

**RULES AND REGULATIONS**

**TITLE 58. RECREATION**

**PENNSYLVANIA GAMING CONTROL BOARD**

**[58 PA. CODE CH. 435, 503 and 511]**

**Response to Public Comment**

**Subpart B. LICENSING, REGISTERING, CERTIFYING AND PERMITTING**

**CHAPTER 435. EMPLOYEES**

**§ 435.6. Credentials generally.**

*Comment 1:*

This subsection identifies specific information that shall be included on all Board-issued credentials. In accordance with section 435.7, these credentials are to be displayed at all times while engaged in the performance of duties on the premises of a licensed facility. IGT fully supports and understands the importance of ensuring that all individuals performing services at licensed facilities are able to provide proof of licensure at all times. However, two of the informational items listed in section 435.6(a)(1) that will appear on the credential, do cause some concern.

IGT feels strongly that an individual's date of birth and personal address should be protected from public release in an effort to deter identity theft. We respectfully request the Board consider eliminating the date of birth element, or at a minimum, placing the date in a discreet location, for example on

the back of the credential. IGT also requests the Board consider allowing the use of the employer's address rather than a personal address on the credential, to further respect privacy concerns and alleviate additional distress over potentially lost or stolen credentials.

IGT respectfully requests clarification on the "standards of the Commonwealth Photograph Imaging Network" as referenced under (a)(2) of this subsection. During a previous commenting period, the Board agreed to alter a similar requirement under § 435.2(b) to read "a photograph that meets the requirements prescribed by the Board;" IGT respectfully requests the same consideration be given to this statement.

*Comment 2:*

[Sections 437.5 and 437.6] require that full Board issued credentials including personal information, specifically address, date of birth and physical characteristics be displayed on an employee's credentials. Having personal information viewable by the general public is intrusive to employees. In addition, requiring that full Board issued credentials be displayed is inefficient and burdensome to employees during the performance of their duties and detracts from a desired refined, professional image as it relates to customer service and interaction with guests. It is recommended that the New Jersey requirement be implemented whereby each employee, once they have

obtained satisfactory credentials, be permitted to simply display a name tag which indicates their name and employee number and carry their official credentials on their person. The complete credentials would be produced when required to do so by an appropriate official. Each employee would always be in possession of proper credentials and would also present the best appearance to the public. To the extent that personal information is otherwise required to be part of the credentials and said credentials are required to be worn, personal information should be provided on the reverse side of the credentials and the credentials should be of minimal size to achieve the professional image described above.

*Comment 3:*

Applicant recommends to changes to this section. First, allow the credential to be carried on the employee's person rather than be publicly displayed. The gaming employees will be required by each slot machine licensee to wear an identifying badge. This badge will suffice to provide identification of the employee should the need arise. Should the badge be insufficient to allow for identification of the employee, the gaming agency need simply ask the employee to produce his or her credentials. The sufficiency of the badge is reinforced by the fact that no other major gaming jurisdiction has a requirement for the display of such extensive information.

Second, applicant recommends that the Board not require sensitive information (such as address and date of birth) to be included on the credential, particularly if the Board decides to require the public display of the credential. Such information is not necessary for the purpose of establishing the identification of the employee and the inclusion of such information only enhances the possibility of identity theft.

Additionally, it should be noted that the Pennsylvania State Horse Racing Commission may also require identification to be worn or carried by a licensed individual. This raises two issues. First, will the Board and the Commission develop one form of identification for those individuals who must be licensed by both agencies? Second, if separate identification is required for each agency, it would support the recommendation to require individuals to carry, rather than display the identification.

*Response:*

The Board agrees with the suggestion that the employee's address and personal information be located on the back of the credential. The Board further agrees that the employee's credential need not be displayed by the employee but rather must be carried on the person of the employee at all times during his employment. The Board has amended the language the regulations in compliance with this suggestion.

The Board declines to amend the requirement that the photographs meet the standards of the Commonwealth Photograph Imaging Network. Employee credentials will be used for identification purposes by the Board, the Pennsylvania State Police and other agencies and therefore must meet the uniform photograph requirements of the Commonwealth Photograph Imaging Network.

**§ 437.7 Employee credentials.**

*Comment:*

Please confirm that (a) the Board will issue the credentials and (b) the credentials will be issued at each property rather than from a central location.

*Response:*

In subsection (a) of section 437.7, the language references "Board-issued" credentials. As way of further response, the Board will establish a protocol for the issuance of credentials.

**§ 435.8. Emergency credentials.**

*Comment:*

§ 435.8(a) - Please clarify that the format of the emergency credential, rather than the actual credential, is what must be approved in writing by the Board.

*Response:*

The Board accepts this comment and has amended the regulations to reflect this clarification.

*Comment:*

§ 435.8(a)(4) - (1) Should "emergency" replace the word "temporary" in this subparagraph? (2) What happens if 12 or more emergency credentials have been issued to an employee during the last 12 months? (3) What does the Board anticipate will occur if a credential is lost? If the employee must receive an emergency credential every day until another permanent credential is issued, it is possible that 12 or more emergency credentials will be issued to the employee for the same lost credential.

*Response:*

The Board has amended the language of this regulation to clarify these issues. The Board has extended the duration of time for which an emergency credential is valid. If a credential is lost, pursuant section 435.10(c), the security department of a slot machine licensee may issue an emergency credential.

*Comment:*

§ 435.8(a)(5) - Immediate notification is not feasible unless it is allowed to be made electronically.

*Response:*

The Board has amended the language of this regulation to provide for an emergency credentials log that will be submitted to the Board.

*Comment:*

§ 435.8(a)(6) - Please clarify the website to be used. It may be more secure to allow the use of an alternative electronic media to submit the information.

*Response:*

The Board declines to accept this recommendation. The secure website information will be provided directly to the operator by the Board.

**§ 435.9. Temporary Credential.**

*Comment:*

The draft provides that a temporary credential is valid for 30 days and provides that a renewal application may be filed within 10 days of its expiration. To reduce the amount of paperwork and lessen the potential burdens on staff, perhaps the Board should consider changing the period in which a temporary credential is valid to 60 or 90 days.

*Response:*

The Board agrees with the suggestion to amend the time period for temporary credentials to a 60 day period, unless otherwise authorized by the Board.

**Subpart I. COMPLUSIVE AND PROBLEM GAMBLING**

**CHAPTER 503. SELF EXCLUSION**

**Chapter 503 Self Exclusion Generally.**

*Comment:*

Self Exclusion Registration: It was unclear in the regulations whether or not the Gaming Control Board would be accepting self-exclusion submissions at a central location or at each gaming location. Relying on gaming personnel to remember faces of self-excluded patrons is a near impossible task.

*Response:*

The Board believes placing the responsibility for identification of self-excluded persons at licensed gaming facilities on gaming personnel, consistent with the internal operating procedures of each facility will afford effective identification and removal of self excluded persons.

*Comment:*

I would suggest that penalties be in place for any self-excluded patron that is sent mail, complimentary gifts and anything that may induce gambling. I would also recommend a minimal fine if the patron attempts to circumvent the Self-Exclusion regulations before pursuing article (13). This fine would be given to Gambler's Anonymous.

*Response:*

The Board declines to accept the above comment. The structure of the regulatory enforcement actions which will be levied against those who violate these regulatory provisions will provide adequate disincentive for repeated violations. All fines levied against licensed gaming entities are paid to the General Fund.

*Comment:*

Broaden the wording in the affidavit: The proposed draft regulations require a person requesting self-exclusion to certify that "I am a problem gambler." Many victims of gambling addiction have testified that they did not think they were vulnerable until they entered a casino and began to feel a rush of excitement about risking their money.

The PGCB should not require citizens to become problem gamblers first and then request self-exclusion. Rather, while remaining consistent with the intent of Act 71, the PGCB can and should ask people seeking self-exclusion to affirm that "I am" or "I believe I have the potential to become, a problem gambler."

*Response:*

The Board declines to accept the above comment. The language of the statute requires a self excluded person's affidavit to declare that they are a problem gambler.

*Comment:*

Check Everyone's ID: The easiest way to catch most self-excluded gamblers at the entrance to the casino is to require all patrons to show photo identification before entering. This step will not pose serious inconvenience to anyone while enabling casino staff to compare ID's to the file of self-excluded persons. It may also help to keep underage persons out of casinos. If the PGCB does not already intend to require that casinos check all entering patrons' ID's, it should do so as a means of making self-exclusion more effective.

*Response:*

The Board declines to accept the above comment at this time. Operators are required to institute security and surveillance procedures which are intended to prevent self-excluded persons from accessing these facilities.

*Comment:*

Require the use of image recognition software: A presenter at the PA Gaming Congress indicated that image recognition software used to spot suspicious activity in casinos can also be used to identify, at the casino entrance, patrons who look like persons on the self-excluded list. The PGCB should require the use of this software as an additional means to catch self-excluded persons who attempt to enter a casino using false identification.

*Response:*

The Board declines to accept the above comment at this time. The security and surveillance technologies which applicants are currently proposing have been used in other jurisdictions to prevent the access of self excluded persons to licensed gaming facilities.

*Comment:*

(1) Is it the Board's intention that anyone who is on the self-exclusion list is excluded not only from the gaming area but also from the racing area and the area where lottery tickets are sold? Does this also include non-gaming areas such as restaurants and hotels? (2) Is it the Board's intention that all individuals who advise the slot machine licensee that they wish to self exclude be referred to Board personnel for placement on the state self-exclusion list? Will the slot machine licensee have the option to have a concurrent program to allow an individual to self exclude only from that licensee's facility? Will the Board require the slot machine licensee to have such a concurrent program? (3) Based on its prior experience with statewide exclusion programs, Applicant anticipates that an individual who seeks to be placed on the statewide exclusion list will be brought to a Board agent for processing. It is during the processing that the individual is advised of the various problem gambling resources available. Therefore, Applicant assumes the Board agent will provide this information

and refer the individual to a source for assistance. If the Board anticipates that the Applicant will do so, please clarify where in the process this should occur.

*Response:*

In response to the Commentator's first question, the Board's self exclusion regulations are only meant to restrict access to the areas designated as gaming areas, not from the whole of licensed gaming facilities.

As to the Commentator's second query, as the statute states, all individuals who wish to exclude themselves from licensed gaming facilities will be required to seek such voluntary exclusion with the Board in the form and in the manner the Board requires. Any statewide self exclusion program must comply with the requirements of the Board. However, any concurrent program instituted by any licensed gaming entity is not subject to regulation by the Board.

In response to Commentators third query, although Board personnel will assist individuals who are seeking placement on the self exclusion list, all licensed gaming entities will be required to perform the remainder of their duties as are set forth in the Board's Compulsive and Problem Gambling regulation and plans submitted to the Board.

**§ 503.2. Request for self-exclusion.**

*Comment:*

This section states that any person requesting placement on the self-exclusion list shall submit, in person, a completed request for self-exclusion as required by subsection (c). While it is appropriate to allow people to personally submit requests for self-exclusion, it is recommended that there also be an allowance for situations in which exclusion can occur without the person's personal appearance. An example is a situation in which a person's treating physician or mental health professional, after interaction with the person in question, desires to contact the proper authorities and place the person on a self-exclusion list. In this situation, the person cannot personally appear, but the need for self-exclusion is clear, and the Board should revise the section to allow for circumstances of this nature. Also, it is not clear whether the self-excluded individuals will be recorded on one master list, or a series of lists related to each licensee. Finally, it is not clear where individuals would need to appear to request placement on the self-exclusion list, i.e., the Board offices or some designated location at a licensee's facility. These issues should be further clarified.

*Response:*

The statute requires the individual seeking self exclusion to apply. This requirement assures the due process and privacy safeguards that individual placement requests affords the

individual. Involuntary exclusions are not authorized by the Act.

*Comment:*

The information required by a person wishing to self exclude should include a driver's license number or similar identifier which should be provided to licensees. This information would be used to properly identify and code the correct individual in the system used by the licensee to track excluded persons.

*Response:*

The Board agrees with this comment and has amended this section to require the individuals to produce government issued photo identification for authentication purposes.

**§ 503.2(e)(2) - (1) Request for Self-Exclusion.**

*Comment:*

§ 503.2(e)(2) - (1) Who is responsible for requesting and processing these updates? (2) Who is responsible for validating the information received? (3) What happens if the individual refuses to update his or her information?

*Response:*

Regarding the first two above inquiries, at present, Board personnel at the Board's offices and at all licensed gaming facilities will be utilized to process and validate all updates received from self-excluded persons. In reference to this

Commentator's third inquiry, the Board has amended the language of this provision to require self excluded persons to provide updates to the Board within 30 days of a change in information as opposed to annually.

**§ 503.3. Self-exclusion list.**

*Comment:*

Section 503(3) - Self-Exclusion list - Licensees should be permitted to share exclusion information with its affiliates in other jurisdictions. This will facilitate the public policy of this proposed regulation. It would also be consistent with the vast majority of responsible gaming regulations in other jurisdictions as well as the programs used by most companies with multijurisdiction operations.

*Response:*

Pursuant to § 503.4(f) of the subject regulation and § 1516(d) of the Act, a licensed gaming entity is permitted to share its exclusion information with its affiliates in other jurisdictions.

*Comment:*

§ 503.3(b) - Please clarify the Board's use of the phrase "appropriate employees and agents" in this paragraph. It is unclear whether the Board has an expectation that certain personnel will be notified or if the Board is leaving it to the

slot machine licensee to determine the individuals who must be notified.

*Response:*

The Board agrees with this comment and has amended this section to improve its clarity.

**§ 503.3. Self-exclusion list.**

*Comment:*

§ 503.3(d) - (1) Disclosure of this information to affiliates of the slot machine licensee should be allowed. This is particularly true for parent companies so that the slot machine licensee can report incidents involving self-excluded individuals. (2) Disclosure of this information to an individual's immediate family should be allowed for two reasons. First, there may be instances where a husband and wife patronize a facility. In this instance, both spouses may receive mailings from the slot machine licensee. If the husband self-excludes, it is Applicant's understanding that the Board expects no mailings to be sent to the husband's address.

This would require the licensee also to cease sending materials to the wife. Under the proposed regulations, the licensee would be prohibited from advising the wife why she is no longer receiving communications from the licensee. Second, in many instances a person self excludes at the urging of an immediate family member. If the Board expects the licensee to

work with such concerned family members in their efforts to have the individual self exclude, it does not make sense to preclude the licensee from divulging to those family members that the individual is on the self-excluded list.

*Response:*

With respect to the portion of the public comment which proposes that information held by a licensed gaming entity relating to self-excluded persons be shared with other jurisdictions, § 503.4(f) of the instant regulation and § 1516(d) of the Act permits licensed gaming entities to share such information.

Regarding the comment that the Board allow disclosure of a self excluded person's status to a spouse, the statute does not permit this disclosure.

**§ 503.4. Duty of slot machine licensee.**

*Comment:*

§ 503.4(a)(3) - Please clarify the use of the term "credit" in this Section.

*Response:*

After further examination, in order to comply with the Act's prohibition on the extension of credit by any licensed gaming entity, the above reference to credit has been deleted from this regulation.

*Comment:*

§ 503.4(a)(6) - Will providing information regarding a problem gambling hotline satisfy this requirement? The Board's expectation regarding qualified treatment professionals is unclear at this time.

*Response:*

In order to satisfy the requirements of this provision, licensed gaming entities must comply with the provisions of § 501.3 of the Board's Compulsive Gaming Regulations relating to the required information which must be contained in a Compulsive and Problem Gambling Plan.

*Comment:*

§ 503.4(a)(7)(ii) and (iv) - Consistent with the introductory paragraph of this section, each subparagraph should begin: "Procedures designed to prevent...".

*Response:*

The Board declines to accept the above comment. The Board believes these provisions are clear as currently formatted.

*Comment:*

§ 503.4(a)(7)(iii) - Will these materials be standardized by the Board for the statewide self-exclusion program or will each licensee be required to create its own materials regarding the program?

*Response:*

The Board will allow each licensed gaming entity to use its own written materials until such time as the Department of Health, pursuant to §1509 of the Act, standardizes these materials. After such time, the Board will require the mandates of the Department of Health be met.

*Comment:*

§ 503.4(b) - Please clarify which provisions are being referenced in this paragraph. Applicant believes two of the intended references are to 503.3(b) (as opposed to 503.3(d)) and to 503.4(a). However, it is not clear to which provision "subsection (b)" refers as 503.4(b) does not require any procedures to be established.

*Response:*

The Board agrees that there was an incorrect citation, which the Board has now corrected.

*Comment:*

§ 503.4(d) - This paragraph should also exempt the slot machine licensee from liability for disclosing the identity of a self-excluded person to someone other than those authorized by the regulations.

*Response:*

The Board agrees with this comment and has amended this section to reflect this change.

**§ 503.5. Removal from self-exclusion list.**

*Comment:*

This section allows individuals to remove themselves from the self-exclusion list upon expiration of the self-exclusion period. It is recommended that once individuals place themselves on a self-exclusion list that such exclusion be permanent. In the alternative, licensees should be permitted to determine the exclusion period that applies to its facility.

*Response:*

The Board declines to accept this recommendation. An individual seeking self exclusion is able to opt for the one or five year terms of self exclusion, or lifetime exclusion. This allows individuals a greater degree of flexibility. In addition, offering individuals varying lengths of self exclusion is a standard practice in other major gaming jurisdictions.

## **Subpart J. EXCLUSION OF PERSONS**

### **CHAPTER 511. PERSONS REQUIRED TO BE EXCLUDED**

#### **Chapter 511. Persons required to be excluded generally.**

*Comment:*

The proposed regulations do not appear to address whether a licensee may exclude an individual, both temporarily and permanently, independent of Board involvement. It is recommended that the Board specify that it will allow for

licensees to exclude individuals independent of Board involvement.

*Response:*

The Board declines to accept this comment. These regulations are consistent with section 1514 of the act which authorizes the Board to establish a list of persons who are to be excluded from licensed facilities.

**§ 511.2. Maintenance and distribution of the list.**

*Comment:*

Section 511.2(b) states that the list of individuals who are mandatorily excluded shall be open to public inspection in addition to distribution to every slot machine licensee. There is a concern that the availability of this list to the general public may impede upon the privacy rights of certain excluded individuals. There is also a question as to whether or not the requirement that the list be open to public inspection means that every slot machine licensee has to make the list in their possession available for public inspection by persons who appear on their property and request to inspect the list. It is recommended that the list not be available for public inspection due to concerns over privacy rights of individuals appearing on the list. In the alternative, it is recommended that if the list is designated to be available for public inspection that such

inspection may take place only at gaming board offices and not at licensed gaming facilities.

*Response:*

The Board declines to accept this recommendation.

**§ 511.9. Duty of a slot machine licensee.**

*Comment:*

§ 511.9(a)(2) - This provision should be stricken for two reasons. First, it grants to a slot machine licensee more authority than the Board has in such matters. Under the proposed regulations, the Bureau must apply to the Board for a preliminary placement of an individual on the exclusion list. Without such a preliminary finding, the Board cannot exclude the individual. However, the proposed regulations require a slot machine licensee - which does not have the law enforcement knowledge or resources of the Board - to exclude the individual immediately without the benefit of a similar preliminary process. Second, the proposed regulation assumes that a slot machine licensee will know with certainty whether an individual satisfies the criteria for exclusion. This is clearly wrong as a licensee's employee may recall facts in error or may accurately recall a matter that subsequent to the event changed (such as the overturning or expungement of a criminal conviction). Additionally, certain criteria set forth in these regulations

require a subjective judgment which can only be believed by the licensee, not known.

*Response:*

The Board declines to accept this comment. A slot machine licensee is only required to exclude individuals from its gaming facility that are known to satisfy the criteria for exclusion set forth in section 1514 of the act and section 511.3. Further, section 511.9(e) has been revised to prohibit licensed gaming entities or employees thereof from being held liable for damages in any civil action, which is based on the exclusion of an individual from a licensed gaming facility as required under § 1514 of the act or § 511.9.

*Comment:*

§ 511.9(e) - This paragraph should also exempt the slot machine licensee from liability for excluding a person from the property due to regulatory requirements and for recommending that the Board exclude an individual pursuant to the regulations.

*Response:*

The Board accepts the substance of this comment. Section 511.9(e) has been revised to prohibit licensed gaming entities or employees thereof from being held liable for damages in any civil action, which is based on the exclusion of an individual

from a licensed gaming facility as required under § 1514 of the act or § 511.9.