processing), subsection (a)(1) and (2) were deleted. An application is filed when submitted and an applicant will be given an opportunity to cure deficiencies if any part of the application is missing or incomplete. Subsection (a)(1) were therefore deleted as unnecessary. Subsection (a)(2) was deleted to reflect agency practice. In only a few circumstances, pertaining primarily to the filing of an application for a slot machine license or table game certificate, is the applicant or an attorney for the applicant notified, in writing, that the application has been officially accepted.

The new subsection (a)(1) (existing subsection (a)(3)) was amended to reflect that the Board makes determinations regarding the information obtained by agency staff during an investigation. The remaining paragraphs were renumbered to reflect that (a)(1) and (2) were deleted.

In § 423a.5 (relating to application withdrawal), the regulations in subsection (a) were amended to reflect that the Board no longer requires the filing of a petition for most individuals requesting to withdraw their applications. Only entities that have applied for a license, certification or registration and individuals who have applied for a principal license or gaming service provider qualification are still required to petition the Board to withdraw. For all other individuals, (key, gaming and nongaming employees), a request form is submitted to the Bureau of Licensing. Subsection (c) was therefore deleted as redundant with the language incorporated into subsection (a).

In subsection (c), paragraphs (1) and (2) (currently subsection (d)(1) and (2)), were deleted. Provisions relating to restrictions on subsequent application after a withdrawal with prejudice has been granted are already contained in § 423a.7

(relating to restriction on application after withdrawal with prejudice, denial or revocation).

Subsection (e) was deleted to reflect agency practice. If an applicant fails to cure deficiencies with the application before it is officially accepted, the Bureau of Licensing may deem the application abandoned. Alternatively, if the applicant failed to cure deficiencies because the applicant failed to cooperate with an investigation, the Board may deny the application.

In § 423a.6 (relating to license, permit, registration and certification issuance and statement of conditions), subsection (b) was amended for clarity and to reflect agency practice. Gaming service providers, unlike licensees, are now required to execute a statement of conditions at the time of application because a gaming service provider or gaming related gaming service provider can be given interim authorization to conduct business prior to obtaining registration or certification from the Board.

Section 423a.6a (relating to restriction on wagering after issuance of a license, permit, registration or certification) is existing language moved from § 435a.1(k) -(n). As stated above, chapter 435a is primarily applicable to key, gaming and nongaming employees; however, wagering restrictions are also applicable to principal licensees and qualifiers. For clarity to the regulated community, wagering restrictions were therefore moved into their own section.

In § 423a.7 (relating to restriction on application after withdrawal with prejudice, denial or revocation), subsection (f) was deleted as unnecessary. Typically when an individual's petition to reapply is denied, the Board will set a time period in which the person may reapply.

Chapter 427a - Manufacturers

In § 427a.1 (relating to manufacturer general requirements), subsections (d) and (e) were deleted from the rulemaking. Subsection (e) is a provision not applicable to the regulated community but to the Board, both provisions are already contained in the Act and are therefore unnecessary to recite in the regulations. Language similar to the language in subsection (e) was also deleted from § 429a.1(d) (relating to manufacturer designees) and § 431a.1(c) (relating to supplier licenses).

Section 427a.2 (relating to manufacturer license applications and standards) - subsection (a) was amended to reflect that only one copy of an application is now required instead of three. The number of required copies was also reduced in § 429a (relating to manufacturer designee), 431a (relating to supplier licenses), 433a (relating to principal licenses), 437a (relating to gaming service providers), and 441a (relating to slot machine licenses).

Subsection (a)(5) was deleted. Gaming employee applications are not required to be filed with the application for a manufacturer license. Typically the suitability of an employee of a licensee is considered separately from the suitability or eligibility of the licensee and its principals (owners, officers and directors). Similar language was deleted from § 431a.2(a)(5).

Subsection (a)(6) was also deleted. Copies of SEC filings are no longer required to be submitted as part of the application packet. BIE, when conducting its investigation, will review all SEC filings for any publicly traded applicant. All SEC filings are available online. If an applicant is publicly traded on a foreign exchange, BIE may request specific information from the applicant during the investigation if the information is not publicly available through a foreign exchange regulator. Similar language was also deleted from § 429a.2(a)(5) and § 431a.2(a)(6).

Language in the renumbered (a)(5) (previously (a)(7)) was deleted for consistency with the Act. Similar language was deleted from § 429a.2(a)(6) (renumbered (a)(5)) and § 431a.2(a)(7)(renumbered (a)(5)).

Subsection (b)(1) was deleted in this chapter and all subsequent chapters relating to licensing. This is a current requirement of all applicants, as specified in § 421a.1(g), and the remaining paragraph (presently (b)(2)) requires all applicants to comply with the provisions in § 421a. This provision was therefore deleted as redundant as was subsection (c), which is contained in § 421a.3(c).

In the re-lettered subsection (c) (previously subsection (d)), revisions were made for clarity and to delete reference to key employee suitability. As stated above, the suitability of an employee of a licensee, in most instances, is not considered at the time the Board evaluates the suitability of an entity or its owners, officers or directors (principals) to hold a license.

Similar language was deleted in § 429a.2(d) (re-lettered subsection (c)) and §431a.2(d)(re-lettered to subsection (c)).

In § 427a.5 (relating to responsibilities of a manufacturer), subsections (a)(1) and (2) were deleted in this chapter and all remaining chapters related to licensing as these provisions are already contained in § 421a. Subsection (a)(3) was deleted and replaced with the language in the new subsection (a)(2). Similar language was added in § 429a.5(a) and § 431a.4(d) (re-lettered to subsection (c)(2)).

Language in subsection (b) was amended for clarity. Similar revisions were made in § 429a.5(c) (re-lettered subsection (b)) and § 431a.4(e) (re-lettered subsection (d)).

Subsections (c) and (d) were deleted because these provisions do not relate to the chapter or section heading - requirements and responsibilities associated with manufacturers. Similar language was also deleted from § 431a.4(f)-(h).

Section 427a.6 (relating to change of control of a manufacturer licensee) is a new requirement of manufacturer licensees. This provision provides guidance to unlicensed companies regarding the proper procedure for acquiring a manufacturer licensee. These requirements will also ensure that the acquiring company and its officers, owners and directors (principals) apply for licensure and are investigated before a manufacturer licensee is acquired. The approval requirement is also applicable to manufacturer designees in § 429a.8, supplier licensees in § 431a.6 and management company licensees in § 440a.6.

Chapter 429a - Manufacturer Designees

In § 429a.3 (relating to additional manufacturer designee licenses), revisions were made to specify that if a manufacturer designee has already been licensed, it does not need to receive a separate manufacturer designee license to supply or repair gaming equipment on behalf of a different manufacturer. Instead manufacturer designees submit an abbreviated application (Additional Manufacturer Designee Application and Disclosure Information Form) to receive a subsequent designation.

Language was revised in § 429a.3(b) to reflect the revisions made in § 429a.2(b) and (c).

In § 429a.5 (relating to responsibilities of a manufacturer designee), subsection (b) was deleted. This is a statutory

requirement applicable to suppliers but is not applicable to manufacturer designees.

Section § 429a.7 (relating to manufacturer designee agreements) was amended for clarity and to reflect agency practice. When a manufacturer designee enters into an agreement with a manufacturer, the designee, as part of its application for a designee license is required to submit all agreements for review. The agreements are reviewed as part of the background investigation. Any subsequent agreements, after licensure, are reviewed by agency staff. If there are issues or questions regarding the terms of the agreement, agency staff will notify the parties and request additional information or clarification.

Chapter 431a - Supplier licenses

In § 431a.4 (relating to responsibilities of a supplier), subsection (b) was deleted. The provisions contained in this subsection relate to financial suitability. The information would be included in the application for a supplier license and would be reviewed during the applicant's background investigation. If the applicant is not financially suitable, it would not be awarded a supplier license.

In § 431a.5 (relating to supplier log books), subsection (c) specifies that licensed, permitted or registered employees of a supplier are not required to register in the log book. Language was therefore added in subsection (b)(5) for clarity.

Chapter 433a - Principal licenses

Section 433a.1 (relating to definitions) was amended to remove the 'principal slot operations officer of a slot machine licensee' from the definition of 'officer.' Facilities utilize a slot operations director but the individual is licensed as a key employee not as a principal.

In § 433a.3 (relating to interests in licensees held by individuals), subsection (a)(3) was amended for clarity and consistency. Similar revisions were made to § 433a.4(a)(3) and § 433a.7(a)(3).

Section 433a.3(d) and (e) and § 433a.4(d) and (e) were amended or deleted to reflect the requirements added in § 427a.6 (relating to change of control of a manufacturer licensee), § 429a.8 (relating to change of control of a manufacturer designee

licensee) and § 431a.6 (relating to change of control of a supplier licensee). The remaining subsections were re-lettered.

Section § 433a.5 (relating to institutional investors) was amended to allow institutional investors to acquire a greater ownership interest in a licensee without requiring a waiver from the Board.

Previously institutional investors were capped at a 15% ownership interest in a principal affiliate of a manufacturer, manufacturer designee and supplier licensee and a 10% ownership interest in a principal affiliate of a slot machine licensee. This revision will allow institutional investors to acquire less than a 20% interest in all licensees provided the institutional investor files the notice of ownership form and passive investor affirmation. Additionally, before acquiring an interest in a slot machine or management company licensee that is between 10% and 20%, the institutional investor must provide the BIE with additional information relating to the institutional investor's operations and sources of funds.

Based on the nature of the funds associated with institutional investors, the reporting obligations to the SEC, and the permissible ownership interests in other gaming jurisdictions, the Board has determined that increasing the allowable ownership interest to less than 20% would not adversely impact the integrity of gaming. Additionally, allowing institutional investors to acquire an ownership interest of less than 20% would not have other licensing implications related to changes of control or ownership.

Management companies were also removed from subsection (a)(1). Management companies act on behalf of a slot machine licensee, are subject to the same requirements as slot machine licensees and therefore the requirements in subsection (a)(2) are applicable.

Subsection (c) and additional language in subsection (d) (previously subsection (b)) were added to address institutional investor ownership in licensees whose securities are publicly traded on a foreign exchange.

Section § 433a.6 (relating to lender and underwriters): As stated above, management companies act on behalf of a slot machine licensee and are therefore subject to the same requirements as slot machine licensees. Management companies

were therefore added to several of the sections throughout this section.

In subsection (f), language at the end of the sentence was deleted as unnecessary.

Section 433a.7(b) (relating to trusts) currently requires trusts to notify the Board and submit a complete application prior to possessing any interest listed in paragraphs (1)-(5). The notification requirement was deleted as unnecessary. Submitting applications serves as notice. Subsection (c) was amended for clarity.

Chapter 435a - Key, gaming and nongaming employees; Board issued credentials

The requirements in the existing § 435a.1(c), (e)-(j) and (o) (relating to general provisions) are applicable to all applicants and holders of a license, permit, registration or certification; however, this chapter is pertinent only to key, gaming and nongaming employees. The requirements in this section were therefore moved to §§ 421a.1 and 421a.2.

The wagering restrictions in subsections (k)-(n) are also applicable to holders of a license, permit, registration, certification or qualification and were moved to § 423a.6a.

Section 435a.5 addresses nongaming employee registrations. Currently registrations do not have an expiration date. Nongaming employees do not submit a renewal application and therefore no subsequent background investigation is conducted beyond initial registration. The Board believes that submission of a renewal application and subsequent background investigation is necessary to protect the integrity of gaming as it will ensure that every nongaming employee remains eligible and suitable to hold a registration.

Additionally, placing an expiration date on nongaming registrations will eliminate unnecessary administrative expenses associated with an ever growing number of individuals who no longer work in the gaming industry. There are currently over 5,000 nongaming employees who remain registered with and under the jurisdiction of the PGCB but have not worked in a position that requires registration for two years or more.

The regulation will require that nongaming employee registrations be renewed every four years. The application will

be submitted electronically through the PGCB's SlotsLink system. The renewal will cost around \$40 which will cover the cost of fingerprinting with the Pennsylvania State Police and the criminal background check.

Regarding the renewal schedule: each Board credential currently issued to a nongaming employee has a date by which the credential must be renewed with an updated employee photo. The Bureau of Licensing will use the expiration date on the credential as the renewal date which will ensure that renewals are staggered and will not all occur within the same month or year.

Section 435a.6 (relating to board credentials) was amended for clarity. Specifically subsection (c) was divided in two with subsection (c) addressing the wearing of Board issued credentials by state employees and subsection (d) addressing the wearing of credentials by individuals who are not state employees.

Language in subsection (e) (previously subsection (d)) was deleted to reflect that all employees who are on the gaming floor are required to have a Board issued credential. The existing subsection (e) was deleted as unnecessary.

The existing heading in § 435a.8 relates to temporary credentials for principal and key employees and the heading in § 435a.9 relates to temporary credentials for nongaming employees. Neither section addressed the issuance of temporary credentials for gaming employees. To reflect the agency practice of issuing temporary credentials to gaming as well as principals, keys and nongaming employees, language was added. Both sections, which addresses the same topic, were then combined into § 435a.8.

In § 435a.9a (relating to gaming service provider employee temporary access credentials) subsection (a)(1) was amended for clarity. Subsection (a)(2) would no longer require an employee from the licensee's security department to escort a GSP employee provided that another employee of the licensee who is authorized to have access to the area escorts the GSP employee and both individuals sign in with the Board's casino compliance representatives. This will ensure that agency staff is aware of who is performing the work in the licensed facility and the individual responsible for supervising that employee.

In subsection (c), language was added allowing additional flexibility, when circumstances warrant, to extend the time

period to allow an employee to complete work beyond the 12 days in a 12-month period.

In the existing subsection (d), the language addresses a prohibition on the issuance of temporary access credentials to manufacturers, designees and suppliers. However, the section heading relates to gaming service provider temporary access credentials. The language was therefore deleted as misplaced and unnecessary.

The language in the updated subsection (d) specifies that if an operator is going to use an emergency gaming service provider, any employee providing emergency services must obtain a temporary access credential in accordance with the requirements of the section prior to performing any emergency services at the licensed facility. This section corresponds with amendments made in § 437a.10 (relating to emergency gaming service provider).

Section 435a.10 was updated to reflect that credentials are obtained from the Board's casino compliance representatives and are not distributed or controlled by a licensee's security department. The existing subsection (c) (re-lettered subsection (b)) was amended to reflect that typically the employer not the employee will request replacement credentials from the PGCB.

Chapter 437a - Gaming service provider certification,
registration and authorization

The amendments made in § 437a.1 (relating to gaming service provider requirements) were made for clarity and to replace language with defined terms contained in § 401a.3 (relating to definitions).

Language added in § 437a.2 (relating to gaming service provider registration applications) should provide gaming service providers (GSP) with some guidance as to when to file a sponsored versus unsponsored application. If a GSP already has a contract to provide goods or services to a slot machine licensee, the GSP completes a sponsored application. If the GSP does not have a contact with a specific licensee but anticipates that a licensee may utilize the GSP's services in the future, the GSP would complete the unsponsored application.

The language added in subsection (d) reflects the requirements contained in § 435a.3 and § 435a.5.

In § 437a.3 (relating to gaming service provider certification applications), the language in subsections (d) - (f) was moved

into its own section. This was done because the section heading is not pertinent to waivers. Additionally, both registered and certified GSPs may request a single transaction waiver.

Section 437a.5 (relating to construction subcontractors) was amended to provide clarity to the regulated community. These provisions are applicable to subcontractors providing goods and services to other subcontractors while the licensed facility is under construction.

Subsection (c) was amended to reflect that prior to a casino opening, a licensed facility is, in essence, a construction site. Closer to opening, on-site agency staff will specify a date as to when an area of the licensed facility becomes a live gaming floor. Once designated, only those persons who hold a Board-issued credential are allowed onto the gaming floor.

In 2010, the Board amended the GSP regulations and exempted publicly traded GSPs from the requirements of certification or registration. To be eligible for the exemption, each publicly traded GSP was required to complete an authorization form to be placed on the authorized GSP list. At that time there was no expiration placed on exemption. Although the Board believes that publicly traded GSPs should still be exempt from the certification and registration requirements, the Board has placed an expiration date on the exemption. Every 4 years, publicly traded GSPs that are exempt will have to submit the authorization form to verify that the GSP has continued to provide goods and services to licensed facilities and is still eligible for the exemption. Language relevant to the exemption expiration and renewal was therefore added in § 437a.6 (relating to registration and certification term and renewal).

In § 437a.7 (relating to registered, certified and authorized gaming service provider responsibilities), language was added to reflect that the requirements applicable to a GSP that is registered or certified are also applicable to a GSP that is on the authorized list.

Subsections (b) and (c) were amended for clarity and to utilize terms that are already defined in §401a.3. The Board also eliminated the requirement that offsite supervisors obtain a registration. Language was deleted and the cross-reference added in subsection (e) as these provisions are already addressed in § 435a.9.

Subsection (f) was added to address revisions made in rulemaking 125-168 which eliminated § 501a.6 (relating to personal check cashing) and moved those requirements into § 465a.20 (relating

to personal check cashing). The personal check cashing provisions in § 501a.6 were applicable to licensees and GSPs, while the requirements in chapter 465a are applicable only to slot machine and management company licensees unless otherwise specified. The requirement in subsection (f) is necessary to ensure that requirements of personal check cashing are the same regardless of whether a licensee or a GSP acting on the licensee's behalf, are performing those functions.

Section 437a.10 (relating to emergency gaming service provider) was amended and will no longer require an emergency GSP that is not already registered or certified to file for registration or certification after providing emergency services. An employee of the emergency GSP will be required to obtain a temporary access credential before providing services. The Bureau of Licensing will review the explanation for use of the emergency GSP to ensure that this provision is not used to circumvent the registration and certification requirements.

Chapter 440a - Management companies

The amendment in § 440a.1 (relating to general requirements) was made to reflect current practice. Many of the applicants for the available Category 2 slot machine license have contracted with a management company to manage the licensed facility should the slot machine applicant be awarded the license. The management company has filed an application with the PGCB and if the slot machine applicant were awarded the license, the management company would be licensed at that time as well.

Section 440a.2 (relating to applications) was amended to reflect that there is only one application for all categories of slot machine licenses. Additionally, if a management company is going to act on behalf of the slot machine applicant/licensee, the management company is required to complete the same application as the applicant for the slot machine license.

Section 440a.3 (relating to management company license term and renewal) was amended to reflect that a management company acts as the slot machine licensee and neither a slot machine license or a management company license is transferrable.

In § 440a.5 (relating to management contracts), a portion of the language in subsection (c) was moved into subsection (d) and amended for clarity. The language in the existing subsection (d) was deleted as the business plan is essentially addressed in the requirements contained in subsection (f). Subsection (f) was amended to address the management of table game operations.

Chapter 441a - Slot machine licenses

Terms were added to the definitions in § 441a.1. The use of these terms is explained in the new provisions added in § 441a.11a (relating to duty to maintain financial suitability) and § 441a.20a (relating to changes in a slot machine licensee's initial or modified plan of development).

In § 441a.2 (relating to slot machine application deadlines), subsection (a) was deleted for consistency with the Act. Subsection (c) was deleted as unnecessary. The handling of deficiencies in applications is addressed generally in § 423a.2 (relating to preliminary submission review) and in § 441a.3 (relating to slot machine license application).

In § 441a.3, subsection (a)(3) was amended to no longer require applications from key employees at the time the slot machine applicant submits an application for licensure. In most instances, key employees have not yet been identified at the time a slot machine applicant submits its application for licensure nor do most applicants hire employees unless and until the Board awards the applicant a slot machine license. The language regarding application requirements was deleted as unnecessary as application requirements for keys and principals is contained in chapters 433a and 435a (relating to principal licenses; key, gaming and nongaming employees; board issued credentials).

In subsection (a)(5), language was added to recognize that an authorized designee can sign on behalf of a chief executive officer to legally bind a slot machine applicant. Subsection (a)(6) was amended to reflect the new provisions for approval of a licensee's initial or modified plan of development contained in § 441a.20a.

As specified in § 423a.1(g), once submitted to the agency, applications and related materials will not be returned to the applicant. The inconsistent language in subsection (b) was therefore deleted.

Subsection (d) was amended to correct conflicting requirements. The regulation required that the local impact report be submitted to the PGCB with the application and simultaneously to the municipality. But licensees were also required to submit proof that the municipality was served at the time the application was submitted to the Board. The language has been amended and still requires licensees to submit the local impact report to the municipality and the PGCB (with the application) on the same day but provides that the applicant submit proof

that the municipality was served within 5 days after the application is submitted to the PGCB. Subsection (e) is contained in § 421a.3 and was therefore deleted from this section.

In § 441a.5, subsection (e) was amended to reflect that a slot machine license will not be issued until the license fee has been paid. The Board or agency staff, typically the BOL, will specify the date by which the fee must be paid.

Most of revisions in § 441a.7 (relating to licensing hearings for slot machine licenses) were made for clarity. In subsection (l) and (n), language was revised to reflect that § 1206(a) of the Act was deleted. Confidential information may be presented not in closed deliberations but during executive session in accordance with the Sunshine Act (65 Pa.C.S. § 708(a)(5)).

Section 441a.11a (relating to duty to maintain financial suitability) is new and reflects requirements in the Act.

Language in § 441a.15(b)(2) (relating to slot machine license issuance bond requirement) was deleted. Agency staff reviews any payment bond submitted. If there are issues with the payment bond, the BOL notifies the applicant that was awarded the license if corrections are necessary or if additional information about the surety is required. The slot machine license will not be issued until all information is received and any necessary corrections are made.

In § 441a.17 (relating to change in ownership or control of slot machine licensee and multiple slot machine license prohibition), existing subsections (b)-(e) were deleted. The substituted language should provide clarity and specificity to the regulated community regarding the procedure to acquire an interest in a slot machine licensee which would trigger the change in control or ownership provisions of the Act. The remaining subsections were then re-lettered.

Minor revisions were made in § 441a.18(b)(2) and (c) (relating to employee status report). The language in subsection (b)(2) was deleted because applicants for a slot machine license do not typically have employees and are therefore not required to submit an employee status report to the Board. Subsection (c) was amended to reflect that a signature on an electronically submitted employee status report is not required.

The new provisions in § 441a.20a (relating to changes to a slot machine licensee's initial or modified plan of development) provide further detail on a requirement that is already

contained in § 441a.3(a)(6). A licensee may change its approved plan of development with approval of the Board.

Subpart E - Slot machines and associated equipment;
accounting and internal controls

Specificity was added in § 461a.7 (relating to slot machine minimum design standards) regarding how the Bureau of Gaming Laboratory Operations will calculate the theoretical payout percentage for slot machines.

A minor revision was made in § 465a.24(b)(1) (relating to count room characteristics) to clarify that the alarm device does not need to signal both security and surveillance. The licensee can designate which department will receive the audible alarm signal. The language at the end of the sentence was deleted as unnecessary. Every time the count room door is opened the audible alarm signal should be sent to security or surveillance. In paragraph (2), the language requiring exits door to contain locks was deleted. Only entrances require dual key control. Paragraph (3) addresses exiting the count room and requires that licensees specify what type of door device will be used.

Subpart K - Table games

In § 609a.4 (relating to approval of credit limits) language was added to reflect the statutory requirement that any increase in credit, whether temporary or permanent, requires re-verification of a patron's credit information.

In § 609a.5 (relating to derogatory information; reduction or suspension of credit), revisions were made to clarify the following: if derogatory information is received, the licensee's credit department must reverify the patron's casino credit information; if a patron's check is returned, the patrons credit privileges must be suspended; and if a patron's credit has been suspended, the licensee is required to reverify the patron's casino and consumer credit information before reinstating credit.

Revisions were made in § 623a.4 and § 623a.5 (relating to Craps and Mini-craps) for clarity regarding the paying of wagers and the collection of vigorish.

In § 633a (relating to Blackjack), the payout procedure in § 633a.7(i) was amended allowing operators to either payout immediately when a player has a Blackjack or in accordance with the current regulation. The provision on surrender contained in § 633a.9 were also amended allowing operators to collect a

surrendered hand immediately or in accordance with the current regulation.

In § 643a.12 (relating to Let it Ride Poker, payout odds; payout limitation), a new payout table was added in subsection (b) for the Five Card Bonus Wager.

Lastly, in § 645a.5 (relating to Pai Gow Poker, shuffle and cut of the cards; procedure for determining the starting position for dealing cards), subsection (i)(3) was deleted as unnecessary.

Additional Revisions

Minor additional revisions were made throughout this final-form rulemaking for clarity and consistency among chapters and sections.

In § 421a.3(e), language was deleted as redundant. When an employee is offered a position with a licensee, the licensee is required by federal law to complete an I-9 form verifying the employee's identity and employee's legal authority to work in the United States. Additionally, as part of the background investigation, each employee must be fingerprinted. When fingerprinted, the law enforcement agency that performs the fingerprinting also verifies identity and legal authority to be in the United States. Because a prospective employee has already had their identity and legal status confirmed with the employer and law enforcement agency prior to being licensed, registered or permitted, the Board will no longer require the employee to also submit the authorization information to the Board.

Language in § 421a.4(a) was deleted at final as unnecessary. The beginning of the subsection specifies that upon request the Bureau will make an inquiry of a potential purchaser of a licensee. It is therefore unnecessary to include the repetitive language at the end of the subsection.

In § 425a.2(b), language was added specifying that if an applicant fails to submit necessary information required in (1)-(3), the applicant would be given the opportunity to cure the deficiency. However, if an applicant fails to include the bond/letter of credit at the time of application, that applicant will not be given an opportunity to cure that deficiency. All applicants are required, by statute, to provide a letter of credit/bond at the time of application to demonstrate the financial ability to pay the license fee. See 4 Pa.C.S. §

1313(c). The Board believes this to be a basic eligibility requirement, not curable after the application deadline.

Section 423a.3(a) addresses the action Board staff will take after receiving an application. However, some of the language in (a)(2) (previously (a)(4)), was applicable to the applicant's duty to provide information to Board staff. This language was therefore deleted as misplaced and unnecessary as the requirement of an applicant to provide information is already addressed in § 421a.1(g).

In § 423a.5, language was added in the final-form rulemaking addressing the procedure for the surrender of a license, permit, certification or registration. The provisions added in subsection (d) reflect agency practice and are consistent with the procedural requirements in subsections (a)-(c) associated with requesting to withdraw an application.

In § 427a.1, language was deleted in subsection (c) as unnecessary to include in the regulation. Manufacturers are permitted by statute to repair slot machines and associated equipment. See the definition of a manufacturer contained in 4 Pa.C.S. § 1103 and the provisions associated with repairing machines contained in § 1317.1(b)(6). Additionally, the Board issues occupation permits to gaming employees who are employed by manufacturers to service and repair slot machines and associated equipment. It is therefore unnecessary to include this provision in the regulation.

The language in § 427a.6(b) was added so the Bureau of Investigations and the Bureau of Licensing are aware of a contemplated change of control or ownership prior to the licensee filing a petition. This is necessary because there are other licensing provisions triggered by a change of control or ownership, including the requirement that principals apply for a license, which should occur prior to petitioning the Board to change ownership or control of the licensee. This provision is also consistent with the requirement that licensed entities provide information, on an ongoing basis, relating to their financial suitability. Similar language was added in § 429a.8(b) and § 431a.6(b) applicable to manufacturer designees and suppliers.

In § 433a.3, language was added in subsection (e) for clarity to reflect that the provisions in the subsection relate to indirect ownership interests not direct ownership interests. Similar language was also added in § 433a.4(e).

In § 433a.6, manufacturer designees were inadvertently excluded when the rulemaking was submitted in proposed form and were therefore added at final to reflect that the requirements in this subsection are applicable to all entity licensees.

As it relates to § 433a.6(f), this provision currently provides that if the Board had reason to believe the suitability of a person that holds a debt instrument of a licensee is at issue, the Board may require that person to apply for and obtain a license. The issue with the current provision is that persons that are not required to be licensed would not otherwise appear before the Board for the Board to make a determination as to suitability. This provision was therefore changed at final to reflect that Board staff reviews debt instruments and if Board staff had reason to believe that the suitability of the person holding the debt instrument may be at issue, Board staff may require the person to apply and complete the full background investigation before the Board could make a determination as to suitability.

In § 440a.1, language was added in subsection (a) to reflect that if a slot machine licensee is already operational, a new company contracted to manage the slot machine licensee would have to apply for and obtain a management company license prior to providing any services to the slot machine licensee. This amendment was necessary to reflect that companies that manage operational slot machine licensees may change over time.

A new § 440a.6 addressing the change in control or ownership of a management company licensee was added. These provisions were added in the proposed rulemaking to manufacturer, manufacturer designee and supplier licensees but were inadvertently not included in the proposed rulemaking for management company licensees. Management companies control and stand in the place of the slot machine licensee. Therefore, prior to changing ownership or those who control the management company licensee, the management company has to file a petition and receive Board approval to do so.

In § 461a.18, subsections (f)-(g) were deleted as unnecessary. Cashless fund transfers, or the electronic transfer of credits to a patron at a slot machine, is primarily addressed in the provisions on complimentary services or items that are contained in § 465a.7. These types of transactions are already captured for audit, accounting and tracking purposes through the

facility's slot accounting system and the Department of Revenue's Central Control Computer System.

The requirement in § 465a.2(f) that licensees provide attestations of changes to their internal controls was deleted as no longer necessary. Internal control changes are submitted electronically and each licensee is given a sign-in which is tied specifically to that licensee. For purposes of this section, the sign-in serves as the attestation.

In § 645a.2, subsection (c)(3) was deleted as unnecessary. A button is used to mark which player is to receive the first stack of cards once a starting position has already been established, not as a mechanism by which to determine the starting position. Operators either use a shaker or a random number generator to determine starting position.

Language was added in § 645a.6(d) clarifying that the royal flush plus royal match has a different definition depending on which Pai Gow Poker, Emperor's Challenge or Fortune, the operator is offering.

In § 645a.13, the paytable in subsection (b) was corrected and new paytables were added in subsection (d).

Comment and Response Summary

Notice of the proposed rulemaking was published at 43 Pa.B. 6764 (November 16, 2013). Sands Bethworks Gaming, LLC ("Sands") and Greenwood Gaming and Entertainment, Inc. ("Parx") submitted comments on the proposed rulemaking. Additionally, on January 15, 2014, the Independent Regulatory Review Commission provided comments on the rulemaking.

Regulated Community

Parx raised issues with the amended language in § 623a.4 specifying that Pass Bets in Craps could be wagered only before the come out roll. The language added in subsection (c) is not amending the provisions on when a Pass Bet may be wagered but was added merely for clarity. In accordance with the existing language in § 623a.3, a Pass Bet placed on the Pass Line of the layout can be made immediately prior to the come out roll, as defined in § 623a.1. In no other section of the regulations on authorized wagers has a certificate holder ever been authorized

to accept a Pass Bet placed on the Pass Line of the layout AFTER the come out point is established. Eliminating the possibility of winning on the come out roll (if the shooter throws a seven or eleven) by allowing the placement of the Pass Bet after the come out roll serves to increase the house edge. If a patron wants to participate in play after the point is already established, the patron can place a Buy or Place Bet. The provisions in this section are also consistent with the rules of play in a neighboring gaming jurisdiction.

Sands objected to three provisions in the proposed rulemaking: the requirement that facilities run credit checks each time a patron requests a credit limit increase; the requirement that operators re-verify a patron's credit information prior to reinstating a patron's credit privileges; and the provisions on approval of material debt transactions and notification of refinancing transactions.

As it relates to credit limit increases in § 609a.4, Sands asserts that the statute does not require operators to reverify information prior to temporarily increasing a patron's credit information. The Board does not agree.

The Board has never recognized a this trip only ("TTO") or temporary credit increase as the Board does not believe temporary credit increases, without re-verification, to be permissible under § 13A27(d) of the Act. Section 13A27 requires that if a facility is going to grant credit to a patron, the facility must complete credit application verification, establish a credit limit and two employees, enumerated in the statute, must approve the credit limit established.

Once a credit limit is established, the statute is clear on how that credit limit may be increased. Increases to an individual's credit limit may be approved by the licensee provided that two conditions are met: that patrons submit a written request to increase their credit limit and that the facility re-verify the patron's credit information. The statute does not distinguish between different types of credit limit increases. The Board does not believe the statute to be ambiguous or the requirements discretionary.

Additionally, the issue of TTO or temporary credit limit increases was commented on and addressed when the regulations on chapter 609a were promulgated in 2012 (See comments on 125-142, IRRC # 2890 published at 42 Pa.B. 2629, May 12, 2012). The

'temporary and permanent' language added in § 609a.4(a) and (c) is not altering what is already required and was added for clarity purposes only. The Board believes that at a minimum, operators must re-verify a patron's casino credit prior to granting any increase to the patron's credit limit.

Sands also objected to the requirement in § 609a.5(e) that operators re-verify a patron's consumer and casino credit information if the patron's credit privileges were suspended for any reason. While the Board does not believe the language added expands the requirement instituted in 2012 when Chapter 609a was promulgated as a final-form rulemaking, the Board acknowledges that there may be operational reasons unrelated to overall creditworthiness of a patron for an operator to temporarily suspend a patron's access to credit (such as updating an expired identification or verifying whether a patron walked with chips).

The Board has therefore added language specifying that suspension requires re-verification if the suspension was related to a patron's creditworthiness provided that the facility document the reasons why a patron's credit privileges were suspended and thereafter reinstated. Failure to document or to re-verify a patron's consumer and casino credit information when the credit suspension was related to a patron's continued creditworthiness, such as a returned check, could result in an enforcement action filed with the Board against the licensee.

As it relates to the sections added at proposed on approval of material debt transactions and notification of refinancing transactions contained in § 441a.25 and § 441a.26, the Board has removed these provisions from the final-form rulemaking and will introduce a proposed package addressing financial transactions, made available for public comment, at a later date.

IRRC

Comment 1

IRRC commented on the deletion of the language in § 427a.5 and § 431a.4 which allows a licensed manufacturer or supplier to service and repair slot machines and associated equipment. As discussed above, the language was deleted because manufacturers and suppliers are permitted by statute to repair slot machines and associated equipment. See the definition of a manufacturer and supplier contained in 4 Pa.C.S. § 1103 and the provisions associated with repairing equipment that are contained in § 1317(b)(4) and 1317.1(b)(5). Additionally, the Board issues

occupation permits to gaming employees who are employed by slot machine, manufacturer and supplier licensees to service and repair slot machines and associated equipment. See the definition of gaming employee in 4 Pa.C.S. § 1103(6) and the additional language provided after § 1103(14). It is therefore unnecessary to include this provision in the regulation as it is already permitted by statute.

Comment 2

As it relates to the renewal of nongaming employee registrations contained in § 435a.5, IRRC requested that the Board provide detail regarding: how the regulated community and the nongaming employees would be notified of the renewal requirement; how nongaming employees and publicly traded gaming service providers would transition into compliance with the new renewal requirements; how the currently registered nongaming employees would obtain registrations with expiration dates; and how the two year expiration provision in the proposed rulemaking would work.

Regarding notification:

Currently all nongaming employees are credentialed with the Board once their initial application has been approved (attached is a sample nongaming employee credential). That credential contains an expiration date. Those credentials are valid for four years and must be updated with a new photograph upon the expiration of the credential. When the renewal provisions become final, the expiration of the nongaming registration will coincide with the expiration date contained on each nongaming employee's credential. At least 60 days prior to the expiration date contained on the credential, the nongaming employee would be required to complete the renewal application through the Board's web-based SLOTSLink system. The application is approximately five questions and asks that the employee update information such as address, phone number and criminal history. Typically, completion of the application is done in the licensee's human resources office just like gaming employee permit renewals.

Regarding compliance:

To transition licensees into compliance, the Board will utilize the date on each nongaming employee's credential as the renewal date and will provide the licensee with at least 90 days' notice of the employees that are up for renewal. For example, if this

rulemaking is printed as final on June 20th, at the beginning of July, Board staff will send to the licensees the names of those individuals whose renewal is due in October. In August those set to expire in November would be sent and in September, those set to expire in December would be sent. This will ensure that the applications are received at least 60 days prior to expiration, in conformance with the renewal provisions, and will give the employees at least 30 days to complete the renewal application. Each month Board staff sends out another list to the licensee/employer for those due to expire in the next 90 days. This is the exact process Board staff and the licensees already utilize for all gaming employee permit renewals.

The same process described above would also be utilized for nongaming employees of manufacturers, suppliers and gaming service providers. The entity/employer would be notified of the renewal deadline at least 90 days prior to the expiration of their employee's registration.

For those nongaming employees who receive an updated photo credential just prior to the finalization of the rulemaking, they would not go through the renewal process until their credential is set to expire. For example, if the regulation were printed as final on June 20th, but the nongaming employee had just received an updated photo credential on May 1, 2015, that credential would remain in effect, without going through the renewal process, until the credential expired on April 30, 2019.

The process described above should ensure that licensees are not inundated with nongaming renewals all at one time. The Board anticipates that there will be approximately 1200 nongaming registrations to renew yearly, divided over all the slot machine licensees, manufacturers, suppliers and gaming service providers. This should equate to, on average, less than ten registration renewals per slot machine licensee per month, with a much lower number of renewals for manufacturers, suppliers and gaming service providers.

Regarding an employee obtaining a registration with an expiration date:

As detailed above, credentials, which all employees are required to have and which are provided by the Board upon approval of an employee's license, permit or registration, are already imprinted with an expiration date. The Board will sync the credential date with the nongaming employee's renewal date. For key and gaming employees, their credential renewal date and

their license/permit renewal date are already one in the same. The employee can look at their Board issued credential, that they are required to carry, and see when their license/permit is due for renewal.

Regarding the additional two year expiration provision contained in the proposed rulemaking:

The proposed rulemaking provided that although the registrations would be renewed once every 4 years, if a registrant were not employed for 2 years in a position that requires registration that the registration would be deemed expired. After reconsidering the practicality of implementing this provision, the Board eliminated this expiration in the final-form rulemaking. All registrations will be valid for 4 years. If the registrant does not file a renewal, the registration will expire at the end of the four-year term.

As it relates to publicly traded gaming service provider authorization renewal:

IRRC also asked that the Board explain how publicly traded gaming service providers (GSP's) would transition into compliance with the renewal provisions contained in § 437a.6.

Publicly traded GSPs are not presently required to renew or reaffirm that they are a publicly traded entity and thus exempted from the certification and registration requirements contained in § 437a.2 and § 437a.3. The provisions contained in this rulemaking will require that the publicly traded GSP submit a form attesting that the entity is still conducting business with a licensee (and should therefore remain under the jurisdiction of the Board) and that the entity is still eligible for the exemption.

Presently, there are approximately 100 publicly traded GSPs that are authorized to conduct business with slot machine licensees but are not otherwise required to apply for certification or registration with the Board. For purposes of renewals, Board staff will utilize the date on which the publicly traded GSP was placed on the list of GSPs authorized to conduct business. The renewal form is approximately four pages long and is available on the Board's website.

For those publicly traded GSPs that were placed on the authorized list less than four years ago and are thus not yet expired, 120 days prior to expiration, Board staff will send

notice that the GSP must submit a renewal form at least 60 days prior to the expiration of the authorization.

For those publicly traded GSPs that were placed on the authorized list more than four years ago, upon publication of the final-form rulemaking, Board staff will send notice that the GSP must submit the renewal publicly traded form within 60 days. There are less than 40 GSPs that will fall under this category.

Those that don't file a publicly traded renewal form will be removed from the Board's authorized GSP list and will no longer be under the Board's jurisdiction. All GSPs are notified, at the time renewal notifications are sent, that a failure to renew will result in removal of the GSP from the authorized list upon expiration of the GSP's certification, registration or authorization.

Comment 3

IRRC raised a clarity issue with provisions associated with material debt transactions that were added in the proposed rulemaking in § 441a.25 and § 441a.26. As discussed above, the Board eliminated those provisions from the final-form rulemaking and will introduce a proposed package addressing financial transactions at a later date.

Comment 4

IRRC asked that the Board provide an explanation regarding why the Board will no longer require licensees to re-verify a patron's consumer credit information prior to approving a credit limit increase as provided in § 609a.4.

The Board eliminated this provision for two reasons. First, consumer credit is dated information, typically at least 60 days old. However, casino credit (run through Central Credit which is much like the three consumer credit reporting agencies) is updated more frequently. If a patron has markers with several facilities in the Commonwealth or with any other facility in the world that utilized Central Credit, the licensee would have access to that information.

Additionally, and perhaps most importantly, each time a facility runs a patron's consumer credit, the patron's overall credit rating can be negatively affected which can have lasting implications beyond access to casino credit. Casino credit, which is required to be run each time a patron requests a credit

limit increase, can be run with no repercussions as to the patron's consumer credit score.

IRRC also requested that the Board explain why the requirement to re-verify a patron's consumer credit each time an operator receives derogatory information regarding the patron, was deleted from § 609a.5.

The provision requiring operators to re-verify a patron's consumer credit when derogatory information is received was eliminated because, in addition to the reasons provided above, this provision, as is currently written, can, and has, had a compounding negative impact on a patron's consumer credit rating.

If, for example, a patron has lines of credit available with three facilities in the Commonwealth, and the patron has derogatory information reported from a casino in Nevada, all three facilities in the Commonwealth are presently required to separately re-verify the patron's consumer credit information. This would show up as three separate inquiries into a person's consumer credit worthiness even if that patron has not played in facility in the Commonwealth for a period of time or is not currently utilizing credit with any licensed facility. The harm that this could cause to patrons outweighs the potential benefit particularly since derogatory information is typically reported to the licensees through Central Credit anyway; therefore, it is logical to require re-verification of casino credit only.

Based on the Board's experience to date, the Board does not believe it necessary to continue to require licensees to run a patron's consumer credit each time a patron requests a credit limit increase or each time a facility receives derogatory information. However, if the licensee suspends a patron's credit privileges, because of a bounced check or based on the nature of derogatory information received, the licensee must run both the patron's casino and consumer credit prior to reinstating the patron's credit privileges.

Affected Parties

All individuals and entities that apply for a license, permit, registration, certification or authorization will be affected by this rulemaking. However, most of the revisions contained in this rulemaking were done for clarity or to reduce or eliminate requirements with the exception of nongaming employees and

authorized publicly traded gaming service providers. Those employees who are registered and the publicly traded GSPs that are authorized will now be required to renew their registration or authorization every four years. Lastly, slot machine licensees will have some additional payout options associated with table games.

Fiscal Impact

Commonwealth.

The Board does not expect that the provisions contained in this rulemaking will have a substantial fiscal impact on the Board or any other Commonwealth agency. Although nongaming employees and publicly traded gaming service providers will be required to submit renewals, the renewals are conducted only once every 4 years and will not all occur at the same time. Additionally, the agency may see some administrative cost savings associated with nongaming employees who no longer work in the gaming industry. Currently there are over 5,000 nongaming employees who are still under the Board's jurisdiction although they have not worked in a position that requires a registration in two years or more.

Political Subdivisions. This rulemaking will have no fiscal impact on political subdivisions of the Commonwealth.

Private Sector. All individuals and entities that apply for a license, permit, registration, certification or authorization will be required to comply with the requirements in this rulemaking. Most of the revisions in this rulemaking will not have a fiscal impact on the regulated community with two exceptions: nongaming employees and gaming service providers.

Nongaming employees will be required to renew their registration once every four years. The renewal fee will be approximately \$40 to cover the cost of fingerprinting and a criminal background check with the Pennsylvania State Police. There are approximately 4,000 individuals who hold a registration and continue to work with a licensee and would therefore be required to renew their registration.

Publicly traded gaming service providers will also be required to renew their authorization once every four years. The renewal fee is \$250, a substantial cost savings over gaming service provider certification or registration renewal. There are

approximately 100 publicly traded gaming service providers that are authorized and not required to apply for certification or registration.

Additionally, gaming service providers that provide services to slot machine licensees on an emergency basis will no longer be required to complete an application for certification or registration, a cost savings of at least \$2,500. It is unclear how many emergency gaming service providers will benefit from this amendment.

General Public. This rulemaking will have no fiscal impact on the general public.

Paperwork Requirements.

This regulation will eliminate the requirement that applicants for and holders of a slot machine, management company, manufacturer, manufacturer designee or supplier license file copies of SEC filings with the PGCB. A one page notification is all that is required. Additionally, applicants will no longer be required to submit three copies of applications, only an original and one copy.

Although nongaming employees will be required to renew their registration, the application is submitted electronically through the PGCB's Slots Link system with no paper submission typically required.

For publicly traded gaming service providers that will be required to renew their authorization, the application is approximately four pages long and is available on the Board's website.

Relating to institutional investors: the Institutional Investor Notice of Ownership Form and Passive Investor Affirmation, which are required under § 433a.5 (relating to institutional investors) is a single page, plus instructions and an affirmation page.

Effective Date

The rulemaking will become effective upon final-form publication in the *Pennsylvania Bulletin*. However, as it relates to nongaming employee renewals, as detailed above, notification will be sent at least 90 days prior to the expiration of the

employee's registration to ensure compliance. Authorized publicly traded gaming service providers will have 60 days from the date the notification is sent to submit the authorization renewal form.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. §745.5(a)), on November 4, 2013, the Board submitted a copy of the proposed rulemaking, published at 43 Pa.B. 6764 (November 16, 2013) and a copy of the Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the House Gaming Oversight Committee and the Senate Community, Economic and Recreational Development Committee (Committees).

Under section 5(c) of the Regulatory Review Act, IRRC and the Committees were provided with copies of comments received during the public comment period, as well as other documents when requested. With regard to this rulemaking, no comments were received from the Committees.

Under section 5a(j.2) of the Regulatory Review Act, the final-form rulemaking was deemed approved by the Committees on **INSERT DATE**. IRRC met on **INSERT DATE** and approved the regulations in accordance with section 5a(e) of the Regulatory Review Act.

Findings

The Board finds that:

(1) Public notice of intention to adopt these amendments was given under sections 201 and 202 of the act of July 31, 1968 (P.L. 769, No. 240)(45 P.S. §§ 1201 and 1202) and the regulations thereunder, 1 Pa.Code §§ 7.1 and 7.2.

(2) The final-form rulemaking is necessary and appropriate for the administration and enforcement of 4 Pa.C.S. Part II (relating to gaming).

Order

The Board, acting under 4 Pa.C.S. Part II, orders that:

(1) The regulations of the Board, 58 Pa.Code Chapters 421a, 423a, 425a, 427a, 429a, 431a, 433a, 435a, 437a, 440a, 441a,

461a, 465a, 609a, 623a, 633a, 643a and 645a to read as set forth in Annex A.

(2) The Chairman of the Board shall certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.

(3) This order shall take effect upon publication in the *Pennsylvania Bulletin*.

William H. Ryan, Jr.
Chairman

Annex A

TITLE 58. RECREATION

PART VII. GAMING CONTROL BOARD

Subpart B. LICENSING, PERMITTING, CERTIFICATION AND REGISTRATION

CHAPTER 421a. GENERAL PROVISIONS

§ 421a.1. General requirements.

(a) A license, permit, certification, ~~or~~ registration issuance, ~~renewal~~ or ~~other~~ **[approval] authorization** issued by the Board is a revocable privilege. No person holding a license, permit, certification, ~~or~~ registration, ~~renewal~~, or ~~other~~ **[approval] authorization** is deemed to have any property rights related to the license, permit, certification, ~~or~~ registration OR AUTHORIZATION.

(b) By filing an application with the Board, an applicant consents to an investigation, **to the extent deemed appropriate by the Bureau**, of the applicant's general suitability, financial suitability, character, integrity and ability to engage in, or be associated with, gaming activity in this Commonwealth **[to the extent deemed appropriate by the Board. The investigation may include a background investigation of the applicant, employees of the applicant, all persons having a controlling interest in the applicant and other persons as determined by the Board]**.

(c) By filing an application for a license, permit, certification, ~~or~~ registration ~~issuance, renewal or other~~ **[approval] authorization** from the Board, an applicant agrees to:

(1) Abide by the provisions of the act and this part.

(2) Waive liability as to the Board, its members, its employees, the Pennsylvania State Police, the Commonwealth and its instrumentalities for damages resulting from disclosure or publication in any manner, other than a willfully unlawful disclosure or publication of material or information acquired during an investigation of the applicant.

(3) Execute all releases requested by **[the]** Board **staff**, including releases whereby the applicant consents to the release of information that may be requested by the individual under **section 1 of** the Freedom of Information Act (5 **[U.S.C.] U.S.C.A. § 552) [to the Board]**.

(d) An applicant for or holder of a license, permit, certification **[or]**, registration **or authorization** may not give or offer to give, compensation or reward or a percentage or share of the money or property played or received through gaming to a public official or public employee in consideration for or in exchange for obtaining a license, permit, certification ~~or~~ registration OR AUTHORIZATION issued pursuant to this part.

(e) An applicant for or holder of a license, permit, certification [or], registration or authorization shall have a continuing duty to inform the Bureau of [an]:

(1) An action which the applicant for or holder of a license, permit, certification [or], registration or authorization believes would constitute a violation of the act OR THE BOARD'S REGULATIONS. A person who so informs the Bureau may not be discriminated against by an applicant for or holder of a license, permit, certification [or], registration or authorization for supplying the information.

(2) A change in circumstances that may render the applicant for or holder of a license, permit, certification, registration or authorization ineligible, unqualified or unsuitable to hold a license, permit, certification, registration or authorization under the act and this part including an arrest, charge, indictment or conviction for:

(i) An offense involving moral turpitude.

(ii) An offense under 18 Pa.C.S. (relating to Crimes Code).

(iii) An offense under 75 Pa.C.S. (relating to Vehicle Code) which is punishable by 1 year or more.

(iv) An offense under section 13(a) of The Controlled Substance, Drug, Device and Cosmetic Act (35 P.S. § 780-113(a)), regarding prohibited acts and penalties.

(v) A felony offense.

(vi) A comparable offense in other states or foreign jurisdictions.

(f) An applicant for **or holder of** a license, permit, certification [**or**], registration **or authorization** shall have a continuing duty to inform the [**Board**] **Bureau of Licensing** of changes in the information supplied to the [**Board**] **Bureau of Licensing** in or in conjunction with the original or renewal application. [**An applicant for or holder of a license, permit, certification or registration shall have a continuing duty to inform the Board of a change in circumstances that may render the applicant for or holder of a license, permit, certification or registration ineligible, unqualified or unsuitable to hold a license, permit, certification or registration under the standards and requirements of the act and of this part.**]

(g) An applicant for **or holder of** a license, permit, certification [**or**], registration **or authorization** shall have a continuing duty to promptly provide information requested by [**the**] Board **staff** relating to its application [**or regulation**] and cooperate with [**the**] Board **staff** in investigations, hearings, and enforcement and disciplinary actions.

(h) [**An application submitted to the Board constitutes the seeking of a privilege.**] An applicant shall at all times have the burden of proof. It shall be the applicant's affirmative

responsibility to establish the facts supporting its suitability under the act and this part by clear and convincing evidence, including why a license, permit, certification **[or]**, registration **or authorization** should be issued or renewed by the Board.

(i) A person holding a license, permit, certification **[or]**, registration **or authorization** issued by the Board **[who violates a provision of the act or this part may be held jointly or severally liable for the violation]** shall have a continuing duty to maintain suitability and eligibility in accordance with the act and this part.

[(j) The Board will maintain lists of applicants for licenses, permits, certifications or registrations under this part as well as a record of the actions taken with respect to each applicant. The lists will be posted on the Board's web site (www.pgcb.state.pa.us).]

§ 421a.2. Disqualification criteria.

(a) An application for issuance or renewal of a license, permit, certification **[or]**, registration **or authorization** may be denied, or a license, permit, certification **[or]**, registration **or authorization** may be suspended or revoked if:

(1) The applicant has failed to prove to the satisfaction of the Board that the applicant or any of the

persons required to be qualified, are in fact qualified in accordance with the act and with this part.

(2) The applicant for or holder of a license, permit, certification **[or]**, registration **or authorization** has violated the act or this part.

(3) The applicant for or holder of a license, permit, certification **[or]**, registration **or authorization** is disqualified under the criteria in the act.

(4) The applicant for or holder of a license, permit, certification **[or]**, registration **or authorization** has **[materially departed from a representation made] misrepresented, falsified or omitted a fact** in the application for licensure or renewal.

(5) The applicant for or holder of a license, permit, certification **[or]**, registration **or authorization** has failed to comply with Federal **[or]**, state **or local** laws or regulations.

(6) The applicant for or holder of a license, permit, certification, registration or authorization is not current or is in arrears on a financial obligation owed to the Commonwealth or a subdivision thereof, including court-ordered child support payments.

(b) An individual will be disqualified from obtaining or holding:

(1) A principal or key employee license if the individual has been convicted of a:

(i) Felony offense in any jurisdiction.

(ii) Misdemeanor gambling offense in any jurisdiction, unless 15 years have elapsed from the date of conviction for the offense.

(2) A permit if the individual has been convicted of a felony or misdemeanor gambling offense in any jurisdiction unless 15 years have elapsed from the date of conviction for the offense.

(c) When considering an application for registration from an individual who has been convicted of a felony or misdemeanor gaming offense in any jurisdiction, a permit from an individual who has been convicted of a felony or misdemeanor gaming offense in any jurisdiction when 15 years have elapsed from the date of the conviction for the offense, or a license from an individual who has been convicted of a misdemeanor gaming offense in any jurisdiction when 15 years have elapsed from the date of the conviction for the offense, the Board will consider:

(1) The nature and duties of the applicant's position with the licensed entity.

(2) The nature and seriousness of the offense or conduct.

(3) The circumstances under which the offense or conduct occurred.

(4) The age of the applicant when the offense or conduct was committed.

(5) Whether the offense or conduct was an isolated or a repeated incident.

(6) Evidence of rehabilitation, including good conduct in the community, counseling or psychiatric treatment received and the recommendation of persons who have substantial contact with the applicant.

(d) For purposes of this section, a felony offense is any of the following:

(1) An offense punishable under the laws of the Commonwealth by imprisonment for more than 5 years.

(2) An offense which, under the laws of another jurisdiction, is either:

(i) Classified as a felony.

(ii) Punishable by imprisonment for more than 5 years.

(3) An offense under the laws of another jurisdiction which, if committed in this Commonwealth, would be subject to imprisonment for more than 5 years.

(e) An individual may not be employed in this Commonwealth by an applicant for or holder of a license, certification, or

registration OR AUTHORIZATION under this part in any capacity unless the individual is a citizen of the United States or can demonstrate that he holds a current and valid work authorization and is not restricted from working in the capacity for which employment is sought or held. ~~Authorization to work in the United States may be demonstrated by submitting one of the following:~~

~~(1) A permanent resident alien card.~~

~~(2) A temporary employment authorization card.~~

~~(3) An employment authorization number and expiration date.~~

~~(4) A document which the Bureau deems to be sufficient evidence or authorization.~~

[(b)] (f) A denial of an application or nonrenewal, suspension or revocation of a license, permit, certification, or registration OR AUTHORIZATION may be made for a sufficient cause consistent with the act, THIS PART and the public interest.

§ 421a.3. Investigations; supplementary information.

(a) The [Board] Bureau may make an inquiry or investigation concerning an applicant for or holder of a license, permit, certification [or], registration or authorization or any affiliate, intermediary, subsidiary or holding company of the applicant for or holder of a license, permit, certification [or], registration or authorization as it may deem appropriate

either at the time of the initial application or at any time thereafter.

(b) It shall be the continuing duty of applicants and a holder of a license, permit, certification **[or]**, registration **or authorization** to provide full cooperation to the **[Board] Bureau** in the conduct of an inquiry or investigation and to provide supplementary information requested by the **[Board] Bureau**.

(c) An applicant for an initial or renewal license, permit, registration, certification or authorization will be required to reimburse the Board for additional costs, based on the actual expenses incurred, in conducting the background investigation.

§ 421a.4. Presuitability determination.

(a) Upon request from an eligible applicant for or holder of a license and upon receipt of an application and appropriate fees, the **[Board] Bureau** will make an inquiry or investigation of a potential purchaser of an applicant for or holder of a license**[, certification or registration]** as if the purchaser were an eligible applicant. ~~The eligible applicant for or holder of a license may~~ **[petition the Board, on behalf of the purchaser, for a Statement of Investigation under § 493a.4 (relating to petitions generally)] request that the Bureau conduct a presuitability determination investigation.**

(b) The eligible applicant for or holder of a license making the request shall reimburse the costs associated with the inquiry or investigation.

(c) This inquiry or investigation does not replace the application process required under the act and this part which is a requirement for licensure[, **certification or registration**].

§ 421a.5. Undue concentration of economic opportunities and control.

(a) In accordance with section 1102(5) of the act (relating to legislative intent), a slot machine license, management company license or **[other] principal** license may not be issued to or held by a person if the Board determines that the issuance or holding will result in the undue concentration of economic opportunities and control of the licensed gaming facilities in this Commonwealth by that person.

* * * * *

(c) In determining whether the issuance or holding of a license by a person will result in undue concentration of economic opportunities and control of the licensed gaming facilities in this Commonwealth, the Board will consider the following criteria:

(1) The percentage share of the market presently controlled by the person in each of the following categories:

(i) Total number of slot machine licenses available under section 1307 of the act (relating to number of slot machine licenses).

(ii) Total gaming floor square footage.

(iii) Number of slot machines **and table games**.

(iv) Gross terminal **and table game** revenue.

(v) Net terminal **and table game** revenue.

(vi) **[Total amount of money, vouchers and electronic money transfers through the use of a cashless wagering system made to slot machines.**

(vii)] Number of persons employed by the licensee.

* * * * *

CHAPTER 423a. APPLICATIONS; STATEMENT OF CONDITIONS; WAGERING RESTRICTIONS

§ 423a.1. General requirements.

(a) For the purposes of this section, a reference to an applicant includes the applicant's affiliates, intermediaries, subsidiaries and holding companies.

(b) An application shall be submitted on forms **or in an electronic format** supplied or approved by the Board, contain the information and documents required by the Board and include the applicable fees.

(c) **[The applicant shall file with the application all supplemental forms required by the Board. The forms require full**

disclosure of all details relative to the applicant's suitability to conduct business in this Commonwealth under the act.

d)] Upon request of the Board **or Board staff**, the applicant shall further supplement information provided in the application. The applicant shall provide requested documents, records, supporting data and other information within the time period specified in the request, or if no time is specified, within 30 days of the date of the request. If the applicant fails to provide the requested information within the required time period as set forth in the request, the Board may deny the application.

[(e) Information provided to the Board must be true and complete.] (d) The application, and amendments thereto, and other specific documents designated by the Board shall be sworn to or affirmed by the applicant before a notary public. If there is any change in the information provided to the Board **or Board staff**, the applicant shall promptly file a written amendment.

[(f) The application and amendments thereto and other specific documents designated by the Board shall be sworn to or affirmed by the applicant before a notary public.

(g)] (e) The Board will deny the application of an applicant that refuses to submit to a background investigation or provide requested information as required under the act.

[(h)] (f) An applicant that submits a document to the Board which is in a language other than English shall also submit an English translation of the non-English language document. At its discretion, the Board may accept an English summary of a document in lieu of a complete translation of the document. The summary or translation must include the signature, printed name, address and telephone number of the translator and a verification by the translator of the truth and accuracy of the summary or translation.

[(i)] (g) An application **[that has been accepted for filing]** and related materials **that have been** submitted to the Board will become the property of the Board and will not be returned to the applicant.

§ 423a.2. Preliminary submission review.

(a) Upon receipt of an application submission, the **[Board]** **Bureau of Licensing** will review the submission to **[insure]** **ensure** that it contains:

(1) The applicable application fee.

(2) The applicable application forms and additional information and accompanying documentation required by the act or the Board's regulations governing the specific type of application.

(3) Completed authorization forms for release of information from **[Federal and state] governmental agencies and other entities** required for the specific type of application.

(4) For slot machine license applications only, a bond or letter of credit as required by section 1313(c) of the act (relating to slot machine license application financial fitness requirements).

(b) If an application submission fails to include one or more of the items in subsection (a)(1)-(3), the applicant will be notified **[that the application has not been accepted for filing and the applicant will be]** and given an opportunity to cure the **[insufficiency] deficiency**.

[(c) If the applicant fails or is unable to cure the insufficiency within the time period set by the Board, the submission and related materials will be returned to the applicant.]

§ 423a.3. Application processing.

(a) Upon a determination that **an application is required and the prerequisites for filing have been met**, the **[Board] application will be accepted for filing and Board staff, if applicable, will:**

(1) **[Accept the application for filing.**

(2) **Notify the applicant or the applicant's attorney, if any, in writing of the fact that the application has been**

accepted for filing and the date of the acceptance for filing. The Board will also notify the applicant that the acceptance for filing of the application will not constitute evidence that any requirement of the act has been satisfied.

~~[(3)]~~ Obtain ~~[and evaluate]~~ information as may be necessary to determine the qualifications of the applicant and any matter relating to the application.

~~[(4) Request the Bureau to promptly]~~ (2) Promptly conduct an investigation and ~~provide the information necessary to determine the qualifications~~ of the applicant and **ON** any matter relating to the application.

~~[(5)]~~ (3) Request the Pennsylvania State Police to provide a criminal history background investigation report, determine employee eligibility consistent with § 435a.1 (relating to general provisions), conduct fingerprinting, photograph applicants and perform other related duties in accordance with the act.

~~[(6)]~~ (4) Request the Department to promptly conduct a tax clearance review.

~~[(7)]~~ (5) Request the Department of Labor and Industry to perform an Unemployment Compensation Tax clearance review and a Workers Compensation Tax clearance review.

[(8)] (6) Request any agencies, entities or persons to conduct investigations or evaluations or to provide information to the Board as deemed necessary by the Board.

(b) The Board will keep and maintain a **[list] record** of all applicants under this part together with a record of all actions taken with respect to applicants.

(c) An application submitted under this part and information obtained by **[the]** Board **staff** relating to the application shall be part of the evidentiary record **[of the licensing proceeding]**. The Board's decision to APPROVE, issue or deny a license, **permit, registration or certification** will be based solely on the evidentiary record before the Board.

§ 423a.5. Application withdrawal AND SURRENDER.

(a) A request for withdrawal of an application **[for a license, permit, certification or registration]** may be made **[by petition to the Board filed]** at any time prior to the Board taking action on the application $[.]$ **in accordance with the following requirements:**

(1) A request for withdrawal of an entity applying for a license, certification or registration, or an individual applying for a principal license or a qualifier of an entity applying for a license or certification shall be made by filing a petition with the Board in accordance with § 493a.4 (relating to petitions generally).

(2) A request for withdrawal of an individual applying for a key employee license, a permit or registration shall be made on a form supplied by the Bureau of Licensing. If Board staff objects to the request for withdrawal, the person filing the form will be notified and MAY BE required to file a petition for withdrawal with the Board in accordance with § 493a.4.

(b) The petition or form must set forth the reasons for the withdrawal.

(c) [An applicant may petition for the withdrawal of its application or an application submitted by one of its affiliates, intermediaries, subsidiaries or holding companies or persons or entities required to be qualified under section 1311 of the act (relating to additional slot machine license requirements), or both.

(d)] When rendering a decision on a petition for withdrawal, the Board may set the conditions of withdrawal and may deny or grant the request with or without prejudice.

[(1) If a petition for withdrawal is granted with prejudice, the person or entity whose application has been withdrawn will not be eligible to apply for a license, permit, certification or registration with the Board until after expiration of 5 years from the date of the withdrawal.

(2) If a petition for withdrawal is granted without prejudice the Board may, in the order granting the petition,

impose restrictions on when the person or entity whose application has been withdrawn will be eligible to apply for a license, permit, certification or registration.

(e) The Board may convert an application with deficiencies that an applicant fails to cure under § 423a.4(a) (relating to deficient applications) to a petition for withdrawal.

(f)] (d) A REQUEST TO SURRENDER A LICENSE, PERMIT, CERTIFICATION OR REGISTRATION MAY BE MADE IN ACCORDANCE WITH THE FOLLOWING REQUIREMENTS:

(1) AN ENTITY HOLDING A LICENSE, CERTIFICATION OR REGISTRATION, AN INDIVIDUAL HOLDING A PRINCIPAL LICENSE OR A QUALIFIER OF AN ENTITY HOLDING A LICENSE OR CERTIFICATION THAT IS REQUESTING TO SURRENDER SHALL FILE A PETITION WITH THE BOARD IN ACCORDANCE WITH § 493a.4.

(2) AN INDIVIDUAL HOLDING A KEY EMPLOYEE LICENSE, PERMIT OR REGISTRATION WHO IS REQUESTING TO SURRENDER THE LICENSE, PERMIT OR REGISTRATION SHALL FILE THE REQUEST ON A FORM SUPPLIED BY THE BUREAU OF LICENSING.

(E) THE PETITION OR FORM MUST SET FORTH THE REASONS FOR THE SURRENDER.

(f) Unless the Board otherwise directs, fees or other payments relating to the application, LICENSE, PERMIT, REGISTRATION OR CERTIFICATION will not be refundable by reason of the withdrawal OR SURRENDER. Additionally, fees and costs

owed to the Board ~~related to the~~ [application] ~~investigation~~
shall be paid prior to granting a ~~petition to withdraw~~

WITHDRAWAL OR SURRENDER.

§ 423a.6. License, permit, registration and certification
issuance and statement of conditions.

* * * * *

(b) *Statement of conditions.*

(1) For the purposes of this subsection, the term
'executive officer' means the individual holding the highest
ranking management position within the entity and who is
authorized to [contract on behalf of] legally bind the entity.
If the entity elects to designate another competent individual
with a direct reporting relationship to its executive officer to
execute the statement of conditions required in this section and
otherwise legally bind the entity, the entity shall adopt a
resolution identifying and authorizing the individual to act on
behalf of both the entity and its executive officer. A copy of
the resolution shall be provided to the Bureau of Licensing and
attached to the Statement of Conditions.

(2) If the Board approves an entity's application for
or renewal of a license[, certification or registration, or for
the renewal of a license, certification or registration, the
Board may require] the executive officer of the entity [whose
application has been approved], or other competent individual

designated by the entity in accordance with paragraph [(3), to] (1), shall execute a Statement of Conditions in the manner and form required by the Board. Execution of the Statement of Conditions constitutes the acceptance of each provision contained in the Statement of Conditions by both the entity and the executive officer. The executive officer shall ensure that the entity fully complies with each provision contained in the statement of conditions.

(3) [Prior to the issuance of a license, certification or registration to an entity, the entity shall determine whether the entity will designate its executive officer or another competent individual with a direct reporting relationship to its executive officer to execute the statement of conditions on behalf of both the entity and its executive officer. If the entity elects to designate another competent individual with a direct reporting relationship to its executive officer to execute the statement of conditions on behalf of the entity and its executive officer, the entity shall adopt a resolution identifying the individual so designated, authorizing that individual to execute the statement of conditions on behalf of both the entity and its executive officer, and evidencing the executive officer's concurrence in that individual's designation. A copy of the resolution, certified as true and correct, shall be provided to the Board and attached to the

statement of conditions.] At the time of application for registration or certification, the executive officer, or other competent individual designated by the applicant in accordance with paragraph (1), of a gaming service provider or gaming related gaming service provider shall execute a Statement of Conditions in the manner and form required by the Board. The execution of the Statement of Conditions constitutes the acceptance of each provision in the Statement of Conditions by both the entity and the executive officer. The executive officer shall ensure that the entity fully complies with each provision in the Statement of Conditions.

(4) [If the Board approves an individual's application for] An individual who has ~~been approved~~ APPLIED for the issuance or renewal of a license, permit, certification, ~~or~~ registration, or AUTHORIZATION [for the renewal of a license, permit, certification or registration, the Board may require the individual whose application has been approved to] shall execute a statement of conditions in the manner and form required by the Board. The execution of the Statement of Conditions constitutes the acceptance of each provision contained in the statement of conditions [by the individual]. [The individual shall fully comply with each provision contained in the Statement of Conditions.]

(5) Failure to fully comply with any provision contained in an executed Statement of Conditions constitutes a violation **[of the Statement of Conditions]** and may result in **[the imposition of]** Board-imposed administrative sanctions, up to and including revocation, against the individual **or entity** to whom the license, permit, certification, ~~or~~ registration **OR AUTHORIZATION** was issued**[, and, in the case of an entity, against the entity and its executive officer or other designee under paragraph (3)]**.

(Editor's Note: The following section is new and printed in regular type to enhance readability.)

§ 423a.6a. Restriction on wagering after issuance of a license, permit, registration or certification.

(a) An individual who holds a license, permit or registration and is currently employed by or is a principal of a slot machine licensee may not wager at any slot machine or table game in the licensed facility in which the licensee, permittee or registrant is currently employed or associated. The licensed, permitted or registered individual shall wait at least 30 days following the date that the individual is no longer employed in a position that requires a license, permit or registration before the individual may wager at the licensed facility.

(b) An employee of a slot machine licensee who is not required to obtain a license, permit or registration may not

wager in the licensed facility in which the employee is currently employed.

(c) An individual who holds a license, permit or registration and is currently employed by a manufacturer, manufacturer designee, supplier or gaming related gaming service provider may not wager at a slot machine or table game in the licensed facility in which the individual is servicing or installing table games, table game devices, slot machines or associated equipment while the individual is at the licensed facility in the performance of the individual's job duties.

(d) An individual who is a qualifier of a gaming junket enterprise or an individual who is employed as a gaming junket representative may not wager at a slot machine or table game in the licensed facility in which the gaming junket enterprise has an ongoing contractual agreement.

§ 423a.7. Restriction on application after **withdrawal with prejudice**, denial or revocation.

(a) A person whose application has been **withdrawn with prejudice**, denied or whose license, permit, registration or certification has been revoked, may not apply for a license, permit, certification or registration for 5 years from the date that the application was **withdrawn with prejudice**, denied or the license, permit, certification or registration was revoked.

(b) The 5-year restriction in subsection (a) will not apply:

(1) To applicants for a slot machine license if the denial was for reasons other than unsuitability.

(2) If the denial or revocation was based on pending charges for a disqualifying offense under section 1213 or section 1518 of the act (relating to license or permit prohibition; and prohibited acts; penalties), 18 Pa.C.S. (relating to crimes and offenses) or the criminal laws of any other jurisdiction and the pending charges **[do] did** not result in conviction of the disqualifying offense.

(c) Two years from the date that the application was **withdrawn with prejudice**, denied or the license, permit, certification or registration was revoked, a person may file a petition for permission to apply for a license, permit, certification or registration before the expiration of the 5-year period.

(d) A petition filed under subsection (c) shall be filed in accordance with § 493a.4 (relating to petitions generally).

(e) Petitions filed under subsection (c) must contain:

(1) An explanation of how the conditions that were the basis for **withdrawal with prejudice**, denial or revocation have been corrected or no longer exist.

(2) Supporting materials that demonstrate that the person meets the requirements for a license, permit, certification or registration.

(3) If the **withdrawal with prejudice**, denial or revocation was the result of a conviction, the petition must include evidence of rehabilitation, such as:

* * * * *

[(f) If a petition filed under subsection (c) is denied, a person may not file another petition under subsection (c) for 1 year from the date of the denial of the petition.]

CHAPTER 425a. LICENSED ENTITY REPRESENTATIVES

§ 425a.1. Registration.

* * * * *

(c) The Board will maintain a list of licensed entity representatives. The registration list will be available for public inspection at the offices of the Board and on the Board's [website (www.pgcb.state.pa.us)] web site.

CHAPTER 427a. MANUFACTURERS

§ 427a.1. Manufacturer general requirements.

(a) A manufacturer seeking to manufacture slot machines, **table game devices** and associated equipment for use in this Commonwealth shall apply to the Board for a manufacturer license.

(b) In accordance with section 1317.1 of the act (relating to manufacturer licenses), an applicant for or the holder of a manufacturer license or any of the applicant's or holder's affiliates, intermediaries, subsidiaries or holding companies, may not apply for or hold a slot machine license or supplier license.

~~(c) A licensed manufacturer or a licensed manufacturer designee may supply or repair any slot machine or associated equipment manufactured by the licensee.~~

[(d) A licensed manufacturer may contract with a licensed supplier to supply or repair slot machines or associated equipment manufactured by the manufacturer licensee.]

(e) Limitations will not be placed on the number of manufacturer licenses issued or when an application for a manufacturer license may be filed.]

§ 427a.2. Manufacturer license applications and standards.

(a) An applicant for a manufacturer license shall submit:

(1) An original and **[three copies] one copy** of the Manufacturer Application and Disclosure Information Form **for the applicant and each of the applicant's principal affiliates.**

(2) The nonrefundable application fee posted on the Board's **[website (pgcb.state.pa.us)] web site.**

(3) A diversity plan as set forth in section 1325(b) of the act (relating to license or permit issuance) and Chapter 481a (relating to diversity).

(4) An application from every key employee under § 435a.2 (relating to key employee license) and principal under Chapter 433a (relating to principal licenses) as specified by the Manufacturer Application and Disclosure Information Form and other persons as determined by the Board.

(5) **[A Gaming Employee Application and Disclosure Information Form for each of the manufacturer's known gaming employees.**

(6) **If applicable, copies of all filings required by the SEC during the 2 immediately preceding fiscal years, including annual reports filed with the SEC, under section 13 or 15D of the Securities Exchange Act of 1934 (15 U.S.C.A. §§ 78m and 78o-6), quarterly reports filed with the SEC, under section 13 or 15D of the Securities Exchange Act of 1934, current reports filed with the SEC, under section 13 or 15D of the Securities Exchange Act of 1934, and proxy statements issued by the applicant.**

(7) **An affirmation that neither the applicant nor any of its affiliates, intermediaries, subsidiaries or holding companies is an applicant for or holder of a slot machine [licensee] license; and that the applicant has neither applied**

for nor holds a supplier license. [In applying this provision to an applicant for a manufacturer license, the Board will not include interests that are held by individuals in any of the following manners:

(i) In mutual funds when the value of the interest owned does not exceed 1% of the total fair market value of the applicant or licensee and provided that the mutual fund is not a nondiversified fund invested primarily in entities operating in, or connected with, the gaming industry.

(ii) Through defined benefit pension plans.

(iii) Through deferred compensation plans organized and operated under section 457 of the Internal Revenue Code of 1986 (26 U.S.C.A. § 457).

(iv) In blind trusts over which the holder does not exercise managerial control or receive income during the time period the holder is subject to these provisions.

(v) Through tuition account plans organized and operated under section 529 of the Internal Revenue Code of 1986 (26 U.S.C.A. § 529).

(vi) Through plans described in section 401(k) of the Internal Revenue Code of 1986 (26 U.S.C.A. § 401(k)).

(vii) An interest held by a spouse if an action seeking a divorce and dissolution of marital status has been initiated in any jurisdiction by either party to the marriage.

(8)] (6) A sworn or affirmed statement that the applicant has developed and implemented internal safeguards and policies to prevent a violation of section 1513 of the act (relating to political influence) and a copy the safeguards and policies.

(b) In addition to the materials required under subsection (a), an applicant for a manufacturer license shall:

(1) **[Promptly provide information requested by the Board relating to the manufacturer's application or regulation and cooperate with the Board in investigations, hearings, and enforcement and disciplinary actions.**

(2)] Comply with the general application requirements in Chapters 421a and 423a (relating to general provisions; and applications).

[(3)] (2) Demonstrate that the applicant has the ability to manufacture, build, rebuild, repair, fabricate, assemble, produce, program, design or otherwise make modifications to slot machines, **table game devices or associated equipment which meet one or more of the following criteria:**

(i) Are specifically designed for use in the operation of a slot machine **or table game device.**

(ii) Are needed to conduct an authorized game.

(iii) Have the capacity to affect the outcome of the play of a game.

(iv) Have the capacity to affect the calculation, storage, collection or control of gross terminal revenue.

(c) **[An applicant for a manufacturer license will be required to reimburse the Board for any additional costs, based on the actual expenses incurred by the Board, in conducting the background investigation.**

(d)] In determining whether an applicant is suitable to be licensed as a manufacturer under this section, the Board will consider the following:

(1) The financial fitness, good character, honesty, integrity and responsibility of the applicant.

(2) If all principals of the applicant **[individually qualify] are eligible and suitable** under the standards of section 1317.1 of the act (relating to manufacturer license).

(3) The integrity of all financial backers.

(4) The suitability of the applicant and the principals **[and key employees]** of the applicant based on the satisfactory results of:

(i) The background investigation of the principals **[and key employees]**.

(ii) A current tax clearance review performed by the Department.

(iii) A current Unemployment Compensation Tax clearance review and a Workers Compensation Tax clearance review performed by the Department of Labor and Industry.

§ 427a.4. Alternative manufacturer licensing standards.

(a) If an applicant for a manufacturer license holds a similar license in another jurisdiction in the United States, the applicant may submit ~~a Manufacturer Application and Disclosure Information Form Addendum 1~~ with its application required under § 427a.2(a) (relating to manufacturer license applications and standards) A REQUEST for the Board to adopt an abbreviated licensing process under section 1319 of the act (relating to alternative manufacturer licensing standards) **[to review a manufacturer license application]**.

(b) The Board may use the abbreviated process if:

(1) The Board determines, after investigation, that the licensing standards in the jurisdiction in which the applicant is licensed are similarly comprehensive, thorough and provide equal, if not greater, safeguards as provided in the act and that granting the request is in the public interest.

(2) The applicant has provided a copy of its most recent application or renewal for the similar license in the other jurisdiction and a copy of the license or the order issued by the other jurisdiction granting the license.

(3) The applicant has no administrative or enforcement actions pending in another jurisdiction or the applicant has adequately disclosed and explained the action to the satisfaction of the Board.

(4) There are no pending or ongoing investigations of **[possible material violations by]** the applicant in another jurisdiction **which may render the applicant unsuitable** or the applicant has adequately disclosed and explained the investigation to the satisfaction of the Board.

(c) This section may not be construed to waive fees associated with obtaining a license through the application process in this Commonwealth.

§ 427a.5. Responsibilities of a manufacturer.

(a) A holder of a manufacturer license shall have a continuing duty to:

[(1) Provide information requested by the Board relating to the manufacturer's licensing or regulation; cooperate with the Board in investigations, hearings, and enforcement and disciplinary actions; and comply with conditions, restrictions, requirements, orders and rulings of the Board in accordance with the act.

(2) Report a change in circumstances that may render the holder of a manufacturer license ineligible, unqualified or

unsuitable to hold a license under the standards and requirements of the act and of this part.

(3) Provide a copy of all SEC filings listed in § 427a.2(a)(6) (relating to manufacturer license applications and standards) that are filed after the date of issuance of its license. The copy shall be submitted no later than 30 days after the date of filing with the SEC.]

(1) Comply with the general requirements in Chapters 421a and 423a (relating to general provisions; and applications).

(2) For publicly traded manufacturers, provide notification of all SEC filings or if the manufacturer is publicly traded on a foreign exchange, a copy of all filings submitted to the securities regulator that has jurisdiction over the foreign publicly traded corporation. The notification or copies of the filings shall be submitted to the Bureau of Licensing within 30 days after the date of filing with the SEC or securities regulator that has jurisdiction over the foreign publicly traded corporation.

(b) An employee of a licensed manufacturer [whose duties of employment or incidental activities related to employment require the employee to be on the gaming floor or in a restricted area shall be required to obtain an occupational] who is a gaming or nongaming employee as defined in § 401a.3

(relating to definitions) shall obtain a permit under § 435a.3 (relating to occupation permit) or registration under § 435a.5 (relating to nongaming employee registration).

[(c) A slot machine licensee may service or repair slot machines or associated equipment at its licensed facility.

(d) A slot machine licensee may perform routine maintenance directly related to the availability of slot machines for play, customer service or a clean and gracious playing environment. The routine maintenance includes installation or replacement of the following: batteries; hardware, including hinges, screws, bolts and custom handles; light bulbs; locks on slot machines and slot cash storage boxes, including the rekeying of the locks; printers, exclusive of printer software; and paper stock. Routine maintenance also includes external cleaning and the clearing of paper, bill and coin jams which do not require removal or dismantling of the mechanisms.]

(Editor's Note: The following section is new and printed in regular type to enhance readability.)

§ 427a.6. Change of control of a manufacturer licensee.

(a) For purposes of this section, a change of control of a manufacturer licensee will be deemed to have occurred when a person or group of persons acquires:

(1) More than 20% of a manufacturer licensee's securities, assets or other ownership interests.

(2) More than 20% of the securities or other ownership interests of a corporation or other form of business entity that owns directly or indirectly at least 20% of the voting or other securities or other ownership interests of the manufacturer licensee.

(3) Any other interest in a manufacturer licensee which allows the acquirer to control the manufacturer licensee.

(b) A MANUFACTURER LICENSEE SHALL NOTIFY THE BUREAU AND THE BUREAU OF LICENSING BY FILING A NOTIFICATION OF PROPOSED TRANSFER OF INTEREST FORM IMMEDIATELY UPON BECOMING AWARE OF ANY PROPOSED OR CONTEMPLATED CHANGE OF CONTROL OF THE MANUFACTURER LICENSEE.

(C) Prior to acquiring a controlling interest in a manufacturer licensee, the acquirer shall file a petition in accordance with § 493a.4 (relating to petitions generally) requesting Board approval of the acquisition. The petition must include:

(1) A copy of all documents governing the acquisition.

(2) Completed applications for the acquiring company, as required under this chapter, principals as required under Chapter 433a (relating to principal licenses) and key employees as required under § 435a.2 (relating to key employee license).

(3) An affirmation that neither the acquirer nor any of its affiliates, intermediaries, subsidiaries or holding

companies is a slot machine licensee and that the acquirer has neither applied for nor holds a supplier license.

~~(e)~~ (D) A person or group of persons seeking to acquire a controlling interest in a manufacturer licensee shall promptly provide any additional information requested by the Board and Board staff and cooperate with the Bureau in any investigations related to the petition filed under subsection (b).

~~(d)~~ (E) A person or group of persons may not acquire a controlling interest in a manufacturer licensee until the petition, required under subsection (b), has been approved. A person or group of persons seeking to acquire a controlling interest in a manufacturer licensee and the manufacturer licensee may enter into an agreement of sale that is contingent on Board approval of the petition.

~~(e)~~ (F) The requirements of this section do not apply to the acquisition of a controlling interest in a manufacturer licensee when the following conditions are met:

(1) The acquirer is an existing licensed manufacturer.

(2) The existing licensed manufacturer has provided the Bureau and the Bureau of Licensing notification and a copy of all documents governing the acquisition at least 60 days prior to the acquisition.

(3) After reviewing the documentation, the Bureau and the Bureau of Licensing determine that the filing of a petition is not required.

CHAPTER 429a. MANUFACTURER DESIGNEES

§ 429a.1. Manufacturer designee general requirements.

(a) A manufacturer designee seeking to supply or repair slot machines, **table game devices** and associated equipment for use in this Commonwealth shall apply to the Board for a manufacturer designee license.

(b) In accordance with section 1317.1 of the act (relating to manufacturer licenses), an applicant for or the holder of a manufacturer designee license or any of the applicant's or holder's affiliates, intermediaries, subsidiaries or holding companies, may not apply for or hold a slot machine license or supplier license.

(c) A licensed manufacturer designee may supply or repair slot machines, **table game devices** or associated equipment manufactured by a manufacturer with whom the manufacturer designee has an agreement or has executed a contract authorizing the manufacturer designee to do so.

[(d) Limitations will not be placed on the number of manufacturer designee licenses issued or when an application for a manufacturer designee license may be filed.]

§ 429a.2. Manufacturer designee license applications and standards.

(a) An applicant for a manufacturer designee license shall submit:

(1) An original and **[three copies] one copy** of the Manufacturer Designee Application and Disclosure Information Form unless otherwise directed by the Board.

(2) The nonrefundable application fee posted on the Board's **[website (pgcb.state.pa.us)] web site**.

(3) A diversity plan as set forth in section 1325(b) of the act (relating to license or permit issuance) and Chapter 481a (relating to diversity).

(4) An application from every key employee under § 435a.2 (relating to key employee license) and principal under Chapter 433a (relating to principal licenses) as specified by the Manufacturer Designee Application and Disclosure Information Form.

(5) **[If applicable, copies of all filings required by the SEC during the 2 immediately preceding fiscal years, including all annual reports filed with the SEC, under sections 13 or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C.A. §§ 78m and 78o-6), quarterly reports filed with the SEC, under sections 13 or 15(d) of the Securities Exchange Act of 1934, current reports filed with the SEC, under sections 13 or 15(d)**

of the Securities Exchange Act of 1934, and proxy statements issued by the applicant.

(6) An affirmation that neither the applicant nor any of its affiliates, intermediaries, subsidiaries or holding companies[, holds any direct or indirect ownership interest in any applicant for or holder of a slot machine license or supplier license, or employs, directly or indirectly, any person who satisfies the definition of a principal or key employee of a slot machine applicant or licensee or supplier applicant or licensee] is an applicant for or a holder of a slot machine license. [In applying this provision to an applicant for a manufacturer designee license, the Board will not include interests that are held by individuals in any of the following manners:

(i) In mutual funds when the value of the interest owned does not exceed 1% of the total fair market value of the applicant or licensee and provided that the mutual fund is not a nondiversified fund invested primarily in entities operating in, or connected with, the gaming industry.

(ii) Through defined benefit pension plans.

(iii) Through deferred compensation plans organized and operated under section 457 of the Internal Revenue Code of 1986 (26 U.S.C.A. § 457).

(iv) In blind trusts over which the holder may not exercise any managerial control or receive income during the time period the holder is subject to these provisions.

(v) Through tuition account plans organized and operated under section 529 of the Internal Revenue Code of 1986 (26 U.S.C.A. § 529).

(vi) Through plans described in section 401(k) of the Internal Revenue Code of 1986 (26 U.S.C.A. § 401(k)).

(vii) An interest held by a spouse if an action seeking a divorce and dissolution of marital status has been initiated in any jurisdiction by either party to the marriage.

(7)] (6) A sworn or affirmed statement that the applicant has developed and implemented internal safeguards and policies to prevent a violation of section 1513 of the act (relating to political influence) and a copy of the safeguards and policies.

(b) In addition to the materials required under subsection (a), an applicant for a manufacturer designee license shall[:

(1) Promptly provide information requested by the Board relating to its application or regulation and cooperate with the Board in investigations, hearings, and enforcement and disciplinary actions.

(2) **Comply]** comply with the general application requirements in Chapters 421a and 423a (relating to general provisions; and applications).

(c) **[An applicant for a manufacturer designee license will be required to reimburse the Board for any additional costs, based on the actual expenses incurred by the Board, in conducting the background investigation.**

(d)] In determining whether an applicant will be licensed as a manufacturer designee under this section, the Board will consider the following:

(1) The financial fitness, good character, honesty, integrity and responsibility of the applicant.

(2) If all principals of the applicant are individually eligible and suitable under the standards in section 1317.1 of the act (relating to manufacturer licenses).

(3) The integrity of all financial backers.

(4) The suitability of the applicant and all principals **[and key employees]** of the applicant based on the satisfactory results of:

(i) A background investigation of all principals **[and key employees or their equivalent in other jurisdictions]**.

(ii) A current tax clearance review performed by the Department.

(iii) A current Unemployment Compensation Tax clearance review and a Workers Compensation Tax clearance review performed by the Department of Labor and Industry.

§ 429a.3. Additional manufacturer designee licenses.

(a) A licensed manufacturer designee whose license is in good standing may **[apply] submit** for an additional manufacturer **[designee license] designation** for a different licensed manufacturer by submitting:

(1) An original and **[three copies] one copy** of the Additional Manufacturer Designee Application and Disclosure Information Form unless otherwise directed by the Board.

(2) The nonrefundable **[application] designation** fee posted on the Board's **[website (www.pgcb.state.pa.us)] web site**.

(b) **[An applicant for an additional] A** manufacturer designee **[license] that has requested an additional manufacturer designation** shall also comply with **[\$ 429a.2(b)(1), (2) and (c)] § 429a.2(b)** (relating to manufacturer designee license applications and standards).

§ 429a.4. Manufacturer designee license term and renewal.

(a) The initial manufacturer designee license will be valid for 1 year from the date of **[issuance] approval** of the license by the Board. Renewals of a manufacturer designee license will be valid for 3 years from the date of the approval of the renewal of the license by the Board.

* * * * *

§ 429a.5. Responsibilities of a manufacturer designee.

(a) A holder of a manufacturer designee license shall have a continuing duty to:

[(1) Provide information requested by the Board relating to licensing or regulation; cooperate with the Board in investigations, hearings, and enforcement and disciplinary actions; and comply with conditions, restrictions, requirements, orders and rulings of the Board in accordance with the act.

(2) Report a change in circumstances that may render a holder of a manufacturer or manufacturer designee license ineligible, unqualified or unsuitable to hold a license under the standards and requirements of the act and of this part.

(3) Provide a copy of all SEC filings listed in § 427a.2(a)(5) (relating to manufacturer license applications and standards) that are filed after the date of issuance of its license. The copy shall be submitted no later than 30 days after the date of filing with the SEC.]

(1) Comply with the general requirements in Chapters 421a and 423a (relating to general provisions; and applications).

(2) For publicly traded manufacturer designees, provide notification of all SEC filings or if the manufacturer designee is publicly traded on a foreign exchange, a copy of all

filings submitted to the securities regulator that has jurisdiction over the foreign publicly traded corporation. The notification or copies of the filings shall be submitted to the Bureau of Licensing within 30 days after the date of filing with the SEC or securities regulator that has jurisdiction over the foreign publicly traded corporation.

(b) [A holder of a manufacturer designee license shall establish a place of business in this Commonwealth.

(c)] An employee of a licensed manufacturer designee [whose duties of employment or incidental activities related to employment require the employee to be on the gaming floor or in a restricted area shall be required to obtain an occupation] who is a gaming or nongaming employee as defined in § 401a.3 (relating to definitions) shall obtain a permit under § 435a.3 (relating to occupation permit) or registration under § 435a.5 (relating to nongaming employee registration).

§ 429a.6. Manufacturer designee as agent.

(a) Notwithstanding any provision to the contrary in a contract between a licensed manufacturer and a licensed manufacturer designee, the licensed manufacturer designee shall be [deemed to be] an agent of the licensed manufacturer for the purposes of imposing liability for any act or omission of the licensed manufacturer designee in violation of the act or this part.

* * * * *

§ 429a.7. Manufacturer designee agreements.

(a) Agreements, and any amendments thereto, between a licensed manufacturer and a licensed manufacturer designee shall be submitted to the Bureau of Licensing for **[approval] review**. **[An agreement between a licensed manufacturer and a licensed manufacturer designee will not become effective and a manufacturer designee license will not be issued until the Bureau of Licensing has reviewed and approved the terms and conditions of the agreement.]**

(b) Amendments to agreements between a licensed manufacturer and a licensed manufacturer designee shall be submitted to the Bureau of Licensing for **[approval] review** at least 30 days prior to the effective date of the proposed amendment. **[The amendment may not become effective until the Bureau of Licensing has reviewed and approved the terms and conditions of the amendment.]**

(c) An agreement between a licensed manufacturer and a licensed manufacturer designee submitted for Bureau of Licensing review **[and approval]** must enumerate with specificity the responsibilities of the licensed manufacturer and the licensed manufacturer designee.

(d) Agreements must contain a provision that describes with particularity any terms related to compensation of the licensed manufacturer or the licensed manufacturer designee.

(Editor's Note: The following section is new and printed in regular type to enhance readability.)

§ 429a.8. Change of control of a manufacturer designee licensee.

(a) For purposes of this section, a change of control of a manufacturer designee licensee will be deemed to have occurred when a person or group of persons acquires:

(1) More than 20% of a manufacturer designee licensee's securities, assets or other ownership interests.

(2) More than 20% of the securities or other ownership interests of a corporation or other form of business entity that owns directly or indirectly at least 20% of the voting or other securities or other ownership interests of the manufacturer designee licensee.

(3) Any other interest in a manufacturer designee licensee which allows the acquirer to control the manufacturer designee licensee.

(b) A MANUFACTURER DESIGNEE LICENSEE SHALL NOTIFY THE BUREAU AND THE BUREAU OF LICENSING BY FILING A NOTIFICATION OF PROPOSED TRANSFER OF INTEREST FORM IMMEDIATELY UPON BECOMING AWARE OF ANY PROPOSED OR CONTEMPLATED CHANGE OF CONTROL OF THE MANUFACTURER DESIGNEE LICENSEE.

(C) Prior to acquiring a controlling interest in a manufacturer designee licensee, the acquirer shall file a petition in accordance with § 493a.4 (relating to petitions generally) requesting Board approval of the acquisition. The petition must include:

(1) A copy of all documents governing the acquisition.

(2) Completed applications for the acquiring company, as required under this chapter, principals as required under Chapter 433a (relating to principal licenses) and key employees as required under § 435a.2 (relating to key employee license).

(3) An affirmation that neither the acquirer nor any of its affiliates, intermediaries, subsidiaries or holding companies is a slot machine licensee and that the acquirer has neither applied for nor holds a supplier license.

~~(e)~~ (D) A person or group of persons seeking to acquire a controlling interest in a manufacturer designee licensee shall promptly provide any additional information requested by the Board and Board staff and cooperate with the Bureau in any investigations related to the petition filed under subsection (b).

~~(d)~~ (E) A person or group of persons may not acquire a controlling interest in a manufacturer designee licensee until the petition, required under subsection (b), has been approved. A person or group of persons seeking to acquire a controlling

interest in a manufacturer designee licensee and the manufacturer designee licensee may enter into a sales agreement that is contingent on Board approval of the petition.

~~(e)~~ (F) The requirements of this section do not apply to the acquisition of a controlling interest in a manufacturer designee licensee when the following conditions are met:

(1) The acquirer is an existing licensed manufacturer designee.

(2) The existing licensed manufacturer designee has provided the Bureau and the Bureau of Licensing notification and a copy of all documents governing the acquisition at least 60 days prior to the acquisition.

(3) After reviewing the documentation, the Bureau and the Bureau of Licensing determine that the filing of a petition is not required.

CHAPTER 431a. SUPPLIER LICENSES

§ 431a.1. Supplier general requirements.

(a) A supplier seeking to sell, lease, offer or otherwise provide, distribute or service slot machines, **table game devices** or associated equipment to a slot machine licensee within this Commonwealth [**through a contract with a licensed manufacturer**] shall apply to the Board for a supplier license.

(b) In accordance with sections 1317 and 1317.1 of the act (relating to supplier licenses; and manufacturer licenses), an

applicant for or the holder of a supplier license or any of the applicant's or holder's affiliates, intermediaries, subsidiaries or holding companies, may not apply for or hold a slot machine license or a manufacturer license.

[(c) Limitations will not be placed on the number of supplier licenses issued or when an application for a supplier license may be filed.]

§ 431a.2. Supplier license applications and standards.

(a) An applicant for a supplier license shall submit:

(1) An original and **[three copies] one copy** of the Supplier Application and Disclosure Information Form for the applicant and each of the applicant's **[affiliated entities] principal affiliates**.

(2) The nonrefundable application fee posted on the Board's **[website (pgcb.state.pa.us)] web site**.

(3) A diversity plan as set forth in section 1325(b) of the act (relating to license or permit issuance) and Chapter 481a (relating to diversity).

(4) An application from every key employee under § 435a.2 (relating to key employee license) and principal under Chapter 433a (relating to principal licenses) as specified by the Supplier Application and Disclosure Information Form and other persons as determined by the Board

(5) [A Gaming Employee Application and Disclosure Information Form for each of the supplier's known gaming employees.

(6) If applicable, copies of all filings required by the SEC during the 2 immediately preceding fiscal years, including all annual reports filed under section 13 or 15D of the Securities Exchange Act of 1934 (15 U.S.C.A. §§ 78a and 78o(d)), quarterly reports filed under section 13 or 15D of the Securities Exchange Act of 1934, current reports filed under section 13 or 15D of the Securities Exchange Act of 1934, and proxy statements issued by the applicant.

(7)] An affirmation that neither the applicant nor any of its affiliates, subsidiaries, intermediaries and holding companies [holds any direct or indirect ownership interest in an applicant for or holder of a manufacturer license or slot machine licensee, or employs, directly or indirectly, any person who satisfies the definition of a principal or key employee of a manufacturer or slot machine applicant or licensee] is an applicant for or holder of a slot machine license. [In applying this provision to an applicant for a supplier license, the Board will not include interests that are held by individuals in any of the following manners:

(i) In mutual funds when the value of the interest owned does not exceed 1% of the total fair market value of the

manufacturer or slot machine applicant or licensee and provided that the mutual fund is not a nondiversified fund invested primarily in entities operating in, or connected with, the gaming industry.

(ii) Through defined benefit pension plans.

(iii) Through deferred compensation plans organized and operated under section 457 of the Internal Revenue Code of 1986 (26 U.S.C.A. § 457).

(iv) In blind trusts over which the holder does not exercise any managerial control or receive income during the time period the holder is subject to these provisions.

(v) Through tuition account plans organized and operated under section 529 of the Internal Revenue Code (26 U.S.C.A. § 529).

(vi) Through plans described in section 401(k) of the Internal Revenue Code (26 U.S.C.A. § 401(k)).

(vii) An interest held by a spouse if an action seeking a divorce and dissolution of marital status has been initiated in any jurisdiction by either party to the marriage.

(8)] (6) A sworn or affirmed statement that the applicant has developed and implemented internal safeguards and policies to prevent a violation of section 1513 of the act (relating to political influence) and a copy the safeguards and policies.

(b) In addition to the materials required under subsection (a), an applicant for a supplier license shall:

(1) **[Promptly provide information requested by the Board relating to the supplier's application or regulation and cooperate with the Board in investigations, hearings, and enforcement and disciplinary actions.]**

(2) Comply with the general application requirements in Chapters 421a and 423a (relating to general provisions; and applications).

[(3)] (2) Demonstrate that the applicant has or will establish a principal place of business in this Commonwealth.

(c) **[An applicant for a supplier license shall be required to reimburse the Board for any additional costs, based on the actual expenses incurred by the Board, in conducting the background investigation.]**

(d) In determining whether an applicant is suitable to be licensed as a supplier under this section, the Board will consider the following:

(1) The financial fitness, good character, honesty, integrity and responsibility of the applicant.

(2) If all principals of the applicant **[individually qualify] are eligible and suitable** under the standards of section 1317 of the act (relating to supplier licenses).

(3) The integrity of financial backers.

(4) The suitability of the applicant and principals [and key employees] of the applicant based on the satisfactory results of:

(i) A background investigation of principals [and key employees].

(ii) A current tax clearance review performed by the Department.

(iii) A current Unemployment Compensation Tax clearance review and a Workers Compensation Tax clearance review performed by the Department of Labor and Industry.

§ 431a.3. Supplier license term and renewal.

(a) The initial supplier license will be valid for 1 year from the date of [issuance] approval of the license by the Board. Renewals of a supplier license will be valid for 3 years from the date of the approval of the renewal of the license by the Board.

* * * * *

§ 431a.4. Responsibilities of a supplier.

* * * * *

(b) [At the time of licensure, a supplier shall have assets or available lines of credit to support the sale, financing, servicing or repair of all slot machines to be placed in service or repaired by the supplier. The assets and available lines of credit shall be from a source independent of slot machine

manufacturers and licensed gaming entities. Notwithstanding the forgoing, a licensed manufacturer may extend financing or payment terms to a licensed supplier, at prevailing market rates and terms, for the acquisition or leasing of slot machines, to be secured by the slot machines sold, leased or transferred.

(c) A supplier shall submit to the [Board] Bureau of Licensing for review any agreements with a licensed manufacturer or with a slot machine licensee ~~and detailed business plans~~. The [Board's] review may include, but not be limited to, financing arrangements, inventory requirements, warehouse requirements, warehouse space, technical competency, compensative agreements and other terms or conditions to ensure the financial independence of the licensed supplier from any licensed manufacturer or licensed gaming entity.

[(d)] (c) A holder of a supplier license shall have a continuing duty to:

[(1) Provide information requested by the Board relating to licensing or regulation; cooperate with the Board in investigations, hearings, and enforcement and disciplinary actions; and comply with conditions, restrictions, requirements, orders and rulings of the Board in accordance with the act.

(2) Report a change in circumstances that may render the holder of a supplier license ineligible, unqualified or

unsuitable to hold a license under the standards and requirements of the act and of this part.

(3) Provide a copy of the SEC filings listed in § 431a.2(a)(6) (relating to supplier license applications and standards) that are filed after the date of issuance of its license. The copy shall be submitted within 30 days after the date of filing with the SEC.]

(1) Comply with the general requirements in Chapters 421a and 423a (relating to general provisions; and applications).

(2) For publicly traded suppliers, provide notification of all SEC filings or, if the supplier is publicly traded on a foreign exchange, a copy of all filings submitted to the securities regulator that has jurisdiction over the foreign publicly traded corporation. The notification or copies of the filings shall be submitted to the Bureau of Licensing within 30 days after the date of filing with the SEC or securities regulator that has jurisdiction over the foreign publicly traded corporation.

[(e)] (d) An employee of a licensed supplier [whose duties of employment or incidental activities related to employment allow the employee access to slot machines or associated equipment or require the employee to be on the gaming floor or in a restricted area shall be required to obtain an occupation]

who is a gaming or nongaming employee as defined in § 401a.3 (relating to definitions) shall obtain a permit under § 435a.3 (relating to occupation permit) or registration under § 435a.5 (relating to nongaming employee registration).

[(f) A slot machine licensee may service or repair slot machines or associated equipment at its licensed facility.

(g) A slot machine licensee may perform routine maintenance directly related to the availability of slot machines for play, customer service or a clean and gracious playing environment. The routine maintenance includes installation or replacement of the following: batteries; hardware, including hinges, screws, bolts and custom handles; light bulbs; locks on slot machines and slot cash storage boxes, including the rekeying of the locks; printers, exclusive of printer software; and paper stock. Routine maintenance also includes external cleaning and the clearing of paper, bill and coin jams which do not require removal or dismantling of the mechanisms.

(h) A licensed manufacturer or a manufacturer's designee may supply, install, service or repair slot machines or associated equipment manufactured by the licensed manufacturer.]

§ 431a.5. Supplier log books.

* * * * *

(b) The supplier licensee shall record or cause to be recorded in the log book the following:

* * * * *

(5) [If applicable] For individuals who are not employees of the supplier, the individual's Board license, permit, certification or registration number, if applicable.

* * * * *

(*Editor's Note:* The following section is new and printed in regular type to enhance readability.)

§ 431a.6. Change of control of a supplier licensee.

(a) For purposes of this section, a change of control of a supplier licensee will be deemed to have occurred when a person or group of persons acquires:

(1) More than 20% of a supplier licensee's securities, assets or other ownership interests.

(2) More than 20% of the securities or other ownership interests of a corporation or other form of business entity that owns directly or indirectly at least 20% of the voting or other securities or other ownership interests of the supplier licensee.

(3) Any other interest in a supplier licensee which allows the acquirer to control the supplier licensee.

(b) A SUPPLIER LICENSEE SHALL NOTIFY THE BUREAU AND THE BUREAU OF LICENSING BY FILING A NOTIFICATION OF PROPOSED TRANSFER OF INTEREST FORM IMMEDIATELY UPON BECOMING AWARE OF ANY

PROPOSED OR CONTEMPLATED CHANGE OF CONTROL OF THE SUPPLIER
LICENSEE.

(C) Prior to acquiring a controlling interest in a supplier licensee, the acquirer shall file a petition in accordance with § 493a.4 (relating to petitions generally) requesting Board approval of the acquisition. The petition must include:

(1) A copy of all documents governing the acquisition.

(2) Completed applications for the acquiring company, as required under this chapter, principals as required under Chapter 433a (relating to principal licenses) and key employees as required under § 435a.2 (relating to key employee license).

(3) An affirmation that neither the acquirer nor any of its affiliates, intermediaries, subsidiaries or holding companies is a slot machine licensee and that the acquirer has neither applied for nor holds a manufacturer license.

~~(e)~~ (D) A person or group of persons seeking to acquire a controlling interest in a supplier licensee shall promptly provide any additional information requested by the Board and Board staff and cooperate with the Bureau in any investigations related to the petition filed under subsection (b).

~~(d)~~ (E) A person or group of persons may not acquire a controlling interest in a supplier licensee until the petition, required under subsection (b), has been approved. A person or group of persons seeking to acquire a controlling interest in a

supplier licensee and the supplier licensee may enter into a sales agreement that is contingent on Board approval of the petition.

~~(e)~~ (F) The requirements of this section do not apply to the acquisition of a controlling interest in a supplier licensee when the following conditions are met:

(1) The acquirer is an existing licensed supplier.

(2) The existing licensed supplier has provided the Bureau and the Bureau of Licensing notification and a copy of all documents governing the acquisition at least 60 days prior to the acquisition.

(3) After reviewing the documentation, the Bureau and the Bureau of Licensing determine that the filing of a petition is not required.

CHAPTER 433a. PRINCIPAL LICENSES

§ 433a.1. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

* * * * *

Officer – A president, chief executive officer, chief operating officer, secretary, treasurer, principal legal officer, principal compliance officer, principal financial officer, principal accounting officer, chief engineer or

technical officer of a manufacturer, **[principal slot operations officer of a slot machine licensee,]** senior surveillance and audit executives of a principal affiliate of a slot machine licensee and any person routinely performing corresponding functions with respect to an entity whether incorporated or unincorporated.

* * * * *

§ 433a.3. Interests in licensees held by individuals.

(a) An individual shall apply for and obtain a principal license from the Board prior to possessing any of the following:

(1) A direct ownership interest in a slot machine or management company licensee.

(2) A 1% or greater indirect ownership interest in a slot machine or management company licensee. An ownership interest that is held indirectly by an individual through one or more intervening entities will be determined by successive multiplication of the ownership percentages for each link in the vertical chain.

(3) A right to receive a payment from a slot machine **or management company** licensee based **[directly or indirectly on the] or contingent upon a licensee's** earnings, profits or receipts from the slot machines, table games and associated equipment for use or play in this Commonwealth.

* * * * *

(d) An individual seeking to acquire a direct or indirect ownership interest of 20% or greater in a licensed manufacturer, licensed supplier or licensed manufacturer designee shall [submit the following, at least 30 days prior to acquiring the ownership interest:] comply with the requirements in § 427a.6, § 429a.8 or § 431a.6 (relating to change of control of a manufacturer licensee; change of control of a manufacturer designee licensee; and change of control of a supplier licensee).

[(1) A Notification of a Change in Control of a Licensee Form.

(2) A completed principal application.

(e) Notwithstanding subsection (d), the Board may require an individual to obtain a principal license prior to acquiring a direct or indirect ownership interest of 20% or greater in a licensed manufacturer, licensed supplier or licensed manufacturer designee.

[(f)] (e) Notwithstanding subsections (a) and (b), an individual whose INDIRECT ownership interest in a licensee consists of less than 5% of the voting securities of a publicly traded corporation will not be required to be licensed as a principal.

[(g)] (f) Notwithstanding subsections (a) and (b), an individual who indirectly owns less than 5% of the voting

securities of a publicly traded corporation through one or more privately held entities will not be required to be licensed as a principal.

[(h)] (g) Notwithstanding subsections (a) and (b), an individual who indirectly owns less than 5% of the voting securities of a publicly traded corporation through a private investment fund that has been exempted from licensure under § 433a.4(h) (relating to interests in licensees held by entities) will not be required to be licensed as a principal.

[(i)] (h) Notwithstanding any provision in this section, the Board may require any individual who has any financial interest in a licensee to be licensed as a principal.

§ 433a.4. Interests in licensees held by entities.

(a) An entity shall apply for and obtain a principal license prior to possessing any of the following:

(1) A direct ownership interest in a slot machine or management company licensee.

(2) A 1% or greater indirect ownership interest in a slot machine or management company licensee. An ownership interest that is held indirectly by an entity through one or more intervening entities will be determined by successive multiplication of the ownership percentages for each link in the vertical chain.

(3) A right to receive a payment from a slot machine or management company licensee based [**directly or indirectly on**] **or contingent upon** the earnings, profits or receipts from the slot machines, table games and associated equipment for use or play in this Commonwealth.

* * * * *

(d) An entity seeking to acquire a direct or indirect ownership interest of 20% or greater in a licensed manufacturer, licensed supplier or licensed manufacturer designee shall [**submit the following, at least 30 days prior to acquiring the ownership interest:**] comply with the requirements in § 427a.6, § 429a.8 or § 431a.6 (relating to change of control of a manufacturer licensee; change of control of a manufacturer designee licensee; and change of control of a supplier licensee).

[(1) A notification of a change in control of a licensee form.

(2) A completed principal application.

(e) Notwithstanding subsection (d), the Board may require an entity to obtain a principal license prior to acquiring a direct or indirect ownership interest of 20% or greater in a licensed manufacturer, licensed supplier or licensed manufacturer designee.

(f)] (e) Notwithstanding subsections (a) and (b), an entity that indirectly owns WHOSE INDIRECT OWNERSHIP INTEREST IN A LICENSEE CONSISTS OF less than 5% of the voting securities of a publicly traded corporation will not be required to be licensed as a principal.

[(g)] (f) Notwithstanding subsections (a) and (b), an entity that indirectly owns less than 5% of the voting securities of a publicly traded corporation through one or more privately held entities will not be required to be licensed as a principal.

[(h)] (g) Notwithstanding subsections (a) and (b), a private investment fund and its related management entities will not be required to be licensed as a principal if the following apply:

* * * * *

[(i)] (h) The Board may require a subsidiary of a licensee to be licensed as a principal.

[(j)] (i) Notwithstanding any provision to the contrary in this section, the Board may require any entity that has any financial interest in a licensee to be licensed as a principal.

§ 433a.5. Institutional investors.

(a) An institutional investor may file an Institutional Investor Notice of Ownership Form **and Passive Investor**

Affirmation with the Bureau of Licensing in lieu of applying for principal licensure required under this chapter, if:

(1) The institutional investor owns or beneficially owns more than 5% but less than ~~[15%]~~ **20%** of the outstanding voting securities of a publicly traded corporation that is a principal affiliate of a manufacturer licensee, manufacturer designee licensee[,] **or supplier licensee[, or management company licensee]** **OR APPLICANT** and has filed and remains eligible to file a statement of beneficial ownership on Schedule 13G with the SEC as a result of the institutional investor's ownership interest in the publicly traded corporation.

(2) The institutional investor owns or beneficially owns more than 5% but less than 10% of the outstanding voting securities of a publicly traded corporation that is a principal affiliate of a slot machine **or management company licensee** and has filed and remains eligible to file a statement of beneficial ownership on Schedule 13G with the SEC as a result of the institutional investor's ownership interest in the publicly traded corporation. **In addition to filing an Institutional Investor Notice of Ownership Form and Passive Affirmation, if an institutional investor seeks to own 10% or more but less than 20% of the outstanding voting securities of a publicly traded corporation that is a principal affiliate of a slot machine or management company licensee:**

(i) The institutional investor seeking to acquire the interest shall promptly provide information requested by the Bureau relating to the institutional investor, its operations and sources of funds. The information provided to the Bureau will be deemed confidential when submitted.

(ii) Within 5 days of receipt of all requested information, the Bureau will issue a written response relating to the proposed acquisition. If the Bureau does not cite an objection, the transaction may thereafter be consummated. If the Bureau objects to the acquisition, the institutional investor shall file a petition with THE Board in accordance with § 493a.4 (relating to petitions generally) for approval prior to acquiring the interest.

(b) If an institutional investor's purpose for holding an interest in a publicly traded corporation that is a principal affiliate of a slot machine, management company, manufacturer, manufacturer designee or supplier licensee changes from that of a passive investor, whereby the institutional investor files a Schedule 13D with the SEC indicating that its ownership interest is no longer passive, the institutional investor shall notify the Bureau of Licensing, in writing, within 2 days of filing the Schedule 13D with the SEC. The institutional investor shall then apply for licensure as a principal, in accordance with this chapter, within 30 days of filing the Schedule 13D with the SEC.

(c) Notwithstanding the requirements in subsections (a) and (b), if the institutional investor has an ownership interest in a publicly traded corporation, which is a principal affiliate of a licensee, that is listed on a foreign exchange in which a Schedule 13G is not filed, the institutional investor shall file a copy of the corresponding passive investor form filed with the securities regulator that has jurisdiction over the foreign publicly traded corporation.

[(b)] (d) The institutional investor shall file the Institutional Investor Notice of Ownership Form with the Bureau of Licensing within 30 days of the institutional investor filing its Schedule 13G with the SEC or the corresponding passive investor form with the securities regulator that has jurisdiction over the foreign publicly traded corporation.

§ 433a.6. Lenders and underwriters.

(a) Each lender and underwriter of a slot machine, management company, manufacturer, MANUFACTURER DESIGNEE or supplier licensee shall be licensed as a principal.

(b) Notwithstanding subsection (a), a lender that is a bank or lending institution which makes a loan to a slot machine, management company, manufacturer, MANUFACTURER DESIGNEE or supplier licensee in the ordinary course of business will not be required to be licensed as a principal. The Board may require a

bank or lending institution to provide information or other assurances to verify its eligibility for this exemption.

* * * * *

(e) A person that acquires a debt instrument issued by a licensed supplier, ~~licensed manufacturer~~, **MANUFACTURER DESIGNEE**, ~~licensed management company~~, slot machine licensee or principal affiliate of a slot machine licensee in a secondary market shall not be required to be licensed as a principal if:

(1) The person does not have any right or ability to control or influence the affairs of the licensee.

(2) The person's acquisition of the debt instrument is in the ordinary course of business and is not part of a plan or scheme to avoid the requirements of this section.

(f) Notwithstanding any provision to the contrary in this section, the Board may require the licensure of any person that holds a debt instrument issued by a licensee or any principal affiliate or subsidiary of a licensee **[if the Board has reason to believe that the person would not satisfy the character requirements of section 1310(a) of the act (relating to slot machine license application character requirements)]** IF BOARD STAFF HAS REASON TO BELIEVE THAT THE SUITABILITY OF THE PERSON MAY BE AT ISSUE.

§ 433a.7. Trusts.

(a) A trust or similar business entity shall apply for and obtain a principal license prior to possessing any of the following:

(1) A direct ownership interest in a slot machine or management company licensee.

(2) A 1% or greater indirect ownership interest in a slot machine or management company licensee. An ownership interest that is held indirectly by an individual through one or more intervening entities will be determined by successive multiplication of the ownership percentages for each link in the vertical chain.

(3) A right to receive a payment from a slot machine licensee based **[directly or indirectly on the] or contingent upon a licensee's** earnings, profits or receipts from the slot machines, table games and associated equipment for use or play in this Commonwealth.

* * * * *

(b) A trust or similar business entity shall **[notify the Board and]** submit a completed application in accordance with § 433a.8 (relating to principal applications) prior to possessing any of the following:

* * * * *

(c) **[Each] If a trust is required to be licensed as a principal in accordance with this section, each** trustee, grantor

and beneficiary, including a minor child beneficiary, of **[a trust required to be licensed as a principal under this section shall be required to]** the trust shall also be licensed as a principal.

* * * * *

§ 433a.8. Principal applications.

(a) An individual required to be licensed as a principal, unless otherwise directed by the Board, shall file:

(1) An original and **[three copies] one copy** of a completed **[Multi Jurisdictional] Multi-Jurisdictional** Personal History Disclosure Form.

(2) An original and **[three copies] one copy** of a completed Principal/Key Employee Form—Pennsylvania Supplement to the **[Multi Jurisdictional] Multi-Jurisdictional** Personal History Disclosure Form.

(3) **[Executed releases requested by the Board, including releases whereby the applicant consents to the release of information that may be requested by the individual pursuant to the Freedom of Information Act (5 U.S.C.A. § 552) to the Board. (4)]** The nonrefundable application fee posted on the Board's web site **[(www.pgcb.state.pa.us)]**.

(b) A principal entity required to be licensed as a principal shall file a completed Principal Entity Form and

submit the applicable application fee posted on the Board's web site [(www.pgcb.state.pa.us)].

(c) A principal affiliate shall apply for a principal license as if the principal affiliate were applying for the slot machine license, manufacturer license, manufacturer designee license, supplier license or management company license.

(d) In addition to the materials required under subsections (a) or (b), an applicant for a principal license shall[:

(1) Promptly provide information requested by the Board relating to the principals' application or regulation and cooperate with the Board in investigations, hearings and enforcement and disciplinary actions.

(2) Comply] comply with the general application requirements in Chapters 421a and 423a (relating to general provisions; and applications).

**CHAPTER 435a. KEY, GAMING AND NONGAMING EMPLOYEES; BOARD-ISSUED
CREDENTIALS**

§ 435a.1. General provisions.

(a) An individual seeking a key employee license, occupation permit or nongaming employee registration shall apply to the Board as required by this chapter.

(b) In addition to the materials required under §§ 435a.2, 435a.3 and 435a.5 (relating to key employee license; occupation

permit; and nongaming employee registration), an applicant shall[:

(1) Promptly provide information requested by the Board relating to its application or regulation and cooperate with the Board in investigations, hearings, and enforcement and disciplinary actions.

(2) Comply] comply with the general application requirements in Chapters 421a and 423a (relating to general provisions; and applications).

(c) [An individual who receives a license, permit or registration under this part shall have the continuing duty to report to the Board an arrest, charge, indictment or conviction for:

(1) An offense involving moral turpitude.

(2) An offense under 18 Pa.C.S. (relating to crimes and offenses).

(3) An offense under 75 Pa.C.S. (relating to vehicles) which is punishable by 1 year or more.

(4) An offense under section 13 of The Controlled Substance, Drug, Device and Cosmetic Act (35 P.S. § 780-113(a)) regarding prohibited acts; penalties.

(5) Any felony offense.

(6) Comparable offenses in other states or foreign jurisdictions.

(d) The holder of a key employee license, occupation permit, or nongaming employee registration shall provide an updated photograph at the request of [the] Board staff.

(e) An individual may not be employed in this Commonwealth by an applicant for or holder of a license, certification or registration under this part in any capacity unless the individual is a citizen of the United States or can demonstrate that he holds a current and valid work authorization and is not restricted from working in the capacity for which employment is sought or held. Authorization to work in the United States may be demonstrated by submitting one of the following:

(1) A permanent resident alien card.

(2) A temporary employment authorization card.

(3) A document which the Board deems to be sufficient evidence or authorization.

(f) A principal or key employee license will not be issued to an individual who has been convicted of a felony offense in any jurisdiction.

(g) A principal or key employee license will not be issued to an individual who has been convicted of a misdemeanor gambling offense in any jurisdiction, unless 15 years have elapsed from the date of conviction for the offense.

(h) A permit will not be issued to an individual who has been convicted of a felony offense or misdemeanor gambling

offense in any jurisdiction unless 15 years have elapsed from the date of conviction for the offense.

(i) When considering an application for a registration from an individual who has been convicted of a felony or misdemeanor gaming offense in any jurisdiction, an application for a permit from an individual who has been convicted of a felony or misdemeanor gaming offense in any jurisdiction when 15 years have elapsed from the date of the conviction for the offense, or an application for a license from an individual who has been convicted of a misdemeanor gaming offense in any jurisdiction when 15 years have elapsed from the date of the conviction for the offense, Board will consider:

(1) The nature and duties of the applicant's position with the licensed entity.

(2) The nature and seriousness of the offense or conduct.

(3) The circumstances under which the offense or conduct occurred.

(4) The age of the applicant when the offense or conduct was committed.

(5) Whether the offense or conduct was an isolated or a repeated incident.

(6) Evidence of rehabilitation, including good conduct in the community, counseling or psychiatric treatment received

and the recommendation of persons who have substantial contact with the applicant.

(j) For purposes of this section, a felony offense is any of the following:

(1) An offense punishable under the laws of this Commonwealth by imprisonment for more than 5 years.

(2) An offense which, under the laws of another jurisdiction, is either:

(i) Classified as a felony.

(ii) Punishable by imprisonment for more than 5 years.

(3) An offense under the laws of another jurisdiction which, if committed in this Commonwealth, would be subject to imprisonment for more than 5 years.

(k) An individual who holds a license, permit or registration and is currently employed by or associated with a slot machine licensee may not wager at any slot machine or table game in the licensed facility in which the licensee, permittee or registrant is currently employed or associated. The licensed, permitted or registered individual shall wait at least 30 days following the date that the individual is no longer employed in a position that requires a license, permit or registration before the individual may wager at the licensed facility.

(l) An employee of a slot machine licensee who is not required to obtain a license, permit or registration may not wager at the licensed facility in which the employee is currently employed.

(m) An individual who holds a license, permit or registration and is currently employed by a manufacturer, manufacturer designee, supplier or gaming related gaming service provider may not wager at any slot machine or table game in the licensed facility in which the individual is servicing or installing table games, table game devices, slot machines or associated equipment while the individual is at the licensed facility in the performance of the individual's job duties.

(n) An individual who is a qualifier of a gaming junket enterprise or an individual who is employed as a gaming junket representative may not wager at any slot machine or table game at the licensed facility at which the gaming junket enterprise has an ongoing contractual agreement.

(o) An individual required to obtain a license or permit by this part shall demonstrate that he is current and not in arrears on any financial obligation owed to the Commonwealth or any subdivision thereof, including court-ordered child-support payments.

(p)] (d) An applicant for an occupation permit or nongaming employee registration shall be at least 18 years of age.

[(q)] (e) Slot machine licensees, manufacturers, manufacturer designees, suppliers, gaming service providers and gaming related gaming service providers that hire an individual who holds a **key employee** license, permit or registration issued by the Board shall contact the Bureau of Licensing to confirm that the individual's **key employee** license, permit or registration is in good standing prior to allowing the individual to work in the licensed facility.

§ 435a.2. Key employee license.

(a) An individual may not perform duties associated with a position that requires a key employee license prior to receiving a temporary or permanent credential unless otherwise authorized by the Board. An applicant for a key employee license shall submit:

(1) An original and one copy of a completed Multi-Jurisdictional Personal History Disclosure Form.

(2) An original and one copy of a completed Principal/Key Employee Form—Pennsylvania Supplement to the Multi-Jurisdictional Personal History Disclosure Form.

(3) **[Executed releases requested by the Board, including releases whereby the applicant consents to the release of information requested under section 1 of the Freedom of Information Act (5 U.S.C.A. § 552).**

(4)] The nonrefundable application fee posted on the Board's web site [(www.pgcb.pa.gov)].

(b) In addition to the materials required under subsection (a), an applicant for a key employee license shall[:

(1) Promptly provide information requested by the Board relating to an application and cooperate with the Board in investigations, hearings, and enforcement and disciplinary actions.

(2) Comply] comply with the general application requirements in Chapters 421a and 423a (relating to general provisions; and applications).

(c) [In addition to the information under subsections (a) and (b), the Board may require letters of reference from law enforcement agencies under section 1310(b) of the act (relating to slot machine license application character requirements).

(d) An applicant for a key employee license will be required to reimburse the Board for additional costs, based on the actual expenses incurred by the Board, in conducting the background investigation.

(e)] After reviewing the [information submitted under subsections (a), (b) and (c),] application and the results of the applicant's background investigation, the Board may issue a key employee license if the individual has proven that he is a

person of good character, honesty and integrity and is eligible and suitable to be licensed as a key employee.

[(f)] (d) A **key employee** license issued **[under this section]** will be valid for employment with any licensed entity.

§ 435a.3. Occupation permit.

(a) An applicant for **[an] a gaming employee** occupation permit shall submit:

(1) An original and one copy of the Gaming Employee Application and Disclosure Information Form or an electronic application using the SLOTS Link system. When an application for an **[occupational] occupation** permit is filed using SLOTS Link, **[the] any** additional documents required, including releases, shall be submitted to the Board:

(i) Within 5 days of the submission of the SLOTS Link application by an applicant for or holder of a slot machine license.

(ii) Within 10 days of the submission of the SLOTS Link application by an applicant for or holder of a manufacturer, manufacturer designee, or supplier license or a gaming related gaming service provider certification or gaming service provider registration **[or]**, certification **or authorization**.

(2) The nonrefundable application fee posted on the Board's web site **[(www.pgcb.pa.gov)]**.

(3) Verification of an offer of employment from a licensed entity.

(b) In addition to the materials required under subsection (a), an applicant for **[an] a gaming employee** occupation permit shall[:

(1) Promptly provide information requested by the Board relating to his application and cooperate with the Board in investigations, hearings, and enforcement and disciplinary actions.

(2) **Comply]** comply with the general application requirements in Chapters 421a and 423a (relating to general provisions; and applications).

(c) **[An applicant for an occupation permit may be required to reimburse the Board for additional costs, based on the actual expenses incurred by the Board, in conducting the background investigation.**

(d) **]** After **[review of the information submitted under subsections (a) and (b), including a] reviewing the application and the results of the applicant's** background investigation, the Board may issue a **gaming employee occupation** permit if the individual has proven that the individual is a person of good character, honesty and integrity and is eligible and suitable to hold an occupation permit.

~~[(e)]~~ (d) An individual who wishes to receive ~~[an]~~ **a gaming employee** occupation permit under this chapter may authorize an applicant for or holder of a slot machine, management company, manufacturer, manufacturer designee or supplier license or gaming related gaming service provider certification or gaming service provider registration ~~[or]~~, certification ~~or~~ **authorization** to file an application on the individual's behalf.

~~[(f)]~~ (e) A **gaming employee occupation** permit issued under this section ~~[shall]~~ **will** be valid for employment with any licensed entity, any certified gaming related gaming service provider or any registered or certified gaming service provider.

§ 435a.5. Nongaming employee registration.

(a) An applicant for a nongaming employee registration shall submit:

(1) An original and one copy of the Nongaming Employee Registration Form or an electronic application using the SLOTS Link system. When an application for a nongaming employee registration is filed using SLOTS Link, ~~[the]~~ **any** additional documents required, including releases, shall be submitted to the Board:

(i) Within 5 days of the submission of the SLOTS Link application by an applicant for or holder of a slot machine license.

(ii) Within 10 days of the submission of the SLOTS Link application by an applicant for or holder of a manufacturer, manufacturer designee, or supplier license or an applicant for or holder of a gaming service provider registration or certification.

(2) The nonrefundable application fee posted on the Board's web site [www.pgcb.pa.gov].

(b) In addition to the materials required under subsection (a), an applicant for a nongaming employee registration shall:

(1) Promptly provide information requested by the Board relating to his application and cooperate with the Board in investigations, hearings, and enforcement and disciplinary actions.

(2) Comply with the general application requirements in Chapters 421a and 423a (relating to general provisions; and applications).

(c) After review of the **[information required under subsections (a) and (b)] application**, the Board may register the individual if the individual has proven that he is eligible and suitable to be registered under this section.

(d) An individual who wishes to receive a nongaming employee registration under this chapter may authorize an applicant for or holder of a slot machine, **manufacturer, manufacturer designee or supplier** license or a gaming service

provider registration or certification to file an application on the individual's behalf.

(e) A registration issued under this section is valid for employment with any slot machine, **manufacturer, manufacturer designee or supplier** licensee or registered [**or**], certified **or authorized** gaming service provider.

(f) A registration issued under this section will be valid for 4 years from the date of Board approval. ~~If a registrant is not employed for 2 years in a position that requires a nongaming registration, the registration will be deemed expired.~~

(g) A renewal application shall be submitted to the Board at least 60 days prior to the expiration of a registration **credential.**

(h) A REGISTRATION FOR WHICH A COMPLETED RENEWAL APPLICATION AND FEE HAS BEEN RECEIVED BY THE BOARD WILL CONTINUE IN EFFECT UNTIL THE BOARD SENDS WRITTEN NOTIFICATION TO THE HOLDER OF THE REGISTRATION THAT THE BOARD HAS APPROVED OR DENIED THE RENEWAL REGISTRATION.

§ 435a.6. Board credentials.

* * * * *

(c) A State employee required to obtain a Board credential shall carry the Board credential on his person at all times while engaged in the performance of his duties on the premises of a licensed facility.

(d) An individual who is not a State employee, who is required to obtain a Board credential and whose duties **[do]:**

(1) **Do** not require the individual to be on the gaming floor or in a restricted area, shall carry the Board credential on his person at all times while engaged in the performance of his duties on the premises of a licensed facility. **[An individual who is not a State employee, who is required to obtain a Board credential and whose duties require]**

(2) **Require** the individual to be on the gaming floor or in a restricted area, shall display the Board credential on his person at all times while engaged in the performance of his duties on the premises of a licensed facility. A food and beverage employee of a slot machine licensee who is required to obtain a Board credential and whose duties require the individual to be on the gaming floor may carry, instead of display, the employee's Board credential if:

[(1)] (i) The employee displays the access badge required under § 465a.12 (relating to access badges **and temporary access credentials**).

[(2)] (ii) The access badge displays a unique identification number that has been assigned to that employee and which can be read by the slot machine licensee's surveillance system.

[(d) Except as provided in § 435a.7 (relating to emergency credentials), slot] (e) Slot machine and management company licensees are prohibited from allowing a principal who is required to obtain a credential, a key employee, gaming employee or nongaming employee registrant to perform his duties on the premises of a licensed facility unless the employee [has his Board] is in possession of a Board-issued credential.

[(e) Notwithstanding subsection (a), the Board may, upon written request by a slot machine or management company licensee and upon a showing of good cause, exempt certain positions, titles or persons from the requirements of this section.]

(f) An employee whose license, permit or registration has been suspended or revoked by the Board shall surrender the Board credential to **[the] Board staff.**

§ 435a.8. Temporary credentials [for principals, key employees and gaming employees].

(a) A temporary credential may be issued by the Board to a principal, key employee or gaming employee.

(b) A temporary credential issued **[under this section is void a maximum of 180 days after]** to a principal, key employee or gaming employee is valid for up to ~~180~~ 270 days from the date of its issuance.

(c) The Board may extend the expiration date of a temporary credential **issued to a principal, key employee or gaming**

employee if the Board determines additional time is needed to complete an investigation for licensure.

(d) A temporary credential may be issued by the Bureau of Licensing to a nongaming employee if:

(1) The applicant has submitted all of the application materials required under § 435a.5 (relating to nongaming employee registration).

(2) The applicant has been fingerprinted and photographed by the Pennsylvania State Police.

(e) A temporary credential issued to a nongaming employee will be valid for 30 days.

[(d)] (f) Board staff may impose conditions on the holders of temporary credentials.

§ 435a.9. [Temporary credentials for nongaming employees] (Reserved).

[(a)] A temporary credential may be issued by the Board to a nongaming employee if:

(1) The applicant has submitted all of the application materials required under § 435a.5 (relating to nongaming employee registration).

(2) The applicant has been fingerprinted and photographed by the Pennsylvania State Police.

(b) Temporary credentials for nongaming employees will be issued by the Bureau of Licensing.

(c) A temporary credential issued under this section will be valid for 30 days.]

§ 435a.9a. Gaming service provider employee temporary access credentials.

(a) The Board's casino compliance representatives at a licensed facility may issue a Gaming Service Provider Employee Temporary Access Credential to an employee of a registered or certified gaming service provider that is a construction company that is completing work on the gaming floor or in a restricted area under the registered or certified gaming service provider's original contract, change orders or punch lists, or to complete periodic repairs or warranty work if:

(1) The employee's duties of employment **[or incidental activities related to employment]** do not require the employee to touch or have contact with a slot machine, **table game device** or associated equipment other than exterior **[cleaning] contact that does not affect the play of the game.**

(2) The employee **signs in with the security department of the licensed facility and will be escorted and** under the CONSTANT supervision of an employee of the slot machine **[licensee's security department] licensee** who is authorized to have access to the area where the work is being performed.

(3) The gaming service provider employee and the employee of the slot machine licensee who will escort and

supervise both sign in with the Board's casino compliance representatives.

(b) To receive a Gaming Service Provider Employee Temporary Access Credential, the employee of the registered or certified gaming service provider that is a construction company shall surrender his driver's license or other photo identification.

(c) A Gaming Service Provider Employee Temporary Access Credential will not be issued to an employee of a registered or certified gaming service provider that is a construction company for more than 12 days in a 12-month period. **The time period may be extended for good cause as determined by the Bureau of Licensing.**

(d) **[Employees of a manufacturer, manufacturer designee or supplier may not be issued a Gaming Service Provider Employee Temporary Access Credential.]** As provided in § 437a.10(C) (relating to emergency gaming service provider), an employee of an emergency gaming service provider ~~may~~ SHALL obtain a temporary access credential in accordance with subsections (a) and (b) to enable the employee to perform emergency services at the licensed facility.

§ 435a.10. Loss, **theft** or destruction of credentials.

(a) As soon as possible, but no later than 24 hours following the loss, **theft** or destruction of a Board credential, emergency credential or temporary credential, the person to whom

the credential was issued shall notify the [security department of the slot machine licensee] Board's casino compliance representatives at the licensed facility.

(b) [The security department of the slot machine licensee shall notify the Board in writing within 24 hours of receipt of the notice under subsection (a).

(c) An employee who has lost his Board credential] The slot machine licensee, on behalf of an employee whose Board-issued credential was lost, stolen or destroyed, may request a [duplicate] replacement Board credential by submitting a Request for Duplicate PGCB Credential form and the fee established by the Board to the Bureau of Licensing.

**CHAPTER 437a. GAMING SERVICE PROVIDER CERTIFICATION AND
REGISTRATION**

§ 437a.1. General gaming service provider requirements.

(a) [A] Except as provided in § 437a.10 (relating to emergency gaming service provider), a gaming service provider or person seeking to conduct business with a slot machine applicant or licensee[, except as provided in § 437a.10 (relating to emergency gaming service provider),] shall apply to the Board for registration if:

(1) The total dollar amount of the goods or services to be provided to a single slot machine applicant or licensee or to multiple slot machine applicants or licensees will be or is

anticipated to be equal to or greater than \$100,000 but less than or equal to \$500,000 within a consecutive 12-month period.

(2) The employees of the gaming service provider or person seeking to conduct business with a slot machine applicant or licensee will be working **[on the gaming floor or in restricted areas unless all of the following conditions are met]** ~~in~~ either:

(i) IN **A restricted area of the licensed facility.**

(ii) **On the gaming floor unless all of the following conditions are met:**

~~[(i)]~~ **(A)** The employees will be on the gaming floor for less than 24 hours within a 72-hour period no more than once in any consecutive 3-month period.

~~[(ii)]~~ **(B)** The employees sign-in with the security department at the licensed facility and the Board's casino compliance representatives prior to entering the gaming floor.

~~[(iii)]~~ **(C)** The gaming service provider has received written approval from the Bureau of Licensing for the gaming service provider's employees to be on the gaming floor.

(b) **[A] Except as provided in § 437a.10, a** gaming service provider or person seeking to conduct business with a slot machine applicant or licensee**[, except as provided in § 437a.10,]** shall apply to the Board for certification if the

total dollar amount of the goods or services to be provided to a single slot machine applicant or licensee or to multiple slot machine applicants or licensees will be or is anticipated to be greater than \$500,000 within a consecutive 12-month period.

(c) A person that provides goods or services indirectly to a slot machine applicant or licensee through an intermediary, holding company or affiliate of the slot machine applicant or licensee shall be required to be registered or certified if the cost of the goods or services provided to the slot machine applicant or licensee exceeds the monetary thresholds in subsections (a) and (b).

(d) The following persons are exempt from the gaming service provider registration and **[the gaming service provider]** certification requirements of this chapter:

(1) Public utilities which provide **[only]** one or more of the following services to a slot machine applicant or licensee:

* * * * *

(g) **[A person, or subsidiary of a person, that has a class of equity securities listed on the New York Stock Exchange, the NASDAQ Stock Market, the American Stock Exchange or a foreign stock exchange determined by the Bureau of Licensing to have similar listing requirements may be authorized to provide goods or services to slot machine applicants and licensees without**

applying for registration or certification if the person or subsidiary of the person] Notwithstanding subsections (a) and (b), a publicly traded corporation or subsidiary thereof will not be required to be registered or certified as a gaming service provider if the publicly traded corporation or subsidiary thereof submits a completed Publicly Traded Gaming Service Provider Form to the [Board] Bureau of Licensing accompanied by the filing fee posted on the Board's web site [www.pgcb.state.pa.us] AND IS AUTHORIZED. A [person] publicly traded corporation or subsidiary [of a person] thereof that is authorized to provide goods and services under this subsection shall be required to:

(1) Comply with § 437a.7 (relating to registered [and], certified **and authorized** gaming service provider responsibilities).

(2) [Immediately notify the Board if the person or subsidiary of the person ceases to have a class of equity securities listed on the New York Stock Exchange, the NASDAQ Stock Market, the American Stock Exchange or a foreign stock exchange determined by the Bureau of Licensing to have similar listing requirements.] Immediately notify the Bureau of Licensing if the publicly traded corporation or subsidiary thereof ceases to meet the definition of a publicly traded corporation.

* * * * *

§ 437a.2. Gaming service provider registration applications.

(a) A gaming service provider seeking registration shall do one of the following:

(1) **[Complete]** If the gaming service provider has or will be entering into an agreement to provide goods or services to a specific slot machine applicant or licensee, the gaming service provider shall complete an original and **[four copies]** **one copy** of a Gaming Service Provider Registration Form—Sponsored. The original **[and copies]** **copy** and the fee toward the cost of the investigation of the applicant posted on the Board's web site **[(www.pgcb.state.pa.us)]** shall be submitted to the Bureau of Licensing by the slot machine applicant or licensee for whom the gaming service provider will provide goods or services unless otherwise directed by the **[Board]** **Bureau of Licensing.**

(2) **[Complete]** If a gaming service provider does not have an agreement to provide goods or services to a specific slot machine applicant or licensee but is seeking to conduct business with slot machine applicants or licensees, the gaming service provider shall complete an original and **[four copies]** **one copy** of a Gaming Service Provider Registration Form—Unsponsored. The original **[and copies]**, **copy** and the fee toward the cost of the investigation of the applicant, **AS** posted on the

Board's web site, [(www.pgcb.state.pa.us)] shall be submitted to the Bureau of Licensing by the gaming service provider unless otherwise directed by the **[Board] Bureau of Licensing**.

(b) In addition to the materials required under subsection (a), an applicant for a gaming service provider registration shall:

(1) Submit the nonrefundable application fee posted on the Board's web site [(www.pgcb.state.pa.us)].

(2) **[Promptly provide information requested by the Board relating to its application or regulation and cooperate with the Board in investigations, hearings and enforcement and disciplinary actions.**

(3)] Comply with the general application requirements in Chapters 421a and 423a (relating to general provisions; and applications).

[(4)] (3) Submit fingerprints of the following individuals **[to the Board]** in a manner prescribed by **[BIE] the Bureau:**

* * * * *

(c) A person who holds any direct or indirect ownership or beneficial interest in a registered gaming service provider or applicant for gaming service provider registration, or has the right to any profits or distributions directly or indirectly, from the registered gaming service provider or applicant for

gaming service provider registration may be required to submit fingerprints if the **[Board] Bureau** determines that the submission of fingerprints of the person is necessary to protect the public interest or to enhance the integrity of gaming in this Commonwealth.

(d) Each of the individuals required to submit fingerprints under subsection **[(b)(4) or (c)] (b)(3)** must be found qualified by the Board. **An individual who is found qualified and is also a gaming or nongaming employee as defined in § 401a.3 (relating to definitions) shall obtain a gaming employee occupation permit in accordance with § 435a.3 (relating to occupation permit) or a nongaming employee registration in accordance with § 435a.5 (relating to nongaming employee registration).**

(e) An applicant for a gaming service provider registration **[will be required to] shall** reimburse the Board for costs incurred **[by the Board]** in conducting the **[review] investigation** of the **[application] applicant**.

(f) A gaming service provider registration will not be issued until all fees **and costs** have been paid.

§ 437a.3. Gaming service provider certification applications.

(a) A gaming service provider seeking certification shall complete and the slot machine applicant or licensee for whom the gaming service provider will provide goods or services shall submit:

(1) An original and **[four copies] one copy** of a Gaming Service Provider Certification Application and Disclosure Information Form unless otherwise directed **[by the Board]**.

(2) The nonrefundable application fee posted on the Board's web site **[(www.pgcb.state.pa.us)]**.

(3) Applications and release authorizations for each individual required to be qualified under § 437a.4 (relating to qualification of individuals and entities).

(b) In addition to the **[materials required under] requirements of** subsection (a), an applicant for a gaming service provider certification shall^{[:}

(1) **Promptly provide information requested by the Board relating to is application or regulation and cooperate with the Board in investigations, hearings, and enforcement and disciplinary actions.**

(2) **Comply] comply** with the general application requirements in Chapters 421a and 423a (relating to general provisions; and applications).

(c) **An applicant for a gaming service provider certification shall reimburse the Board for costs incurred in conducting the investigation of the applicant.**

(d) A gaming service provider certification will not be issued until all fees **and costs** have been paid.

[(d) A person required to be a certified gaming service provider under this chapter may request that the Board waive its obligation to be certified by filing a Single Transactional Waiver Form. To be eligible to receive this waiver from the requirements of certification, the person shall demonstrate that the person is proposing to engage in a single transaction with a slot machine applicant or licensee and satisfies the following requirements:

(1) The person's required performance under the contract with the slot machine applicant or licensee does not require the person's employees to be on the gaming floor or in a restricted area.

(2) The person has not filed a Single Transactional Waiver Form with the Board within 2 years of the current waiver request.

(3) The person will not have a continuing business relationship with the slot machine applicant or licensee or have a continuing onsite presence at the licensed facility.

(e) The Board may, in response to misrepresentations or a change in circumstances, revoke a waiver granted under this section and require the recipient of the waiver to comply with the gaming service provider certification requirements of this chapter.

(f) A person who has requested a waiver under this section may not provide goods or services to a slot machine applicant or licensee prior to Board approval of the person's waiver request.]

(Editor's Note: The following section is new and printed in regular type to enhance readability.)

§ 437a.3a. Single transaction waiver.

(a) A gaming service provider required to be registered or certified under this chapter may request that the Board waive its obligation to be registered or certified by filing a Single Transactional Waiver Form. To be eligible to receive a waiver, the gaming service provider shall demonstrate that it is proposing to engage in a single transaction and satisfies the following requirements:

(1) The gaming service provider's required performance under the contract with the slot machine licensee does not require the gaming service provider's employees to be on the gaming floor or in a restricted area.

(2) The gaming service provider has not filed a Single Transactional Waiver Form within 2 years of the current waiver request.

(3) The gaming service provider will not have a continuing business relationship with the slot machine licensee or have a continuing onsite presence at the licensed facility.

(b) The Board may, in response to misrepresentations or a change in circumstances, revoke a waiver granted under this section and require the recipient of the waiver to comply with the gaming service provider registration or certification requirements of this chapter.

(c) A gaming service provider that has requested a waiver under this section may not provide goods or services to a slot machine applicant or licensee prior to Board approval of the gaming service provider's waiver request.

§ 437a.4. Qualification of individuals and entities.

* * * * *

(b) Each entity that directly owns 20% or more of the voting securities of a certified gaming service provider or person applying for gaming service provider certification shall **[be required to]** file a Gaming Service Provider Certification Form—Private Holding Company with the **[Board] Bureau of Licensing** and be found qualified by the Board.

(c) The following persons may be required to submit a Gaming Service Provider Certification Form—Private Holding Company or a Pennsylvania Personal History Disclosure Form and be found qualified by the Board if the **[Board] Bureau of Licensing** determines that the qualification of the person is necessary to protect the public interest or to enhance the integrity of gaming in this Commonwealth:

* * * * *

(d) The Bureau of Licensing may issue a temporary credential to an individual who is required to be qualified by the Board under this section if:

(1) The individual's presence in the licensed facility is needed.

(2) The company with which the individual is associated is on the Authorized Gaming Service Provider List.

(e) **[The] Upon request, the** Bureau of Licensing will issue a **[permanent]** credential to an individual who has been found **[to be]** qualified under this section if the Gaming Service Provider has been certified.

§ 437a.5. Construction subcontractors.

(a) **[A] Instead of filing for registration or certification, a** construction subcontractor **[who] that** is otherwise required to be certified or registered may elect to file an On-site Subordinate Pre-Opening Construction Notification Form with the **[Board in lieu of registration or certification] Bureau of Licensing** if:

(1) The subcontractor is not providing goods or services through an agreement with a slot machine applicant or licensee.

(2) The subcontractor is not **a first-tier subcontractor** providing goods or services to **[a person who] the**

general contractor that has entered into a contract with a slot machine applicant or licensee for the construction of a licensed facility.

(b) The On-site Subordinate Gaming Service Provider Notification Form shall be valid for the construction of only one licensed facility, and shall **[be valid for only 1 year unless the Board, at its sole discretion, renews the On-site Subordinate Gaming Service Provider Notification Form after a showing by the subcontractor that its obligations pursuant to the subcontract have not been fully performed and good cause exists for the delay in the performance]** expire upon completion of the contract.

(c) A subcontractor **[who] that** elects to file an On-site Subordinate Gaming Service Provider Notification Form as outlined in subsection (a) shall be prohibited from:

(1) Employing any person to work **[on the gaming floor or]** in a restricted area of a licensed facility **or on the gaming floor after onsite Board staff designates the area as a gaming floor.**

(2) Providing, directly or indirectly, goods or service to any other slot machine applicant or licensee other than the slot machine applicant or licensee identified in the On-site Subordinate Gaming Service Provider Notification Form.

§ 437a.6. Registration and certification term and renewal.

(a) Gaming service provider certifications, registrations and renewals issued under this chapter shall be valid for 4 years from the date of Board approval.

(b) Publicly traded gaming service provider authorizations approved under § 437a.1(g) (relating to general gaming service provider requirements) will be valid for 4 years from the date of authorization.

(c) Registered [and], certified and authorized publicly traded gaming service providers shall submit to the Board a completed renewal application or form and renewal fee at least 60 days prior to the expiration of a certification [or], registration or authorization.

[(c)] (d) A certification or registration for which a completed renewal application and fee has been received by the [Board] Bureau of Licensing will continue in effect until the Board sends written notification to the holder of the certification or registration that the Board has approved or denied the certification or registration.

(e) A publicly traded gaming service provider authorization for which a completed renewal form and fee has been received by the Bureau of Licensing will continue in effect unless the Bureau of Licensing sends written notification to the publicly traded gaming service provider that the authorization has been rescinded.

§ 437a.7. Registered **[and]**, certified **and authorized** gaming service provider responsibilities.

(a) A holder of a gaming service provider certification **[or]**, registration **or authorization** shall have a continuing duty to^[:] **comply with the general application requirements in Chapters 421a and 423a (relating to general provisions; and applications).**

[(1) Provide information requested by the Board relating to licensing or regulation; cooperate with the Board in investigations, hearings, and enforcement and disciplinary actions; and comply with conditions, restrictions, requirements, orders and rulings of the Board in accordance with the act.

(2) Report a change in circumstances that may render the holder of a gaming service provider certification or registration ineligible, unqualified or unsuitable to hold a certification or registration under the standards and requirements of the act and of this part.]

(b) An employee of a **[registered or certified]** gaming service provider shall be required to obtain an occupation permit under § 435a.3 (relating to occupation permit) if:

(1) The employee is the onsite supervisor of other **gaming employees, as defined in § 401a.3 (relating to definitions)**, of the gaming service provider **[whose duties of employment or incidental activities related to employment**

require the employees to be on the gaming floor or in a restricted area].

(2) The [employee's duties of employment or incidental activities related to employment require the employee to be on the gaming floor or in a restricted area and require the employee to touch or have contact with a slot machine or associated equipment] employee is a gaming employee as defined in § 401a.3.

(c) An employee of a [certified] gaming service provider [that] who is not required to obtain an occupation permit under subsection (b) shall be required to obtain a nongaming employee registration under § 435a.5 (relating to nongaming employee registration) if:

(1) The employee is the onsite supervisor of [other employees who are involved in the construction of a licensed facility.]:

(i) Other nongaming employees as defined in § 401a.3.

(ii) Employees of the gaming service provider who are involved in the construction of the licensed facility.

(2) [The employee's duties of employment or incidental activities related to employment require the employee to be on the gaming floor but do not require the employee to touch or have contact with a slot machine or associated equipment other

than exterior cleaning.] The employee is a nongaming employee as defined in § 401a.3.

[(3) The employee's duties of employment or incidental activities related to employment require the employee to be in a restricted area, but do not require the employee to touch or have contact with a slot machine or associated equipment other than exterior cleaning and the employee is under the constant supervision of an employee of the slot machine licensee who is licensed or permitted and who is authorized to be in the restricted area.

(4) The employee is the offsite supervisor of employees of the registered or certified gaming service provider working at the licensed facility.]

(d) Employees of a [registered or certified] gaming service provider who are not required to obtain an occupation permit or a nongaming employee registration under subsection (b) or (c) may be required to obtain an occupation permit or nongaming employee registration if the Board determines, after a review of the work being performed, that obtaining a permit or registration is necessary for the protection of the integrity of gaming.

(e) Workers employed by a [registered or certified] gaming service provider that is a construction company, who are completing work on the gaming floor or in a restricted area

under their original contract, change orders, punch lists, periodic repairs or warranty work, will not be required to comply with the requirements in subsection (b) or (c) if the [following] conditions in § 435a.9a (a) and (b) (relating to gaming service provider employee temporary access credentials) are met[:].

[(1) The employee's duties of employment or incidental activities related to employment do not require the employee to touch or have contact with a slot machine or associated equipment other than exterior cleaning.

(2) The employee is under the supervision of an employee of the slot machine licensee's security department who is authorized to have access to the area where the work is being performed.

(3) The employee has been issued a Gaming Service Provider Employee Temporary Access Credential by one of the Board's casino compliance representatives at the licensed facility.]

(f) A certified, registered or authorized gaming service provider operating within a licensed facility that cashes personal checks shall comply with § 465a.20 (relating to personal check cashing).

§ 437a.8. Authorized gaming service providers list; prohibited gaming service providers.

(a) The Board will maintain a list of authorized gaming service providers and a list of prohibited gaming service providers. The authorized list will contain the names of persons who:

(1) Have been registered or certified.

(2) Are eligible to file and have filed a completed publicly traded gaming service provider form under § 437a.1(g) (relating to general gaming service provider requirements).

(3) Have been **[permitted] authorized** to conduct business with a slot machine licensee or applicant under § 437a.9 (relating to permission to conduct business prior to certification or registration).

(b) Except as permitted under § 437a.1(a)(2), (d) and (g) and § 437a.10 (relating to emergency gaming service provider), a slot machine licensee or applicant may not purchase goods or services from a gaming service provider, when the employees of the gaming service provider will be working on the gaming floor or in a restricted area or compensate a gaming service provider \$100,000 or more within a consecutive 12-month period, unless the ~~person~~ **GAMING SERVICE PROVIDER** is on the authorized gaming service provider list. A slot machine licensee or applicant **or any affiliate, intermediary, subsidiary or holding company thereof acting on behalf of the slot machine licensee or applicant** may not enter into an agreement or continue to do

business with a gaming service provider on the prohibited gaming service providers list.

(c) The Board may place a person on the prohibited gaming service providers list if:

(1) The gaming service provider has failed to comply with this chapter.

(2) The gaming service provider has failed to cooperate with **[the Board in the Board's] Board staff in its review and investigation** of the gaming service provider's application **[for certification or registration]**.

(3) The gaming service provider's application for certification or registration has been denied **OR WITHDRAWN WITH PREJUDICE** or the gaming service provider has had its gaming service provider certification or registration suspended or revoked.

* * * * *

§ 437a.10. Emergency gaming service provider.

(a) A slot machine licensee may utilize a gaming service provider that is not registered **[or], certified or authorized to conduct business in accordance with § 437a.8 (relating to authorized gaming service providers list; prohibited gaming service providers)** when a threat to public health, welfare or safety **of the building or its occupants** exists or circumstances outside the control of the slot machine **[applicant or]** licensee

create an urgency of need which does not permit the delay involved in using the formal method of gaming service provider certification or registration. **A slot machine licensee may not use a gaming service provider on the prohibited list.**

(b) When using a gaming service provider that is not registered **[or]**, certified **or authorized to conduct business** to respond to an emergency, the slot machine **[applicant or]** licensee shall:

(1) **Immediately notify the onsite casino compliance representatives in the licensed facility of the emergency and the gaming service provider that was selected to provide emergency services.**

(2) File a Gaming Service Provider Emergency Notification Form with the **[Board] Bureau of Licensing** within 72 hours **[of] after commencement of** the gaming service provider's **[commencement of]** services and a written explanation of the basis for the procurement of the emergency gaming service provider.

[(2) Provide a written explanation to the Board of the basis for the emergency gaming service provider procurement and for the selection of the particular gaming service provider.]

(3) File a Gaming Service Provider Registration Form or Gaming Service Provider Certification Form on behalf of the

gaming service provider within 20 business days of the filing of the Gaming Service Provider Notification Form.]

(c) An employee of the emergency gaming service provider who is providing emergency services in the licensed facility shall obtain a temporary access credential in accordance with § 435a.9a(d) (relating to gaming service provider employee temporary access credentials) prior to performing any work.

(d) If the slot machine licensee continues to utilize the gaming service provider after the emergency circumstances have passed or if the Bureau of Licensing determines that the circumstances did not necessitate the use of an emergency gaming service provider that was not registered, certified or on the authorized list, the slot machine license and gaming service provider shall comply with the requirements in this chapter.

§ 437a.11. Slot machine applicants' and licensees' duty to investigate.

* * * * *

(b) An applicant for or holder of a slot machine license shall have an affirmative duty to avoid agreements or relationships with persons applying for gaming service provider registration or certification whose background or **[association is] associations are** injurious to the public health, safety, morals, good order and general welfare of the people of this

Commonwealth, or who threaten the integrity of gaming in this Commonwealth.

* * * * *

CHAPTER 440a. MANAGEMENT COMPANIES

§ 440a.1. General requirements.

(a) A management company shall [be required to] obtain a management company license from the Board prior to [providing any service to a slot machine applicant or licensee under this chapter] the commencement of gaming operations. IF A SLOT MACHINE LICENSEE HAS ALREADY COMMENCED GAMING OPERATIONS, A MANAGEMENT COMPANY MAY NOT PROVIDE ANY SERVICES TO THE SLOT MACHINE LICENSEE PRIOR TO OBTAINING A LICENSE FROM THE BOARD.

* * * * *

§ 440a.2. Applications.

(a) An applicant for a management company license shall file:

(1) A completed [applicable Category 1, Category 2 or Category 3 slot machine license] application and disclosure [information forms with the applicable appendices as if the management company license applicant were an affiliated entity of the slot machine applicant or licensee] form.

(2) The nonrefundable application fee posted on the Board's [website (pgcb.state.pa.us)] web site.

(b) In addition to the **[materials] application** required under subsection (a), an applicant for a management company license shall[:

(1) **Promptly provide information requested by the Board relating to its application or regulation and cooperate with the Board in investigations, hearings, and enforcement and disciplinary actions.**

(2) **Comply] comply** with the general application requirements in Chapters 421a and 423a (relating to general provisions; and applications).

§ 440a.3. Management company license term and renewal.

(a) A management company license or renewal will be valid for 3 years from the date on which the **initial license is issued** or **the** renewal is approved by the Board. **The management company license will not be issued or renewed until all fees and costs have been paid.**

(b) A renewal application shall be submitted to the **[Board] Bureau of Licensing** at least 60 days prior to the expiration of a management company license.

(c) A management company license for which a completed renewal application and fee has been received by the **[Board] Bureau of Licensing** will continue in effect until the Board sends written notification to the holder of the management

company license that the Board has approved or denied the management company license.

(d) A management company license issued by the Board is nontransferable.

§ 440a.5. Management contracts.

(a) A management contract between a slot machine applicant or licensee and management company licensee may not become effective until the Board has **[reviewed and]** approved **[the terms and conditions of]** the management contract.

(b) A management company licensee shall submit any amendment to a management contract 30 days prior to the effective date of the proposed amendment. The amendment may not become effective until A PETITION IS SUBMITTED AND the Board has **[reviewed and]** approved the **[terms and conditions of the]** amendment.

(c) A management contract or amendment will not be approved by the Board unless the management company proves by clear and convincing evidence that the approval of the contract would not create a monopoly on the control of licensed gaming facilities in this Commonwealth. **[A management company that seeks Board approval of a management contract shall disclose its financial interests in the slot machine licensee or applicant and, if applicable, proposed or contemplated changes in ownership or control of a slot machine licensee.]**

(d) [Requests for approval of a management contract must include a business plan which sets forth the parties' goals and objectives for the term of the management contract.] A management company that requests Board approval of a management contract shall disclose its financial interests in the slot machine applicant or licensee and, if applicable, any exercisable option that may constitute a change in ownership or control of a slot machine licensee as described in § 441a.17 (relating to change in ownership or control of slot machine licensee and multiple slot machine license prohibition).

* * * * *

(f) A management contract submitted for [Board review and] approval must [enumerate with specificity] specify the terms and conditions of the management contract and the responsibilities of the slot machine applicant or licensee and management company [under the terms and conditions of the management contract]. At a minimum, the terms should address whether, and to what extent, the management company is involved in the following:

(1) Operation of the following departments:

* * * * *

(vi) Surveillance.

(viii) Table games.

(2) Design, construction, improvement [or] and maintenance[, or both,] of the licensed facility.

(3) **[Provision] Sources** of operating capital and financing for the development of the licensed facility.

(4) Payment of the slot machine license fee **and the table games operation certificate fee, if applicable.**

(5) Purchase or lease of slot machines, **table games, table game devices** or associated equipment.

(6) Design, implementation **[or] and** amendment**[, or both,]** of the system of internal controls required under section 1322 of the act (relating to slot machine accounting controls and audits) and this part including the financial reporting requirements.

* * * * *

(12) Procurement of **[vendors] gaming service providers** and gaming **[junkets] junket enterprises.**

(13) Selection of the licensed facility's independent auditor.

(g) Notwithstanding subsections (a)–(f), a slot machine licensee and licensed management company may not contract for the delegation of any benefits, duties or obligations specifically granted to or imposed upon the slot machine licensee by the act.

§ 440a.6. CHANGE IN OWNERSHIP OR CONTROL OF A MANAGEMENT COMPANY LICENSEE.

(A) A MANAGEMENT COMPANY LICENSEE SHALL NOTIFY THE BUREAU AND THE BUREAU OF LICENSING BY FILING A NOTIFICATION OF PROPOSED TRANSFER OF INTEREST FORM PRIOR TO OR IMMEDIATELY UPON BECOMING AWARE OF ANY PROPOSED OR CONTEMPLATED CHANGE IN OWNERSHIP OR CONTROL OF THE MANAGEMENT COMPANY LICENSEE BY A PERSON OR GROUP OF PERSONS ACTING IN CONCERT WHICH INVOLVES ANY OF THE FOLLOWING:

(1) MORE THAN 5% OF A MANAGEMENT COMPANY LICENSEE'S SECURITIES OR OTHER OWNERSHIP INTERESTS.

(2) MORE THAN 5% OF THE SECURITIES OR OTHER OWNERSHIP INTERESTS OF A CORPORATION OR OTHER FORM OF BUSINESS ENTITY THAT OWNS, DIRECTLY OR INDIRECTLY, AT LEAST 20% OF THE VOTING OR OTHER SECURITIES OR OTHER OWNERSHIP INTEREST OF THE MANAGEMENT COMPANY LICENSEE.

(3) ANY OTHER INTEREST IN A MANAGEMENT COMPANY LICENSEE WHICH ALLOWS THE ACQUIRER TO CONTROL THE MANAGEMENT COMPANY LICENSE.

(B) A TRANSACTION SET FORTH IN SUBSECTION (A) MAY NOT BE CONSUMMATED WITHOUT:

(1) OBTAINING THE PRIOR APPROVAL OF THE BOARD.

(2) EACH PRINCIPAL INVOLVED IN THE TRANSACTION OBTAINING A LICENSE IN ACCORDANCE WITH CHAPTER 433A (RELATING TO PRINCIPAL LICENSES).

(C) A REQUEST FOR APPROVAL REQUIRED UNDER SUBSECTION (B)(1)
SHALL BE MADE BY FILING A PETITION WITH THE BOARD IN ACCORDANCE
WITH § 493A.4 (RELATING TO PETITIONS GENERALLY).

(D) NOTWITHSTANDING THE REQUIREMENT IN SUBSECTION (B)(2),
THE BOARD MAY APPROVE A TRANSACTION UNDER SUBSECTION (A) PRIOR
TO THE LICENSURE OF THE PERSON OR GROUP OF PERSONS ACTING IN
CONCERT IF ALL OF THE FOLLOWING APPLY:

(1) THE PERSON OR GROUP OF PERSONS ACTING IN CONCERT
ARE PROPOSING TO ACQUIRE 20% OR LESS OF THE VOTING SECURITIES OF
A PUBLICLY TRADED HOLDING COMPANY OF A MANAGEMENT COMPANY
LICENSEE.

(2) THE PERSON OR GROUP OF PERSONS ACTING IN CONCERT
AFFIRM THAT THE PERSON OR GROUP OF PERSONS WILL NOT CONTROL OR
INFLUENCE THE AFFAIRS OF OR BENEFIT FROM THE MANAGEMENT COMPANY
OR SLOT MACHINE LICENSEE PRIOR TO BEING LICENSED AS PRINCIPALS
IN ACCORDANCE WITH CHAPTER 433A.

(3) THE PERSON OR GROUP OF PERSONS HAVE FILED
APPLICATIONS WITH THE BOARD FOR LICENSURE AS PRINCIPALS IN
ACCORDANCE WITH CHAPTER 433A.

(4) THE APPROVAL OF THE TRANSACTION IS EXPRESSLY
CONDITIONED UPON THE PERSON OR GROUP OF PERSONS BEING LICENSED
AS PRINCIPALS IN ACCORDANCE WITH CHAPTER 433A.

(E) THE BOARD WILL NOT APPROVE A TRANSACTION UNDER
SUBSECTION (A), WHICH INVOLVES A CHANGE IN CONTROL UNLESS THE

PERSON OR GROUP OF PERSONS ACTING IN CONCERT DEMONSTRATES BY CLEAR AND CONVINCING EVIDENCE THAT THE SLOT MACHINE LICENSEE'S GAMING FACILITY WILL REMAIN OR BECOME A FINANCIALLY SUCCESSFUL, SUITABLE AND EFFICIENT BUSINESS OPERATION.

(F) THE FOLLOWING TRANSACTIONS ARE NOT BE SUBJECT TO SUBSECTIONS (A)–(C):

(1) A TRANSACTION THROUGH WHICH AN UNDERWRITER WILL POSSESS A SECURITY FOR LESS THAN 90 DAYS.

(2) A TRANSACTION THROUGH WHICH AN INSTITUTIONAL INVESTOR ACQUIRES LESS THAN 20% OF THE SECURITIES OF A MANAGEMENT COMPANY LICENSEE'S HOLDING COMPANY, PROVIDED THAT THE SECURITIES WERE ACQUIRED FOR INVESTMENT PURPOSES ONLY AND THE INSTITUTIONAL INVESTOR COMPLIES WITH § 433A.5 (RELATING TO INSTITUTIONAL INVESTORS).

CHAPTER 441a. SLOT MACHINE LICENSES

§ 441a.1. Definitions.

For purposes of this subpart, the following words and terms have the following meanings, unless the context clearly indicates otherwise:

* * * * *

Applicant – A person who applies to the Board to receive a slot machine license as defined in this section.

~~**Debt transaction** – A transaction or series of transactions in which the entity incurs any of the following types of debt:~~

~~(i) Loans, lines of credit or similar financing.~~
~~(ii) Public and private debt offerings.~~
~~(iii) Note issuance, exchange or bond offering.~~
~~(iv) Any transaction that provides guarantees or encumbers assets of the licensee.~~

Developer – A person engaged by a slot machine applicant or licensee to construct a proposed licensed facility or to otherwise make land or buildings suitable for use as a licensed facility.

Guest rooms under common ownership – A room or group of rooms, including timeshare units, that are owned by a well-established resort hotel and that are available for rental.

Initial plan of development – The slot machine licensee's financing, construction schedule, comprehensive design plan and projected expenditure for the licensed facility as described by the licensee in its application and presented at the licensee's initial suitability hearing before the Board.

Licensing hearing – A hearing before the Board in which an applicant for a **[grant of a permanent]** slot machine license **[or a Conditional Category 1 slot machine license]** will have an opportunity to present to the Board:

- (1) Evidence concerning its eligibility for a license.
- (2) Evidence concerning its suitability for a license.

(3) Evidence of how its proposed facility and operation addresses the criteria identified in section 1325(c) of the act (relating to license or permit issuance).

(4) For applicants seeking licensure under section 1304 of the act (relating to Category 2 slot machine license), evidence which sets forth a comparison between the applicant and other applicants within the same category of licensure on the standards and criteria in the act.

~~**Material change in financial status — A default in any covenant or condition specified in any loan document or other debt instrument under which the slot machine licensee, or any of its intermediaries, subsidiaries, holding companies or management companies thereof, is a borrower or guarantor.**~~

~~**Material debt transaction—**~~

~~(1) A debt transaction of \$25 million or more in a single transaction or cumulative transactions during any 12-month period.~~

~~(2) The term does not include transactions under a Board-approved line of credit, revolver or similar type of loan.~~

~~**Modified plan of development—An alteration to a slot machine licensee's initial plan of development.**~~

Non-de minimis consideration — A payment of fair market value of at least \$10 per patron paid to the resort hotel for use of one or more amenities.

* * * * *

§ 441a.2. Slot machine application [restrictions and] deadlines.

[(a) Under section 1304 of the act (relating to category 2 slot machine license), an applicant for a Category 2 slot machine license under section 1301 of the act (relating to authorized slot machine licenses), its affiliate, intermediary, subsidiary or holding company, may not possess any ownership or financial interest in any person eligible to apply for a Category 1 slot machine license or its affiliates, intermediaries, subsidiaries or holding companies.

(b)] The Board will initiate the formal procedure for the acceptance, consideration and final resolution of applications for slot machine licenses by setting a filing period for filing of Category 1, 2 or 3 slot machine license applications. The filing period set by the Board will be posted on the Board's [website (www.pgcb.state.pa.us)] web site.

[(c) After the expiration of the filing period established by the Board under subsection (b), the Board will set a completion date by which all filed applications are to be complete. An application that is not complete, as determined by the Board, by the completion date will not be considered. The completion date set by the Board under this subsection will be published in the *Pennsylvania Bulletin* at least 30 days prior to the completion date.]

§ 441a.3. Slot machine license application.

(a) An applicant for a slot machine license shall submit an application which includes the following:

(1) An original and **[three copies] one copy** of the ~~Conditional~~**[/]**Category 1, Category 2, or Category 3 Application and Disclosure Information Form.

(2) The nonrefundable application fee posted on the Board's **[website (www.pgcb.state.pa.us)] web site**.

(3) **[A license or waiver] An** application for each principal **[and key employee]** under **[Chapters 433a and 435a (relating to principal licenses; and employees), including an original and three copies of the Multi Jurisdictional Personal History Disclosure Form, the Pennsylvania Supplement and a nonrefundable background investigation deposit to be set by the Board and provided in a fee schedule for each principal and each key employee] Chapter 433a (relating to principal licenses)**.

(4) Fingerprints for **[the applicant and]** each principal **[and key employee]**.

(5) A diversity plan as set forth in section 1325(b) of the act (relating to license or permit issuance) and Chapter 481a (relating to diversity), which shall be signed by the chief executive officer of the applicant **or authorized designee**.

(6) If a temporary land-based facility is to be licensed, a plan for how the licensee will transition to a

permanent facility, including a date for completion of the permanent facility. A permanent facility shall be the facility proposed by the applicant, which is designated, identified and made part of the evidentiary record by the applicant at the applicant's licensing hearing. Modifications to the **[proposed approved]** permanent facility following the applicant's licensing hearing **[shall be approved by] require approval of the Board in accordance with § 441a.20a (relating to changes to a slot machine licensee's initial or modified plan of development).**

(7) A sworn or affirmed statement that the applicant has developed and implemented internal safeguards and policies to prevent a violation of section 1513 of the act (relating to political influence).

(8) A statement demonstrating compliance with the geographical requirements of section 1302 of the act (relating to Category 1 slot machine license), section 1304 of the act (relating to Category 2 slot machine license) or section 1305 of the act (relating to Category 3 slot machine license).

(b) Failure to provide the information required in subsection (a) may result in the application being **[returned to the applicant or result in an application being]** deemed incomplete.

(c) In addition to the materials required under subsection (a), an applicant for a slot machine license shall^{[:}

(1) Promptly provide information requested by the Board relating to its application, financial fitness, character, honesty and integrity, or regulation and cooperate with the Board in investigations, hearings, and enforcement and disciplinary actions.

(2) Comply] comply with the general application requirements in Chapters 421a and 423a (relating to general provisions; and applications).

(d) A copy of the local impact report required as part of the application shall be provided to the political subdivisions in which the licensed facility will be located at the same time as the filing of the application for a slot machine license. The applicant shall file a proof of service with the [Board] Bureau of Licensing within 5 business days after filing the application for a slot machine license.

[(e) An applicant for a slot machine license will be required to reimburse the Board for any additional costs, based on the actual expenses incurred by the Board, in conducting the background investigation.]

§ 441a.4. Alternative Category 1 licensing standards.

* * * * *

(b) The Board may use the abbreviated process if:

(1) The Board determines, after investigation, that the licensing standards in the other jurisdiction in which the

applicant or its affiliate, intermediary, subsidiary or holding company is licensed is similarly comprehensive and thorough and provides safeguards that are equal to or greater than those provided in the act and granting the request would be in the public interest.

(2) A completed application for a Category 1 license has been filed with the **[Board] Bureau of Licensing** which includes the name and address of the regulatory agency in the other jurisdiction.

(3) The **[Board] Bureau of Licensing** has received a copy of the completed application, renewal applications and accompanying documents filed in the other jurisdiction.

(4) The applicant has provided current, updated information to the **[Board] Bureau of Licensing and the Bureau** regarding the license in the other jurisdiction and information relating to its financial viability and suitability and good character.

(5) The applicant has no administrative or enforcement actions pending in other jurisdictions **that could render the applicant ineligible or unsuitable for licensure** or the applicant has disclosed and explained these actions to the satisfaction of the Board.

(6) There are no pending or ongoing investigations of possible **[material]** violations by the applicant in other

jurisdictions **that could render the applicant ineligible or unsuitable for licensure** or the applicant has disclosed and explained these investigations to the satisfaction of the Board.

* * * * *

(e) Following the issuance of a Category 1 license under this section, the Bureau will initiate a complete review of the information submitted under this subpart. If the applicant does not meet the requirements of the act or this part, the Board **[will] may** revoke, suspend or condition the license until the applicant meets the requirements of the act.

§ 441a.5. License fee payment bond or letter of credit requirements.

(a) An application for a slot machine license shall at all times throughout the period in which the application is on file with the Board include original payment bonds or original irrevocable letters of credit, or some combination thereof, that include draw instructions guaranteeing the applicant's payment of the slot machine license fee required by sections 1209(a) and 1305(d) of the act (relating to slot machine license fee; and category 3 slot machine license) if the license is approved and issued.

(1) Payment bonds or irrevocable letters of credit shall be submitted **[and approved by the Board]** to the **Bureau of Licensing for review** before an application may be accepted for

filing. The **[Board's]** review of the **payment bond or irrevocable letter of credit** will include an assessment of both the proposed terms **[of the payment bond or irrevocable letter of credit]** and **[of]** the surety or financial institution that will issue the payment bond or irrevocable letter of credit. An application will be deemed incomplete if at any time during the period the application is on file with the Board payment bonds or letters of credit **[approved by the Board]** in the amounts required in paragraph (2) are not in full force and effect.

* * * * *

(e) The payment bond or irrevocable letter of credit provided under this section must provide that if the slot machine license has been approved **[and issued]** by the Board and the license fee has not been paid in full within 5 business days following the **[issuance of the license] deadline for payment set by the Board or Board staff**, the Commonwealth will have the right to request immediate payment under the payment bond or irrevocable letter of credit for payment of the slot machine license fee.

* * * * *

(h) This section does not preclude a slot machine license applicant from substituting or replacing a payment bond or letter of credit during the period the application is on file with the Board provided the replacement payment bond or letter

of credit is **[approved]** reviewed by the **[Board under this section]** Bureau of Licensing.

§ 441a.6. Public input.

* * * * *

(c) The Board will develop and post the procedures that will be used to conduct public input hearings on the Board's **[website (www.pgcb.state.pa.us)] web site.**

(d) The Board will make public a list of all witnesses scheduled to testify at a public input hearing at least 7 days prior to the hearing. The list of witnesses will be updated at least 3 days prior to the hearing. Additional witnesses will be posted on the Board's **[website (www.pgcb.state.pa.us)] web site** as they are added to the witness list.

§ 441a.7. Licensing hearings for slot machine licenses.

(a) A schedule of licensing hearings for all slot machine license applicants will be posted on the Board's **[website (www.pgcb.state.pa.us)] web site.**

(b) The Board may schedule prehearing conferences under § 491a.9 (relating to prehearing and other conferences) to address issues related to licensing hearings.

(c) The Board will allot each applicant a specified time for its presentation. The length of the presentations, which shall be the same for each applicant within each category, will be established **[at the prehearing conferences] by the Board.**

(d) At a licensing hearing, an applicant shall appear before the Board and at all times have the burden to establish and demonstrate, by clear and convincing evidence, its eligibility and suitability for licensure and to address the criteria identified in section 1325(c) (relating to license or permit issuance) of the act.

(e) For the purposes of this section, an applicant's demonstration of eligibility must include a showing of compliance **[which] with:**

* * * * *

(f) For the purposes of this section, an applicant's demonstration of suitability must include a showing of:

(1) Good character, honesty and integrity in compliance with section 1310 of the act (relating to slot machine license application character requirements).

(2) Financial fitness in compliance with section 1313 of the act (relating to slot machine license application financial fitness requirements).

(3) Operational viability, including:

(i) The quality of the proposed licensed facility, and temporary land-based facility, if applicable, including the number of slot machines **and table games** proposed and the ability of the proposed licensed facility to comply with statutory, regulatory and technical standards applicable to the design of

the proposed licensed facility and the conduct of slot machine **and table game** operations therein.

(ii) The projected date of the start of operations of the proposed licensed facility and any accessory uses such as hotel, convention, retail and restaurant space proposed in conjunction therewith. Applicants shall provide the Board with a time line on the deliverability of proposed temporary land-based or phased permanent licensed facilities and the accessory uses proposed in conjunction therewith.

(iii) The ability of the applicant's proposed licensed facility to generate and sustain an acceptable level of growth of revenue.

(g) For the purposes of this section, an applicant's demonstration of how it addresses the criteria identified in section 1325(c) of the act must include:

(1) The location and quality of the proposed facility, including, but not limited to, road and transit access, parking and the facility's **[centrality] proximity** to its anticipated market service area.

(2) The potential for new job creation and economic development which are expected to result from granting a license to an applicant.

(3) The applicant's good faith plan to recruit, train and **[upgrade] enhance** diversity in all employment classifications in the facility.

(4) The applicant's good faith plan for enhancing the representation of diverse groups in the operation of its facility through the ownership and operation of business enterprises associated with or utilized by its facility or through the provision of goods or services utilized by its facility and through the participation in the ownership of the applicant.

(5) The applicant's good faith effort to assure that all persons are accorded equality of opportunity in employment and contracting by it and any contractors, subcontractors, assignees, lessees, agents, gaming service providers and suppliers **[it] the applicant** may employ directly or indirectly.

* * * * *

(14) Areas of deficiency in the applicant's application previously identified by the **Bureau or the** Bureau of Licensing **[or Chief Enforcement Counsel]** that have not been resolved.

(h) The applicant's demonstration of how it addresses section 1325(c) of the act and subsection (g) may include information relating to its affiliates, intermediaries, subsidiaries or holding companies.

(i) No later than 30 days before the first scheduled licensing hearing in the category of license for which the applicant has filed an application, the applicant shall file with the Board a memorandum identifying all evidence it intends to use in support of its presentation before the Board. At the same time, Category 1 and Category 3 applicants shall serve the memorandum on the other applicants in the same category. At the same time, Category 2 applicants shall serve the memorandum on all other applicants whose proposed facility meets the same location criteria as the applicant's proposed facility as specified in subsection (n)(1)(i)-(iii). The memorandum must include the following:

(1) The name of the applicant and docket number of the applicant's application to which the evidence will relate.

(2) Identification of each standard and criterion in subsections (d)-(f) to which the evidence will relate.

(3) As to each criterion identified, whether the evidence will be presented through oral testimony [**or**], the proffer of documents, or both. If any portion of the evidence will be presented through oral testimony, the notice must include the name, address and telephone number of each testifying witness, the identified criteria about which the witness will testify and a detailed summary of the witness' testimony. If any portion of the evidence will be presented

through the proffer of documents, including reports and exhibits, the memorandum must include a copy of each document to be proffered and the name, address and telephone number of the persons who prepared the document.

(4) If any person identified in paragraph (3) will testify as an expert, the person's qualifications, including the person's education, experience and training, and a listing of the other jurisdictions where the person has been qualified as an expert witness[,] within the last 5 years, shall be attached to the notice. A copy of the results or reports of any tests, experiments, examinations, studies or documents prepared or conducted by the expert or about which the expert will testify or which will be relied upon by the expert to render an opinion shall be attached to the notice.

(5) Documents required under paragraphs (3) and (4) that have already been submitted to the Board and made part of the public record may be referenced instead of being included with the memorandum identifying all evidence an applicant intends to use in support of its presentation before the Board.

(j) The Board will serve on all applicants within that category any expert reports developed for and requested by the Board that **[pertains] pertain** to the applicants.

(k) Applicants, at the time of filing, shall provide the Board with an electronic version, in a format prescribed by the Board, of the reports and exhibits provided in paper form.

(1) If an applicant designates any submitted report or exhibit as confidential under § 401a.3 (relating to definitions) or section 1206(f) of the act (relating to Board minutes and records), the applicant shall:

(1) Clearly and conspicuously indicate that the report or exhibit is confidential in both the paper and electronic format and provide these exhibits separately from the nonconfidential exhibits.

(2) Request that the confidential information be presented to the Board in **[closed deliberations, under section 1206(a) of the act] an executive session in accordance with 65 Pa.C.S. § 708(a)(5) (relating to executive sessions)** and provide an explanation of the need for the designation of confidentiality and **[closed deliberations] presentation during an executive session** or authorize the release of the report or exhibit in compliance with section **[1206(f)] 1206(f)(5)** of the act.

(m) Applicants are prohibited from relying upon or introducing new evidence, including witnesses' testimony, reports or exhibits, not identified under subsection (i) or (n), except in the following circumstances:

(1) Applicants may update or supplement evidence, including witnesses' testimony, reports or exhibits to respond to requests from the Board **or Board staff**.

(2) Applicants may update or supplement evidence, including witnesses' testimony, reports or exhibits to respond to issues raised subsequent to the filing of the memorandum required by subsection (i) at a prehearing conference if the issues could not have been reasonably anticipated by the applicant.

(n) For Category 2 and Category 3 applicants only, in addition to the applicant's presentation of evidence to the Board relative to its eligibility and suitability for a license, an applicant may, during its licensing hearing, present evidence which sets forth a comparison between the applicant and other applicants within the same category with respect to the standards and criteria in subsections (e)-(h).

* * * * *

(2) If an applicant desires to present comparative evidence under this subsection, the applicant shall, no later than 20 days prior to the commencement of the first scheduled licensing hearing in the category of license for which the applicant has filed an application, file **with the Board Clerk** a separate written notice evidencing the intent **[with the Board]** identifying each other applicant about whom the applicant

desires to present evidence. A copy of the notice shall **[also]** be served on the applicants about whom the evidence will be presented and on the Chief Enforcement Counsel. The notice must include:

* * * * *

(4) If the applicant plans to present evidence to the Board concerning another applicant in **[closed deliberations] an executive session**, the applicant shall provide notice to the other applicant and provide any report or exhibit relied upon to the other applicant. The other applicant may be represented in the **[closed deliberations] executive session**.

* * * * *

(r) Information obtained by **[BIE] the Bureau** during an applicant's background investigation based upon public record or upon information otherwise in the public domain will be heard by the Board during the licensing hearing. Information submitted by an applicant under 4 Pa.C.S. § 1310(a) (relating to slot machine license application character requirements) or obtained by the Board or **[BIE] Bureau** as part of a background investigation from any source not in the public domain is considered confidential. The Board may not require an applicant to waive any confidentiality provided for in 4 Pa.C.S. **[[§§] § 1206(f) [and 1310(a)]** as a condition for the approval of a slot machine license or any other action of the Board. The Board may request

that an applicant respond to inquiries related to confidential information during a licensing hearing to promote transparency in the regulation of gaming in this Commonwealth. An applicant who does not waive the right to confidentiality shall:

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§ 441a.9. Approval of a slot machine license.

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(b) For Category 1 slot machine applications, the State Horse Racing Commission or the State Harness Racing Commission may submit **[additional]** information **[to the Board]** if it believes the information will assist the Board in making a determination relating to the operational, financial or character fitness of the applicant.

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§ 441a.10. Notification of anticipated or actual changes in principals or key employees.

Each slot machine applicant or licensee shall notify the **[Board] Bureau of Licensing**, in writing, as soon as it becomes aware, of the proposed appointment, appointment, proposed nomination, nomination, election, hiring, **promotion**, intended resignation, resignation, removal, firing, incapacitation or death of any person required to be licensed as a principal or key employee under Chapter 433a and § 435a.2 (relating to

principal licenses; and key employee license). The notice must be addressed to the Bureau of Licensing.

§ 441a.11. ~~[Notification of new financial sources] (Reserved).~~

~~Each slot machine applicant or licensee shall notify the Board, in writing, as soon as it becomes aware that it intends to enter into a transaction which may result in any new financial backers. The notice shall be sent to the Bureau of Licensing and the Bureau of Corporate Compliance and Internal Controls.~~

(Editor's Note: The following section is new and printed in regular type to enhance readability.)

§ 441a.11a. Duty to maintain financial suitability; ~~notification of change in financial status.~~

~~(a)~~ A slot machine licensee and its intermediaries, subsidiaries and holding companies shall, at all times, remain financially suitable. In determining whether a licensee is financially suitable, the Board will consider the following factors:

(1) The ability to develop AND MAINTAIN the proposed OR LICENSED project.

(2) The ability to obtain financing AND MEET ITS FINANCIAL OBLIGATIONS.

(3) The ability to maintain a steady level of growth of revenue ~~to the Commonwealth.~~

(4) The historical financial suitability and financial wherewithal of the slot machine licensee, its intermediaries, subsidiaries and holding companies.

~~(b) A slot machine licensee shall notify the Bureau and the Bureau of Licensing in writing within 24 hours if the slot machine licensee or any intermediary, subsidiary or holding company of the slot machine licensee incurs a material change in financial status.~~

§ 441a.15. Slot machine license issuance bond requirement.

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(b) Unless otherwise required by the Board, the payment bond must comply with the following:

(1) The payment bond must be issued by a surety company that is both licensed by the Insurance Department and assigned a credit rating within the three highest categories, without regard to numerics or other modifiers, by Moody's or Standard & Poor's, or upon the discontinuance of Moody's or Standard & Poor's, by another Nationally recognized rating service. Proof that the surety is licensed by the Insurance Department and has been assigned the required credit rating must accompany any payment bond submitted under this section.

(2) A slot machine licensee shall submit its proposed payment bond to the Board prior to the issuance of a slot machine license. **[The Board will investigate and approve both**

the proposed terms of the payment bond and the surety that will issue the payment bond.]

(3) The payment bond must state that it is payable to ''The Commonwealth of Pennsylvania'' as the obligee for immediate payment of the slot machine licensee's financial obligations to the Commonwealth under the act and as security to guarantee that the slot machine licensee faithfully makes the payments, keeps its books and records, makes reports and conducts its operations in conformity with the act, this part and the rules and orders promulgated by the Board.

(4) A payment bond issued in accordance with this section will remain in full force and effect throughout the period of time that the slot machine license is in effect. If a bond is canceled and the slot machine licensee fails to file a new bond with the **[Board] Bureau of Licensing** in the required amount on or before the effective date of the cancellation, the slot machine licensee's license will be revoked or suspended.

(5) Any notice provision **[to the Board]** in a payment bond applicable to an election by a surety to cancel a then current payment bond must provide that the Board will receive at least 30 days written notice, by registered mail or overnight courier service, of the surety's election to cancel.

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§ 441a.17. Change in ownership or control of slot machine licensee and multiple slot machine license prohibition.

(a) A slot machine licensee shall notify the **[Board] the Bureau and the Bureau of Licensing** by filing a Slot Machine Licensee's Notification of Proposed Transfer of Interest Form prior to or immediately upon becoming aware of any proposed or contemplated change in ownership of the slot machine licensee by a person or group of persons acting in concert which involves any of the following:

(1) More than 5% of a slot machine licensee's securities or other ownership interests.

(2) More than 5% of the securities or other ownership interests of a corporation or other form of business entity that owns, directly or indirectly, at least 20% of the voting or other securities or other ownership interest of the slot machine licensee.

(3) The sale**[, other than in the normal course of business,]** of a slot machine licensee's assets, **other than in the ordinary course of business.**

(4) Other transactions or occurrences deemed by the Board to be relevant to license qualification.

[(b) Notice to the Board and Board approval shall be required prior to completion of any proposed change of ownership

of a slot machine licensee that meets the criteria in subsection (a).

(c) A person or group of persons acting in concert desiring to acquire an interest in a slot machine licensee that meets the criteria in subsection (a) shall submit an application for approval of the transfer which includes the following:

(1) An application for transfer on a form prescribed by the Board.

(2) A copy of all documents, contracts and agreements related to the transfer.

(3) A principal license application for each person seeking to acquire an interest that does not currently hold a principal license.

(4) Application fees specified by the Board to cover the cost of investigations of the transfer application and persons seeking to acquire an interest. The applicant for the transfer shall be responsible for and remit to the Board any costs associated with the investigation of the transfer that exceed the amount covered by the fees.

(d) A person or group of persons acting in concert that acquires more than 20% of a slot machine licensee's securities or other ownership interests or purchases the assets, other than in the normal course of business, of any slot machine licensee shall independently qualify for a license in accordance with the

act and this part and shall pay the licensing fee required by section 1209 of the act (relating to slot machine license fee), except as otherwise required by the Board.

(e) The requirements in subsections (a)–(d) do not apply to:

(1) An underwriter who will hold a security for less than 90 days.

(2) An institutional investor, if:

(i) The institutional investor holds less than 10% of the securities or other ownership interests referred to in subsection (a)(1) or (2).

(ii) The securities or interests are publicly traded securities.

(iii) The institutional investor's holdings if the securities were purchased for investment purposes only and the institutional investor files a certified statement with the Board stating that the institutional investor has no intention of influencing or affecting, directly or indirectly, the affairs of the slot machine licensee.]

(b) A transaction set forth in subsection (a) may not be consummated without:

(1) Obtaining the prior approval of the Board.

(2) Each principal involved in the transaction obtaining a license in accordance with Chapter 433a (relating to principal licenses).

(c) A request for approval required under subsection (b)(1) shall be made by filing a petition with the Board in accordance with § 493a.4 (relating to petitions generally).

(d) Notwithstanding the requirement in subsection (b)(2), the Board may approve a transaction under subsection (a) prior to the licensure of the person or group of persons acting in concert if all of the following apply:

(1) The person or group of persons acting in concert are proposing to acquire 20% or less of the voting securities of a publicly traded holding company of a slot machine licensee.

(2) The person or group of persons acting in concert affirm that the person or group of persons will not control or influence the affairs of or benefit from the slot machine licensee prior to being licensed as principals in accordance with Chapter 433a.

(3) The person or group of persons have filed applications with the Board for licensure as principals in accordance with Chapter 433a.

(4) The approval of the transaction is expressly conditioned upon the person or group of persons being licensed as principals in accordance with Chapter 433a.

(e) The Board will not approve a transaction under subsection (a), which involves a change in control unless the person or group of persons:

(1) Acting in concert demonstrates by clear and convincing evidence that the slot machine licensee's gaming facility will remain or become a financially successful, suitable and efficient business operation.

(2) Acquiring the interest pay a new slot machine license fee as determined by the Board. The Board may condition its approval of the transaction on the payment of the fee.

(f) The following transactions are not be subject to subsections (a)–(c):

(1) A transaction through which an underwriter will possess a security for less than 90 days.

(2) A transaction through which an institutional investor acquires less than 20% of the securities of a slot machine licensee's holding company, provided that the securities were acquired for investment purposes only and the institutional investor complies with § 433a.5 (relating to institutional investors).

[[f]] (g) In accordance with section 1330 of the act (relating to multiple slot machine license prohibition), a slot machine licensee, its affiliates, intermediaries, subsidiaries and holding companies, may not possess an ownership or financial

interest in any other slot machine licensee or in any other person eligible to apply for a Category 1 slot machine license or its affiliates, intermediaries, subsidiaries or holding companies that exceeds 33.3%.

~~[(g)]~~ (h) Nothing in subsection ~~[(f)]~~ (g) prevents a slot machine licensee from possessing ownership or financial interests of 33.3% or less, in multiple slot machine licensees or in persons eligible to apply for a Category 1 slot machine license or its affiliates, intermediaries, subsidiaries or holding companies.

~~[(h)]~~ (i) If a slot machine licensee, its affiliates, intermediaries, subsidiaries or holding companies has an ownership or financial interest in another slot machine licensee that is in violation of subsection ~~[(f)]~~ (g), the slot machine licensee will be required to divest that interest which is in excess of 33.3% in compliance with section 1330 of the act.

~~[(i)]~~ (j) Nothing in this section concerning ownership or financial interests applies to contractual interests including those in the nature of management contracts, options to purchase exercisable after a license has been issued or leases.

§ 441a.18. Employee status report.

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(b) Each month each slot machine licensee shall generate a monthly employee status report of the slot machine licensee's

and management company's employees. The report shall be submitted to the Bureau of Licensing no later than the 15th calendar day of the following month. The report must include the following information:

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(2) The total number of persons employed by the slot machine **[applicant or]** licensee and management company during the preceding month.

* * * * *

(c) The reports shall be **[signed by the slot machine licensee and]** transmitted to the Bureau of Licensing by means of electronic data transmission or in a form prescribed by the ~~Board~~ BUREAU OF LICENSING.

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§ 441a.19. Notice of employee misconduct and offenses and employee resignations.

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(c) Notwithstanding subsection (a), a slot machine licensee shall, within 24 hours, notify the **[Board] Bureau** upon learning of the arrest, charging, indictment or conviction of any of its affiliates, intermediaries, subsidiaries, holding companies, principals, key employees, permittees or registrants, for any of the following:

* * * * *

(*Editor's Note:* The following section is new and printed in regular type to enhance readability.)

§ 441a.20a. Changes to a slot machine licensee's initial or modified plan of development.

(a) A slot machine licensee shall obtain Board approval prior to implementing any change to the slot machine licensee's **APPROVED** initial or modified plan of development as defined in § 441a.1 (relating to definitions).

(b) A request for approval of a change to a slot machine licensee's initial or modified plan of development shall be made by filing a petition with the Board in accordance with § 493a.4 (relating to petitions generally).

(c) The licensee shall demonstrate that the contemplated change in the development plan is substantially similar to the currently approved plan of development or show good cause as to why a contemplated plan of development that is different from the licensee's currently approved plan should be approved.

§ 441a.21. [Management contracts] Liability for management companies.

Notwithstanding any provision to the contrary in the management contract, each slot machine licensee may be jointly and severally liable for any act or omission by **[the] its** management company in violation of the act or this part,

regardless of actual knowledge by the slot machine licensee of the act or omission.

(*Editor's Note:* Sections 441a.24–441a.26 are new and printed in regular type to enhance readability.)

~~§ 441a.24. Notification of equity securities offering.~~

~~(a) A slot machine licensee or an intermediary or holding company of a slot machine licensee shall notify the Board in writing at least 15 business days prior to the commencement of an offering of equity securities or other ownership interests.~~

~~(b) A notification under subsection (a) shall be made on a Notification of Financial Transaction form accompanied by current drafts of all documentation relating to the offering of equity securities or other ownership interests.~~

~~(c) All final executed documents relating to the offering of the equity securities or other ownership interests shall be transmitted to the Bureau and the Bureau of Licensing within 5 business days following the commencement of the offering.~~

~~§ 441a.25. Approval of material debt transactions.~~

~~(a) A slot machine licensee may not consummate a material debt transaction without the prior approval of the Board.~~

~~(b) An intermediary or holding company of a slot machine licensee may not consummate a material debt transaction without the prior approval of the Board if the slot machine licensee is~~

~~a guarantor of the debt or if the assets or income of the slot machine licensee are being used as collateral.~~

~~(c) Notwithstanding subsections (a) and (b), a publicly traded corporation may consummate a material debt transaction without Board approval, provided that:~~

~~(1) The publicly traded corporation notifies the Bureau and the Bureau of Licensing in writing at least 15 business days prior to the consummation of the material debt transaction by submitting a Notification of Financial Transaction form accompanied by current drafts of all documentation relating to the material debt transaction.~~

~~(2) The publicly traded corporation transmits to the Bureau and the Bureau of Licensing all final, executed documents relating to the material debt transaction within 5 business days following the consummation of the material debt transaction.~~

~~(3) The publicly traded corporation's debt transaction is \$50 million or less.~~

~~(d) Any subsequent borrowings under a revolving line of credit, previously approved under this section, do not require subsequent approval of the Board.~~

~~(e) A debt transaction that does not otherwise qualify as a material debt transaction may require Board approval if Board staff determines that approval is necessary to protect the integrity of gaming.~~

~~§ 441a.26. Notification of refinancing transaction.~~

~~(a) A slot machine licensee or an intermediary or holding company of a slot machine licensee shall provide the Bureau and the Bureau of Licensing with all documents relating to a transaction to refinance \$25 million or more of its outstanding indebtedness at least 10 business days prior to the consummation of the transaction.~~

~~(b) A notification required under subsection (a) shall be made on a Notification of Financial Transaction form accompanied by current drafts of all documentation relating to the refinancing transaction. All final executed documents relating to a refinancing shall be transmitted to the Bureau within 5 business days following the consummation of the refinancing transaction.~~

~~(c) A refinancing transaction that results in the incurrence of \$25 million or more of additional indebtedness shall be subject to § 441a.25 (relating to approval of material debt transactions).~~

~~(d) Notwithstanding subsection (c), a publicly traded corporation may consummate a refinancing transaction that results in the incurrence of \$50 million or less of additional indebtedness.~~

~~(e) A refinancing transaction that does not otherwise require approval in accordance with subsections (c) and (d) may~~

~~require Board approval if Board staff determines that approval is necessary to protect the integrity of gaming.~~

**Subpart E. SLOT MACHINES AND ASSOCIATED EQUIPMENT; ACCOUNTING
AND INTERNAL CONTROLS**

**CHAPTER 461a. SLOT MACHINE AND TABLE GAME DEVICE TESTING AND
CONTROL**

§ 461a.7. Slot machine minimum design standards.

(a) A slot machine may not be set to pay out less than the theoretical payout percentage, which may not be less than 85%, **calculated using the lowest possible wager that could be played for any single play**, or equal or exceed 100%, **calculated using the highest eligible wager available**. The theoretical payout percentage for the total value of slot machine wagers will be calculated using the following:

* * * * *

§ 461a.18. Cashless funds transfer systems.

* * * * *

~~(f) On at least a monthly basis, a slot machine licensee using a cashless funds transfer system shall provide a statement to a patron who has participated in the system that month. The statement must include, at a minimum, the patron's beginning monthly balance, credits earned, credits transferred to a slot machine pursuant to this section and the patron's monthly ending balance. With the written authorization of the patron, the~~

~~mailing of a monthly statement may be omitted or be issued electronically to the patron. Notwithstanding the foregoing, a monthly statement is not required for transfers of temporary electronic credits or transfers of electronic credits from a temporary anonymous account.~~

~~(g) A slot machine licensee shall notice the Bureau of Gaming Laboratory Operations in writing of any adjustment to the amount of a credit transferred to a slot machine by means of a cashless funds transfer system. The notice shall be made on or before the date of adjustment.~~

CHAPTER 465a. ACCOUNTING AND INTERNAL CONTROLS

§ 465a.2. Internal control systems and audit protocols.

(f) If a slot machine licensee intends to make a change or amendment to its system of internal controls, it shall submit the change or amendment electronically to the Bureau of Gaming Operations using the Internal Controls & Table Games Submission Form posted on the Board's web site. ~~A request for a change or amendment must include electronic copies of the attestations required under subsection (b)(1) and (2).~~ The slot machine licensee may implement the change or amendment on the 30th calendar day following the filing of a complete submission unless the slot machine licensee receives written notice tolling the change or amendment in accordance with subsection (g) or

written notice from the Board's Executive Director rejecting the change or amendment.

§ 465a.24. Count room characteristics.

(a) A slot machine licensee shall have adjacent or proximate to the cage a room, to be known as a count room, specifically designated, designed and used for counting the contents of slot cash storage boxes and table game drop boxes.

(b) The count room shall be designed and constructed to provide maximum security for the materials housed therein and for the activities conducted therein. Each slot machine licensee shall design and construct a count room with the following security measures:

(1) A metal door installed on each entrance and exit equipped with an alarm device which audibly signals the surveillance department monitoring room **[and] or** the security department whenever a door to the count room is opened **[at times other than those times for which the slot machine licensee has provided prior notice under § 465a.25 (relating to counting and recording of slot cash storage boxes and table game drop boxes)]**.

(2) Each entrance **[and exit]** door **to the count room** must be equipped with two separate locks, the keys to which must be different from each other and different from the lock securing the contents of each slot cash storage box or table

game drop box. The keys shall be maintained and controlled as follows:

(i) The key to one of the locks shall be maintained and controlled by the security department.

(ii) The key to the other lock shall be maintained and controlled by finance.

(iii) Sign out and sign in procedures shall be established for both keys.

(3) To exit the count room, the count room door must be equipped with an automatic release mechanism or other device as specified in the slot machine licensee's internal controls.

(c) The following must be located within the count room:

* * * * *

Subpart K. TABLE GAMES

CHAPTER 609a. CREDIT

§ 609a.4. Approval of credit limits.

(a) A credit limit, and any **temporary or permanent** increases thereto, shall be approved by either:

* * * * *

(c) Prior to approving a **temporary or permanent** credit limit increase, an employee of the certificate holder's credit department shall:

(1) Obtain a written request from the patron which includes:

(i) The date and time of the patron's request.

(ii) The amount of credit limit increase requested by the patron **and if the increase requested is temporary or permanent.**

(iii) The signature of the patron.

(2) Reverify the patron information required under [**§ 609a.3(c)(2) and (3)**] **§ 609a.3(c)(2)** (relating to application and verification procedures for granting credit).

(3) Consider the patron's player rating based on a continuing evaluation of the amount and frequency of play subsequent to the patron's initial receipt of credit.

(4) Include the information and documentation required under paragraphs (1)–(3) in the patron's credit file.

(5) Comply with subsections (a) and (b).

§ 609a.5. Derogatory information; reduction or suspension of credit.

* * * * *

(c) [**Whenever**] **In addition to the requirements in subsection (d), whenever** derogatory information is received by a certificate holder's credit department relating to the patron's continued creditworthiness[, **other than a returned check,**] the certificate holder's credit department shall reverify the patron information required under [**§ 609a.3(c)(2) and (3)**] **§**

609a.3(c)(2) (relating to application and verification procedures for granting credit).

(d) A patron having a check returned to any certificate holder unpaid by the patron's bank shall have credit privileges suspended unless the returned check was due to a processing error and an explanation for the error is noted in the patron's credit file or until the returned check has been paid in full. **Prior to reinstating a patron's credit privileges, the certificate holder shall comply with subsection (e).**

(e) If a patron's credit privileges have been suspended **for any reason** RELATING TO THE PATRON'S CONTINUED CREDITWORTHINESS, the certificate holder's credit department shall reverify the patron's information, as required under **[\$ 609a.3(c)(1)-(4)] § 609a.3(c)(2) and (3)**, before reinstating the patron's credit privileges. ALL CREDIT SUSPENSIONS AND REINSTATEMENTS AND AN EXPLANATION THERETO SHALL BE DOCUMENTED IN THE PATRON'S CREDIT FILE.

CHAPTER 623a. CRAPS AND MINI-CRAPS

§ 623a.4. Making and removal of wagers.

* * * * *

(c) A wager made on any bet may be removed or reduced at any time prior to a roll that decides the outcome of the wager except that:

(1) A Pass Bet may not be **wagered**, removed or reduced after a come out point is established with respect to the Pass Bet.

* * * * *

§ 623a.5. Payout odds.

* * * * *

(g) A certificate holder that offers Buy Bets and Lay Bets:

* * * * *

(3) [May collect, at time the player makes the wager, a vigorish of up to 5%, as specified in the certificate holder's Rules Submission, of the amount wagered on the Buy or Lay Bet or may collect the vigorish only on a winning Buy or Lay Bet. If collecting a vigorish, the certificate holder shall specify in its Rules Submission which vigorish procedure it will utilize.]
May collect a vigorish of up to 5%, as specified in the certificate holder's Rules Submission, in accordance with the following requirements:

(i) For Buy Bets, the certificate holder may utilize one of the following vigorish procedures as specified in its Rules Submission:

(A) At the time the player makes a Buy Wager, the dealer shall collect a vigorish based on the amount wagered on the Buy Bet. The vigorish amount collected may not be included in the wager amount.

(B) The dealer shall collect a vigorish only on a winning Buy Bet. If the certificate holder utilizes this vigorish procedure for Buy Bets, it shall specify the wagers on which this vigorish will be applicable. For example, vigorish based on winning Buy Bets placed on the 4 or 10.

(ii) For Lay Bets, the certificate holder may utilize one of the following vigorish procedures as specified in its Rules Submission:

(A) At the time the player makes a Lay Wager, the dealer shall collect a vigorish based on the amount potentially won on the Lay Bet. The vigorish amount collected may not be included in the wager amount.

(B) The dealer shall collect a vigorish only on a winning Lay Bet. If the certificate holder utilizes this vigorish procedure for Lay Bets, it shall specify the wagers on which this vigorish will be applicable. For example, vigorish based on winning Lay Bets placed on the 4 or 10.

(h) Except as permitted under subsection (g)(3), a certificate holder may not charge a percentage, fee or vigorish to a player in making any wager in the game of Craps or Mini-Craps.

(i) Except as permitted under § 623a.6(e) (relating to supplemental wagers made after the come out roll in support of Pass, Don't Pass, Come and Don't Come Bets (taking and laying

odds)), a certificate holder may not accept any wager in excess of the maximum bet posted at the table.

CHAPTER 633a. BLACKJACK

§ 633a.7. Procedure for dealing the cards; completion of each round of play.

* * * * *

(i) After the procedures in subsection (h) have been completed, if necessary, the dealer shall start with the player farthest to the dealer's left and continue around the table in a clockwise direction and if the player:

(1) Has Blackjack and the dealer's up card:

(i) Is a 2, 3, 4, 5, 6, 7, 8 or 9, the dealer shall announce and pay the Blackjack and remove the player's cards.

(ii) Is an ace, king, queen, jack or 10 but the dealer's hole card will not give the dealer a Blackjack, the dealer shall announce the player's Blackjack [**but may not make a payment nor remove any cards until all other cards are dealt to the players and the dealer reveals the hole card.**] and either:

(A) **Immediately pay the player's Blackjack and remove the player's cards.**

(B) **Leave the player's cards on the table and not make a payment to the player. After all other cards are dealt to the players and the dealer reveals his hole card, the dealer shall pay the player's Blackjack and remove the player's cards.**

(2) Does not have Blackjack, the player shall indicate whether he wishes to surrender, as permitted under § 633a.9 (relating to surrender), double down as permitted under § 633a.10 (relating to Double Down Wager), split pairs as permitted under § 633a.11 (relating to splitting pairs), stand or draw additional cards.

(j) As each player indicates his decision, the dealer shall deal face upwards whatever additional cards are necessary to effectuate the player's decision.

* * * * *

§ 633a.9. Surrender.

(a) After the first two cards are dealt to the player, the player may elect to discontinue play on his hand for that round by surrendering 1/2 his wager. All decisions to surrender shall be made prior to the player indicating whether he wishes to double down as permitted under § 633a.10 (relating to Double Down Wager), split pairs as permitted under § 633a.11 (relating to splitting pairs), stand or draw. If the first card dealt to the dealer:

(1) Is not an ace or 10 value card, the dealer shall immediately collect 1/2 of the wager and return 1/2 to the player.

(2) Is an ace or 10 value card, the dealer will
[place] either:

(A) Place the player's wager on top of the player's cards. When the dealer's second card is revealed, the hand will be settled by immediately collecting the entire wager if the dealer has Blackjack or collecting 1/2 of the wager and returning 1/2 of the wager to the player if the dealer does not have Blackjack. **The player's cards shall then be collected.**

(B) Immediately after utilizing the card reader device in accordance with § 633a.7(h) (relating to procedure for dealing the cards; completion of each round of play), the hand shall be settled by immediately collecting the entire wager if the dealer has Blackjack or collecting 1/2 of the wager and returning 1/2 of the wager to the player if the dealer does not have Blackjack. The player's cards shall then be collected.

(b) If the player has made an Insurance Wager and then elects to surrender, each wager will be settled separately in accordance with subsection (a) and § 633a.8 (relating to Insurance Wager).

CHAPTER 643a. LET IT RIDE POKER

§ 643a.12. Payout odds; payout limitation.

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(b) If a certificate holder offers the Five Card Bonus Wager, the certificate holder shall pay out winning Five Card Bonus Wagers at the amounts in one of the following paytables

selected by the certificate holder in its Rules Submission filed in accordance with § 601a.2:

	* * * * *			
	Paytable	Paytable	Paytable	Paytable
Hand	D	E	F	G
Royal flush	\$10,000	\$10,000	\$10,000	\$25,000
Straight flush	\$2,000	\$2,000	\$2,000	\$2,500
Four-of-a-kind	\$200	\$200	\$100	\$400
Full house	\$75	\$100	\$75	\$200
Flush	\$50	\$50	\$50	\$50
Straight	\$25	\$25	\$25	\$25
Three-of-a-kind	\$5	\$10	\$9	\$5
Two pair	\$4	\$6	\$6	
Pair of tens, jacks, queens, kings or aces	\$1	\$0	\$0	

* * * * *

CHAPTER 645a. PAI GOW POKER

§ 645a.2. Pai Gow Poker table; Pai Gow Poker shaker; physical characteristics.

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(c) To determine the starting position for the dealing or delivery of the cards, Pai Gow Poker may be played with:

(1) A Pai Gow Poker shaker, approved in accordance with § 601a.10(a), which shall be designed and constructed to maintain the integrity of the game. The Pai Gow Poker shaker shall be the responsibility of the dealer, may not be left unattended while at the table and must:

(i) Be capable of housing three dice that when not being shaken must be maintained within the Pai Gow Poker shaker. Dice that have been placed in a Pai Gow Poker shaker for use in gaming may not remain on a table for more than 24 hours.

(ii) Be designed to prevent the dice from being seen while being shaken.

(iii) Have the name or logo of the certificate holder imprinted or impressed thereon.

(2) A computerized random number generator which shall be submitted to the Bureau of Gaming Laboratory Operations and approved in accordance with § 461a.4 (relating to submission for testing and approval) prior to its use.

~~(3) A flat button which shall be approved in accordance with § 601a.10(a) prior to its use.~~

* * * * *

§ 645a.5. Shuffle and cut of the cards; procedures for determining the starting position for dealing cards.

* * * * *

(i) To determine the starting position for the dealing of cards, the certificate holder shall use one of the following:

* * * * *

[(3) If an automated card shuffling device and dealing shoe are used under § 645a.10, a flat button to indicate the starting position. At the commencement of play, the button shall be placed in front of the dealer. Thereafter, the button shall rotate around the table in a clockwise manner after each round of play.]

(j) After the starting position for a round of play has been determined, a certificate holder may mark that position with an additional cover card or similar object approved in accordance with § 601a.10(a) (relating to approval of table game layouts, signage and equipment).

§ 645a.6. Pai Gow Poker rankings.

* * * * *

(d) If the certificate holder offers the optional Fortune Bonus Wager under § 645a.7(e)(1) (relating to wagers), the following seven-card hands shall have a rank higher than a hand of five aces, as described in subsection (b)(1), and be used to determine the amount of the Fortune Bonus Wager payout or Envy Bonus payment to a winning player:

(1) A seven-card straight flush with no joker, which is a hand consisting of seven cards of the same suit in

consecutive ranking, with no joker used to complete the straight flush.

(2) A royal flush plus Royal Match, which is a seven-card hand consisting of an ace, king, queen, jack and a 10 of the same suit, with or without a joker, with one of the following:

(i) An additional ace and king of a same suit IF OFFERING EMPEROR'S CHALLENGE PAI GOW POKER.

(ii) An additional king and queen of a same suit IF OFFERING FORTUNE PAI GOW POKER.

* * * * *

§ 645a.13. Payout odds; Envy Bonus; rate of progression; payout limitation.

(a) A certificate holder shall pay each winning Pai Gow Poker Wager at odds of 1 to 1, except that the certificate holder shall extract a vigorish from the winning players in an amount equal to 5% of the amount won. When collecting the vigorish, the certificate holder may round off the vigorish to 25¢ or the next highest multiple of 25¢. A certificate holder shall collect the vigorish from a player at the time the winning payout is made.

(b) The certificate holder shall pay out winning Fortune Bonus Wagers and Envy Bonus payouts at the odds and amounts in one of the following paytables selected by the certificate

holder in its Rules Submission filed in accordance with
 § 601a.2 (relating to table games Rules Submissions):

* * * * *

<i>Hand</i>	<i>Paytable C Envy Bonus</i>	
Seven-card straight flush	5,000 to 1	\$1,000
Royal flush and Royal Match	1,000 to 1	\$250
Seven-card straight flush with joker	750 to 1	\$100
Five aces	250 to 1	\$50
Royal flush	100 to 1	\$25
Straight flush	50 to 1	\$10
Four-of-a-kind	20 to 1	\$5
Full house	5 to 1	
Flush	4 to 1	
Three-of-a-kind	3 to 1	
Straight	2 to 1	
<u>THREE PAIR</u>		<u>PUSH</u>

* * * * *

(d) The certificate holder shall pay out winning Pai Gow Insurance Wagers at the odds in one of the following paytables selected by the certificate holder in its Rules Submission filed in accordance with § 601a.2 PROVIDED THAT IF THE LICENSEE IS OFFERING EMPEROR'S CHALLENGE PAI GOW POKER, THE LICENSEE MAY SELECT FROM PAYTABLES A OR B OR IF THE LICENSEE IS OFFERING FORTUNE PAI GOW POKER, THE LICENSEE MAY SELECT FROM PAYTABLES C, D OR E:

<i>Hand</i>	<i>Paytable A</i>	<i>Paytable B</i>	<i>Paytable C</i>	<i>Paytable D</i>	<i>Paytable E</i>
Nine-high	100 to 1	100 to 1	<u>100 to 1</u>	<u>100 to 1</u>	<u>100 to 1</u>
Ten-high	25 to 1	25 to 1	<u>40 to 1</u>	<u>50 to 1</u>	<u>40 to 1</u>
Jack-high	15 to 1	15 to 1	<u>10 to 1</u>	<u>10 to 1</u>	<u>10 to 1</u>
Queen-high	6 to 1	7 to 1	<u>7 to 1</u>	<u>7 to 1</u>	<u>7 to 1</u>

King-high	5 to 1	5 to 1	<u>6 to 1</u>	<u>5 to 1</u>	<u>5 to 1</u>
Ace-high	3 to 1	3 to 1	<u>3 to 1</u>	<u>3 to 1</u>	<u>3 to 1</u>

* * * * *