

# **CALIFORNIA GAMBLING CONTROL COMMISSION STATUTES AND REGULATIONS PERTAINING TO ADMINISTRATIVE HEARINGS**

## **BUSINESS AND PROFESSIONS CODE**

### **DIVISION 8. SPECIAL BUSINESS REGULATIONS**

#### **CHAPTER 5. THE GAMBLING CONTROL ACT**

##### **ARTICLE 2. ADMINISTRATION**

### **§ 19825. Hearings or meetings of an adjudicative nature**

The commission may require that any matter of an adjudicative nature regarding a license, permit, or finding of suitability, that the commission is authorized or required to consider in an evidentiary hearing, including a hearing held pursuant to Section 19870, be heard and determined in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

**§ 19870. Commission authority to deny or grant license; restrictions; statement of reasons for denial; record of meeting proceedings; review by petition(a) The commission, after considering the recommendation of the chief and any other testimony and written comments as may be presented at the meeting, or as may have been submitted in writing to the commission prior to the meeting, may deny the application, grant a license to an applicant who it determines to be qualified to hold the license, or refer the application to an evidentiary hearing.**

(b) When the commission grants an application for a license or approval, the commission may limit or place restrictions on the license or approval as it may deem necessary in the public interest, consistent with the policies described in this chapter.

(c) If, during a meeting, the commission denies an application, denies approval, or approves with limits, restrictions, or conditions, the action shall be stayed for a period of 30 days after the meeting, during which the applicant may request an evidentiary hearing. If the applicant does not file a request for an evidentiary hearing within 30 days, the action of the commission taken at the meeting is final. If the applicant waives the right to hearing and assents to the action of the commission in writing, upon receipt of the waiver by the commission, the action shall no longer be stayed. If the applicant files a timely request for an evidentiary hearing, the action shall be vacated and the application shall be reviewed de novo at the evidentiary hearing.

(d) When an application is denied after an evidentiary hearing, the commission shall prepare and file a detailed statement of its reasons for the denial.

(e) All proceedings relating to an application at a meeting of the commission or at an evidentiary hearing shall be recorded stenographically or by audio or video recording.

(f) A decision of the commission after an evidentiary hearing, denying a license or approval, or imposing any condition or restriction on the grant of a license or approval may be reviewed by petition pursuant to Section 1085 of the Code of Civil Procedure. Section 1094.5 of the Code of Civil Procedure does not apply to any judicial proceeding held to consider that petition, and the court may grant the petition only if the court finds that the action of the commission was arbitrary and capricious, or that the action exceeded the commission's jurisdiction.

### **§ 19871. Conduct of commission meetings**

(a) An evidentiary hearing described in Section 19870 shall be conducted in accordance with regulations of the commission and as follows:

- (1) Oral evidence shall be taken only upon oath or affirmation.
- (2) Each party shall have all of the following rights:
  - (A) To call and examine witnesses.
  - (B) To introduce exhibits relevant to the issues of the case.
  - (C) To cross-examine opposing witnesses on any matters relevant to the issues, even if the matter was not covered on direct examination.
  - (D) To impeach any witness, regardless of which party first called the witness to testify.
  - (E) To offer rebuttal evidence.
- (3) If the applicant does not testify on their own behalf, the applicant may be called and examined as if under cross-examination.
- (4) The hearing need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence may be considered, and is sufficient in itself to support a finding, if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule that might make improper the admission of that evidence over objection in a civil action.

(b) This section does not confer upon an applicant a right to discovery of the department's investigative reports or to require disclosure of any document or information the disclosure of which is otherwise prohibited by any other provision of this chapter.

### **§ 19872. Ex parte communications; disqualification of commission members; application denial**

(a) No member of the commission may communicate ex parte, directly or indirectly, with any applicant, or any agent, representative, or person acting on behalf of an applicant, upon the merits of an application for a license, permit, registration, or approval while the application is being investigated by the department or pending disposition before the department or the commission.

(b) No applicant, or any agent, representative, or person acting on behalf of an applicant, and no person who has a direct or indirect interest in the outcome of a proceeding to consider an application for a license, permit, registration, or approval may communicate ex parte, directly

or indirectly, with any member of the commission, upon the merits of the application while the application is being investigated by the department or pending disposition before the department.

(c) No employee or agent of the department, applicant, or any agent, representative, or person acting on behalf of an applicant, and no person who has a direct or indirect interest in the outcome of a proceeding to consider an application for a license, permit, registration, or approval may communicate ex parte, directly or indirectly, with any member of the commission, upon the merits of the application, while the application is pending disposition before the commission.

(d) The receipt by a member of the commission of an ex parte communication prohibited by this section may provide the basis for disqualification of that member or the denial of the application. The commission shall adopt regulations to implement this subdivision.

(e) For the purposes of this subdivision, "ex parte" means a communication without notice and opportunity for all parties to participate in the communication.

(f) Nothing in this section precludes a communication made on the record at a public hearing on a properly agendized matter.

## **CALIFORNIA CODE OF REGULATIONS TITLE 4. BUSINESS REGULATIONS.**

### **DIVISION 18. CALIFORNIA GAMBLING CONTROL COMMISSION.**

#### **CHAPTER 1. GENERAL PROVISIONS.**

##### **ARTICLE 1. DEFINITIONS and GENERAL PROCEDURES.**

###### **§ 12002. General Definitions.**

Unless otherwise specified, the definitions in Business and Professions Code section 19805, supplemented by the definitions found in Chapter 10 of Title 9 of Part 1 of the Penal Code (commencing with section 330), govern the construction of this division. As used in this division:

(a) "Administrative Procedure Act Hearing" or "APA Hearing" means an evidentiary hearing which is conducted pursuant to the requirements of Chapter 5 (commencing with section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and section 1000 et seq. of Title 1 of the California Code of Regulations. An APA hearing includes those evidentiary hearings which proceed pursuant to Business and Professions Code sections 19825 and 19930, as well as under Chapter 10 of this division.

(b) "Advisor of the Commission" means all employees of the Commission except those designated as an advocate of the Commission.

(c) "Advocate of the Commission" means any employee so designated pursuant to subsection (a) of Section 12056.

(d) "Authorized player" means any natural person associated with a particular TPPPS business license, including a subcontractor or independent contractor, whose duties include the

play in a controlled game on behalf of the TPPPS business license. All TPPPS supervisor licensees must be authorized players. A TPPPS worker licensee may be an authorized player. A TPPPS owner type licensee, if a natural person, may be an authorized player.

(e) "BCIA" means the Bureau of Criminal Information and Analysis in the California Department of Justice.

(f) "Bureau" means the Bureau of Gambling Control in the California Department of Justice, acting as "the department" as provided in section 19810 of the Business and Professions Code.

(g) "Bureau report" means the filing by the Chief of the Bureau of his or her written reasons, as provided in Business and Professions Code section 19868, subdivision (b), regarding his or her recommendation of denial or approval with restrictions or conditions, or the notification to the Commission that the Bureau is recommending approval or will not be issuing a recommendation of denial or approval with restrictions or conditions.

(h) "California game" means a controlled game that features a player-dealer position, as described in Penal Code section 330.11.

(i) "Chief of the Bureau" or "Chief" means the Chief as provided in Business and Professions Code section 19805, subdivision (d), or his or her designee.

(j) "Cardroom business license" means a license issued to a gambling enterprise as defined in Business and Professions Code section 19805, subdivision (m), or owner licensee as defined in Business and Professions Code section 19805, subdivision (ad), and is the license certificate held pursuant to Business and Professions Code section 19851, as applicable.

(k) "Cardroom employee type license" means a key employee license or a Commission work permit.

(l) "Cardroom endorsee license" means a license issued to any person required to be licensed pursuant to Business and Professions Code sections 19852 or 19853 and is the endorsement on the license certificate pursuant to Business and Professions Code section 19851, subdivision (b).

(m) "Cardroom category license" means a cardroom owner type license or a cardroom employee type license.

(n) "Cardroom owner type license" means all cardroom business licenses and all cardroom endorsee licenses, and has the same meaning as "gambling license" and "state gambling license" in Business and Professions Code section 19805, subdivision (p).

(o) "Commission" means the California Gambling Control Commission.

(p) "Conviction" means a plea or verdict of guilty or a plea of nolo contendere, irrespective of a subsequent order of expungement under the provisions of Penal Code section 1203.4, 1203.4a, or 1203.45, or a certificate of rehabilitation under the provisions of Penal Code section 4852.13. A plea of guilty entered pursuant to Penal Code section 1000.1 does not constitute a conviction for purposes of Business and Professions Code section 19859, subdivisions (c) or (d) unless a judgment of guilty is entered pursuant to Penal Code section 1000.3.

(q) "Deadly weapon" means any weapon, the possession or concealed carrying of which is prohibited by Penal Code section 16430.

(r) "Dealer's bank" means any and all monies a dealer has on deposit with the cardroom business licensee or is assigned from the cage bank for chip trays.

(s) "Designated agent" means a person appointed by an applicant, licensee, or holder of a work permit to serve as their representative.

(t) "Drop" means any and all player collection fees received from patrons or TPPPS business licensees by a cardroom business licensee to play in controlled games, not including tournament fees, jackpot collections, or payments under a TPPPS contract.

(u) "Employee category license" means a cardroom employee type license or a TPPPS employee type license.

(v) "Employee of the Commission" means the staff employed by the Commission including the Executive Director and all staff under the direction of the Executive Director.

(w) "Executive Director" means the executive officer of the Commission, as provided in Business and Professions Code section 19816 or his or her designee. If the Executive Director position is vacant, the "Executive Director" means the officer or employee who is designated by the Commission.

(x) "Fiscal year" means the annual period used by a licensee for financial reporting purposes.

(y) "Gambling Control Act" or "Act" or "GCA" means Chapter 5 (commencing with section 19800) of Division 8 of the Business and Professions Code.

(z) "Gaming activity" has the same meaning as defined in Title 11, CCR, Section 2010, subsection (f).

(aa) "GCA hearing" means an evidentiary hearing referred to in Business and Professions Code sections 19870 and 19871.

(ab) "Gross revenue" means the total of all compensation received for participating in or conducting any controlled game, and includes interest received in payment for credit extended by a cardroom business licensee to a patron for purposes of gambling.

(ac) "Initial license" means the same as provided in Business and Professions Code section 19805; and, for the purposes of this division also includes:

(1) The following licenses:

(A) Initial cardroom business license;

(B) Initial cardroom endorsee license;

(C) Initial key employee license;

(D) Initial Commission work permit;

(E) Initial TPPPS business license;

(F) Initial TPPPS endorsee license;

(G) Initial TPPPS supervisor license; or,

(H) Initial TPPPS worker license.

(2) The following license types:

(A) Initial cardroom owner type license;

(B) Initial cardroom employee type license;

(C) Initial TPPPS owner type license; or,

(D) Initial TPPPS employee type license.

(3) The following license categories:

(A) Initial cardroom category license;

(B) Initial TPPPS category license;

(C) Initial owner category license; or,

(D) Initial employee category license.

(ad) "Interim license" means a license issued by the Commission for some interim period which includes:

(1) An interim renewal license issued pursuant to Section 12035; and,

(2) An interim owner category license issued pursuant to Article 4 of Chapter 2.

(ae) "Interim renewal license" means an interim license issued by the Commission to an applicant for renewal of a license, work permit, or other approval involving a finding of suitability when the applicant's application is pending consideration at an evidentiary hearing or the licensee or holder of a work permit has a pending accusation.

(af) "Jackpot" means a gaming activity where the prize is awarded based on specified criteria occurring in the play of a controlled game.

(ag) "Key employee license" means the same as provided in Business and Professions Code sections 19805, subdivision (y).

(ah) "Licensee" means any person who is licensed, or endorsed on a license, by the Commission pursuant to the Act or any regulation adopted pursuant to the Act.

(ai) "Member of the Commission" means an individual appointed to the Commission by the Governor pursuant to Business and Professions Code sections 19811 and 19812, and does not include an employee of the Commission.

(aj) "Owner category license" means a cardroom owner type license or TPPPS owner type license.

(ak) "Player's bank" means any and all monies a patron or a TPPPS business license has on deposit with the cardroom business licensee.

(al) "Registrant" means a person having a valid registration issued by the Commission.

(am) "Renewal license" means the same as provided in Business and Professions Code section 19805; and, for the purposes of this division also includes:

(1) The following licenses:

- (A) Renewal cardroom business license;
- (B) Renewal cardroom endorsee license;
- (C) Renewal key employee license;
- (D) Renewal Commission work permit;
- (E) Renewal TPPPS business license;
- (F) Renewal TPPPS endorsee license;
- (G) Renewal TPPPS supervisor license; or,
- (H) Renewal TPPPS worker license.

(2) The following license types:

- (A) Renewal cardroom owner type license;
- (B) Renewal cardroom employee type license;
- (C) Renewal TPPPS owner type license; or,
- (D) Renewal TPPPS employee type license.

(3) The following license categories:

- (A) Renewal cardroom category license;
- (B) Renewal TPPPS category license;
- (C) Renewal owner category license; or,
- (D) Renewal employee category license.

(an) "Surrender" means to voluntarily give up all legal rights and interests in a license, permit, registration, finding of suitability, or approval.

(ao) "Temporary license" means a preliminary license or Commission work permit issued to an applicant prior to action on an initial license application, with appropriate conditions, limitations or restrictions determined on a case-by-case basis and, for the purposes of this division also includes:

(1) The following licenses:

- (A) Temporary cardroom business license;
- (B) Temporary cardroom endorsee license;
- (C) Temporary key employee license;

- (D) Temporary Commission work permit;
- (E) Temporary TPPPS business license;
- (F) Temporary TPPPS endorsee license;
- (G) Temporary TPPPS supervisor license; or,
- (H) Temporary TPPPS worker license.

(2) The following license types:

- (A) Temporary cardroom owner type license;
- (B) Temporary cardroom employee type license;
- (C) Temporary TPPPS owner type license; or,
- (D) Temporary TPPPS employee type license.

(3) The following license categories:

- (A) Temporary cardroom category license;
- (B) Temporary TPPPS category license;
- (C) Temporary owner category license; or,
- (D) Temporary employee category license.

(ap) "Third-party proposition player services" or "TPPPS" means services provided to a cardroom business licensee under any written agreement between a cardroom business licensee and a business organization that engages the services of employees, independent contractors, or both, and includes the play as a participant in any California game. This also includes the services of any supervisors or other employees to facilitate the provision of services.

(aq) "TPPPS business license" means a license issued to a sole proprietor, corporation, partnership, limited liability company, or other business entity for the purpose of providing third-party proposition player services in a gambling establishment.

(ar) "TPPPS contract" means a written contract, the terms of which have been reviewed and approved by the Bureau, between a cardroom business licensee and a TPPPS business licensee acting as an independent contractor for the provision of third-party proposition player services in the gambling establishment.

(as) "TPPPS employee type license" means a TPPPS supervisor license, or a TPPPS worker license.

(at) "TPPPS endorsee license" includes a license issued to any of the following:

- (1) Any person specified in Business and Professions Code section 19852, subdivisions (a) through (g) in relation to a TPPPS business licensee;



(2) Each person who receives, or is to receive, any percentage share of the revenue earned by the owner from third party proposition player services;

(3) Any employee, agent, guardian, personal representative, lender, or holder of indebtedness of the owner who, in the judgment of the commission, has the power to exercise a significant influence over the TPPPS owner or third-party proposition player services, and;

(4) Any TPPPS funding source.

(au) "TPPPS funding source" means any person, or their successor in interest, that provides financing to any TPPPS owner type licensee, for use by a TPPPS business licensee in which the person is not licensed including but not limited to loans, advances, or any other thing of value including without limitation credit and chips. TPPPS funding source does not include any federally or state chartered lending institution or any of the following entities that in the aggregate owns at least \$100,000,000 in securities, loans, or other investment instruments of issuers that are not affiliated with the entity:

(1) Any federally-regulated or state-regulated bank or savings association or other federally- or state-regulated lending institution.

(2) Any company that is organized as an insurance company, the primary and predominant business activity of which is the writing of insurance or the reinsuring of risks underwritten by insurance companies, and that is subject to supervision by the Insurance Commissioner of California, or a similar official or agency of another state.

(3) Any investment company registered under the federal Investment Company Act of 1940 (15 U.S.C. sec. 80a-1 et seq.).

(4) Any retirement plan established and maintained by the United States, an agency or instrumentality thereof, or by a state, its political subdivisions, or any agency or instrumentality of a state or its political subdivisions, for the benefit of its employees.

(5) Any employee benefit plan within the meaning of Title I of the federal Employee Retirement Income Security Act of 1974 (29 U.S.C. sec. 1001 et seq.).

(6) Any securities dealer registered pursuant to the federal Securities Exchange Act of 1934 (15 U.S.C. sec. 78a et seq.).

(7) Any entity whose equity owners each meet the criteria of this subsection.

(av) "TPPPS category license" means a TPPPS owner type license and TPPPS employee type license.

(aw) "TPPPS owner type license" means a TPPPS business license and a TPPPS endorsee license."

(ax) "TPPPS supervisor license" means a license issued to any natural person employed in a supervisory capacity by a TPPPS business licensee, or who has any supervisory responsibilities identified in a job duty statement or otherwise empowered to make discretionary decisions that regulate TPPPS operations, including, without limitation, the authority to, on behalf of the TPPPS business licensee, to authorize or approve the distribution of currency,

chips, or other wagering instruments to authorized players engaged in the provision of third-party proposition player services in a gambling establishment.

(ay) "TPPPS worker license" means a license issued to any natural person employed or hired by a TPPPS business licensee, including a subcontractor or independent contractor, whose duties include being at a gambling establishment, but who does not have any supervisory responsibilities identified in a job duty statement or otherwise empowered to make discretionary decisions that regulate TPPPS operations, including, without limitation, the authority to, on behalf of the TPPPS business licensee, to authorize or approve the distribution of currency, chips, or other wagering instruments to players engaged in the provision of third-party proposition player services in a gambling establishment.

(az) "Work permit" means the same as provided in Business and Professions Code section 19805, subdivision (ak), and for the purposes of this division includes the following:

(1) "Local work permit" means a work permit issued by a city, county, or city and county, pursuant to subparagraph (A) of paragraph (1) of subdivision (a) of Business and Professions Code section 19912.

(2) "Commission work permit" means a work permit issued by the Commission pursuant to subparagraph (B) of paragraph (1) of subdivision (a) of Business and Professions Code section 19912.

Note: Authority cited: Sections 19811, 19823, 19824, 19840, 19841, 19853 and 19854, Business and Professions Code. Reference: Sections 19800, 19805, 19811, 19816, 19853 and 19984, Business and Professions Code.

## **§ 12006. Service of Notices, Orders, and Communications.**

(a) When service of any notice or other written communication is specifically required to be made pursuant to this section, service must be made by first class mail, registered mail, or certified mail, addressed to the residence address, address of record, or mailing address of the applicant, licensee, holder of a work permit, or designated agent, as last reported to the Commission.

(b) Notwithstanding subsection (a), notice and other written communication may be provided exclusively via email, to the email address of the applicant, licensee, or designated agent as last reported to the Commission where they provide the Commission written authorization including, for instance in a completed and returned Notice of Defense, CGCC-CH1-03 received under subparagraph (E) of paragraph (2) of subsection (c) of Section 12052 or at an earlier point from the Commission staff.

(c) Service is effective upon mailing or transmission of the notice or communication.

Note: Authority cited: Sections 19811, 19824 and 19840, Business and Professions Code. Reference: Sections 19811, 19824 and 19840, Business and Professions Code

## **§ 12012. Ex Parte Communication.**

(a) For purposes of this section, "ex parte communication" or "ex parte" means a communication upon the merits of an application without notice and opportunity for all parties to participate in the communication.

(b) The limitations on ex parte communication imposed by Business and Professions Code section 19872, subdivisions (a) and (b) apply when an application is submitted to the Bureau for

investigation until the Bureau report is submitted to the Commission and the communication is upon the merits of the application.

(c) The limitations on ex parte communication imposed by Business and Professions Code sections 19872, subdivisions (a) and (c) apply when the Bureau report is submitted to the Commission until a decision is final pursuant to Section 12066 and the communication is upon the merits of the application.

(d) When the ex parte provisions of subsections (b) or (c) apply, the following communications will not be considered ex parte:

(1) Communications related to undisputed issues of practice and procedure that are not upon the merits of an application.

(2) Communications made at an evidentiary hearing or Commission meeting and which concern a properly noticed matter.

(3) Information or documents provided by the applicant, or his, her, or its designated agent, upon the merits of an application pending disposition before the Bureau or Commission to an advisor or member of the Commission which is simultaneously provided to the Bureau or advocate of the Commission, if one has been designated.

(4) Information or documents provided by the Bureau or an advocate of the Commission, upon the merits of an application pending disposition before the Commission to an advisor or member of the Commission which is simultaneously provided to the applicant.

(5) Information or documents provided by any other interested person upon the merits of an application pending disposition before the Bureau or Commission to an advisor or member of the Commission which is simultaneously provided to both the Bureau and an advocate of the Commission, if one has been designated, and the applicant.

(6) Communications between an advisor of the Commission and a member of the Commission.

(7) Information or documents provided by the Bureau upon the merits of an application pending disposition before the Commission to an advisor or member of the Commission pursuant to Business and Professions Code section 19822, subdivision (b), but that cannot be provided to the applicant pursuant to Business and Professions Code section 19821, subdivision (d), and section 19868 subdivisions (b)(3) and (c)(2), and which is provided as follows:

(A) The Bureau first provides redacted information or documents to both an advisor or member of the Commission and the applicant;

(B) If an advisor or member of the Commission requests an unredacted copy of the information or documents, the Commission will provide a notice to the applicant, pursuant to Section 12006, allowing at least 14 calendar days for the applicant to object and pursue any appropriate judicial remedies to challenge the request and seek a judicial in camera review of the confidentiality and relevancy of the information; and,

(C) The Bureau will provide the unredacted information or documents only to an advisor or member of the Commission and only after the time period specified to

seek judicial review has elapsed, or the appropriate judicial remedies have been exhausted, whichever is later.

(e) The limitations on ex parte communication imposed by Government Code sections 11430.10 through 11430.80 apply from when:

- (1) The Executive Director has elected to hold an evidentiary hearing under subsection (a) of Section 12060 until any decision is final pursuant to Section 12066;
- (2) The Commission has elected to hold an evidentiary hearing under paragraph (4) of subsection (a) of Section 12054 until any decision is final pursuant to Section 12066; or,
- (3) The Bureau has filed an accusatory pleading under Section 12554 or Business and Professions Code section 19930 until any decision is final pursuant to Government Code section 11519.

(f) If an applicant, the Bureau or other interested person or an advocate of the Commission, if one has been designated, communicates directly or indirectly on an ex parte basis with a member of the Commission, including indirectly through submission of information or documentation to an advisor of the Commission, then:

- (1) All information, documentation and responses must immediately be provided to the Bureau, or an advocate of the Commission, if one has been designated, and the applicant.
- (2) That communication, if by the applicant, may be used as a basis for denial of the application pursuant to Business and Professions Code sections 19856, 19857 and subdivision (d) of section 19872.
- (3) Any meeting or hearing following the provision of this communication may be delayed as necessary to allow for the full participation of all parties.

(g) A member of the Commission who is involved in a communication on an ex parte basis with an applicant, the Bureau, other interested persons or an advocate of the Commission, if one has been designated, must publicly disclose the communication, and provide notices to both the applicant and Bureau pursuant to Section 12006. The notice will contain any information or document(s) conveyed and will be provided to the applicant and the Bureau as soon as possible so that they may participate in the communication. Any meeting or hearing following the provision of this communication may be delayed as necessary to allow for the full participation of all parties. The member of the Commission may voluntarily withdraw from consideration of an application as long as the withdrawal would not prevent the existence of a quorum qualified to act on the particular application.

(h) An advisor of the Commission may communicate and convey information or documents upon the merits of an application as long as it is simultaneously conveyed to the applicant, the Bureau, and the advocate of the Commission, if one has been designated, so that they may participate in the communication.

Note: Authority cited: Sections 19811, 19823, 19824, 19840, 19841 and 19872, Business and Professions Code; and Sections 11400.20, 11410.40, 11415.10 and 11415.20, Government Code. Reference: Sections 19821, 19822, 19825, 19868, 19870, 19871, 19872 and 19930, Business and Professions Code; and Sections 11425.10, 11430.10, 11430.20, 11430.30, 11430.50 and 11430.60, Government Code.

## **§ 12014. Subpoenas.**

(a) The issuance and enforcement of a subpoena or subpoena duces tecum in any adjudicative proceeding held pursuant to the Act for which a notice of hearing has been issued will be in accordance with Article 11 (commencing with section 11450.05) and Article 12 (commencing with section 11455.10), respectively, of Chapter 4.5 of Part 1 of Division 3 of Title 2 of the Government Code. The issuance of a subpoena or subpoena duces tecum may be on the form entitled "Subpoena," CGCC-CH1-02 (New 05/20), which is attached in Appendix A to this chapter, or in a manner that otherwise complies with Article 11 of Chapter 4.5 of Part 1 of Division 3 of Title 2 of the Government Code. All subpoenas and subpoenas duces tecum must be served, in accordance with Government Code section 11450.20 and with a copy to the presiding officer, at least 30 days prior to the date specified for commencement of the hearing in the notice of hearing, or the date specified in the subpoena for the appearance of a witness or the production of records. No subpoena duces tecum may be served by an applicant or complainant upon the other party.

(b) Any motion made pursuant to subdivision (a) of section 11450.30 of the Government Code must be filed with the presiding officer no later than 15 days prior to the date specified for appearance or for the production of records. The party bringing the motion must serve copies of the motion on all parties and persons who are required by law to receive notice of the subpoena. Any response to the motion must be filed with the presiding officer and served no later than 5 days before the motion is scheduled to be heard. On the presiding officer's own motion, or upon a timely motion of a party or a witness, after notice to the parties and an opportunity to be heard, upon a showing of good cause, the presiding officer may order the quashing of a subpoena or subpoena duces tecum entirely, may modify it, or may direct compliance with it upon other terms and conditions.

(c) The presiding officer may shorten or extend, as applicable, any of the time periods specified in subsections (a) and (b) upon a showing of good cause.

Note: Authority cited: Section 19811, 19823(a), 19824(h), 19840 and 19841, Business and Professions Code; and section 11450.05(b), Government Code. Reference: Sections 19840, 19870 and 19871, Business and Professions Code; sections 1985, 1985.1, 1985.2, 1985.3 and 1985.4, Code of Civil Procedure; sections 1560 and 1561, Evidence Code; and sections 11450.05, 11450.20, 11450.30, 11450.50 and 11455.10, Government Code.

## **§ 12015. Withdrawal of Applications.**

(a) A request by an applicant, or his, her, or its designated agent on the applicant's behalf, to withdraw a submitted application may only be made prior to a Commission decision becoming final pursuant to Section 12066, subsection (b). The request must be made in writing to the Bureau. Upon receipt of the request to withdraw, Bureau staff will send written confirmation of receipt to the applicant. The Bureau will stay any investigation of the applicant being conducted under Business and Professions Code section 19868. The Executive Director will, upon receipt of any information or documentation provided by the Bureau pursuant to Business and Professions Code section 19869, place the request before the Commission for consideration at a regularly scheduled meeting pursuant to Section 12054.

(b) The Commission may grant or deny a withdrawal request based upon the public interest and the applicable provisions of the Act, including for example, where the applicant has failed to respond to Bureau or Commission inquires, or preliminary information has been provided by the Bureau which would indicate grounds for mandatory denial under Business and Professions Code section 19859. A withdrawal request may be granted with or without prejudice based upon the public interest and the applicable provisions of the Act.

(c) If a request for withdrawal is granted, any unused portion of a background investigation deposit will be refunded by the Bureau.

(d) If a request for withdrawal is granted with prejudice, the applicant will be ineligible to submit or renew its application for licensure or approval until after the expiration of one year from the date the request for withdrawal is granted.

(e) If the request for withdrawal is denied, the Bureau will proceed with the investigation of the applicant and provide a recommendation pursuant to Business and Professions Code section 19826.

(f) An applicant who has a withdrawal request granted for his, her or its application will not have a right to an evidentiary hearing pursuant to Section 12056.

(g) If a request for withdrawal of an application for an initial license is made to the Bureau and the Commission grants the request, any temporary or interim license issued to the applicant will be cancelled by the Executive Director.

Note: Authority cited: Sections 19801, 19811, 19823, 19824, 19840, 19841, 19869, 19893, and 19951, Business and Professions Code. Reference: Sections 19859, 19867, 19869, 19880, 19881, 19890, 19891, 19912, 19951, and 19984, Business and Professions Code.

#### **§ 12017. Abandonment of Applications.**

(a)(1) At any time before the Bureau report is submitted to the Commission, the Chief of the Bureau may deem an application abandoned based upon the following:

(A) Failure of the applicant to respond to Bureau inquiries; or,

(B) Notice by the applicant or his, her, or its designated agent on the applicant's behalf that the application is no longer being pursued because, for example, the applicant is deceased or no longer employed in a capacity that requires Commission consideration.

(2) If an application has been deemed abandoned, a notice of abandonment will be sent to the applicant or his, her or its designated agent, with a copy to the Commission, stating the reasons for abandonment of the application and that the Bureau will consider the application abandoned unless the applicant contacts the Bureau within 30 calendar days from the date of the notice.

(b)(1) At any time after the Bureau report is submitted to the Commission and the Bureau either recommended approval or made no recommendation, the Executive Director may deem an application abandoned based upon the following:

(A) Information related to abandonment provided to the Commission as a result of the Bureau's background investigation;

(B) Failure of the applicant to respond to Bureau or Commission inquiries; or,

(C) Notice by the applicant or his, her or its designated agent that the application is no longer being pursued.

(2) If an application has been deemed abandoned, a notice of abandonment will be sent to the applicant, pursuant to Section 12006, with a copy to the Bureau, stating the reasons for abandonment of the application and that the Commission will consider the

application abandoned unless the applicant contacts the Commission within 30 calendar days from the date of the notice.

(c) At any time after the Bureau report is submitted to the Commission, the Commission may deem an application abandoned at its discretion, pursuant to Section 12054 after taking into consideration those criteria listed under subparagraphs (A) through (C), inclusive, of paragraph (1) of subsection (b).

(d) Upon abandonment of an application, a refund of any unused portion of a background investigation deposit will be made.

(e) An applicant who has his, her, or its application deemed abandoned will not have a right to an evidentiary hearing pursuant to Section 12056.

(f) If an application is deemed abandoned, any temporary or interim license issued to the applicant will be cancelled by the Executive Director. If the abandonment was pursuant to subsection (a) of Section 12017, the Bureau must provide notification to the Commission at the conclusion of the 30 calendar day notice period if no response has been received from the applicant.

Note: Authority cited: Sections 19811, 19823, 19824, 19840, 19841, 19893, and 19951, Business and Professions Code. Reference: Sections 19859, 19867, 19869, 19880, 19881, 19890, 19891, and 19951, Business and Professions Code.

### **§ 12035. Issuance of Interim Renewal Licenses.**

(a) The Commission will issue an interim renewal license to an applicant for renewal of a license, work permit, finding of suitability, or other approval no later than when their existing license, work permit, finding of suitability, or other approval expires and:

(1) The Commission has elected to hold an evidentiary hearing pursuant to paragraph (4) of subsection (a) of Section 12054;

(2) The Executive Director determines, pursuant to subsection (a) of Section 12060, that it is appropriate for the application to be considered at a GCA hearing; or,

(3) An accusation is pending pursuant to Business and Professions Code section 19930 and under Chapter 10 of this division.

(4) The Commission has elected to issue a renewal license, work permit, finding of suitability, or other approval with conditions, restrictions, or limitations pursuant to paragraph (2) of subsection (a) of Section 12054.

(5) The Commission has elected to deny an application for a renewal license, work permit, or finding of suitability, or other approval pursuant to paragraph (3) of subsection (a) of Section 12054.

(b) The Commission will issue a new interim renewal license if the hearing process has not been, or will not be, concluded by the expiration date of the current interim renewal license and the interim renewal license holder submits the items identified in paragraphs (1) and (2):

(1) A completed application of the same type as the application pending evidentiary hearing to the Bureau with the appropriate:

(A) Form;

- (B) Renewal timeframe;
- (C) Fees and costs;
- (D) Supplemental forms if required; and
- (E) Related requirements.

(2) An update to the Commission, in coordination where possible with the complainant as specified under subsection (a) of Section 12056, on the status of the hearing and provide a justification for the delay in concluding the hearing during the term of the first interim renewal license period.

(3) Failure to provide a justification for the delay supported by good cause under paragraph (2) may result in the Commission, in the interests of justice and judicial economy, setting a time for a GCA hearing, including retracting an application referred to an APA hearing and referring it to a GCA hearing pursuant to paragraph (4) of subsection (a) of Section 12054.

(c) The following conditions apply to all interim renewal licenses issued under subsection (a):

(1) An interim renewal license will be issued with the same conditions, limitations, or restrictions, if any, that existed for the previous license, except for any condition that by Commission decision has been determined to be satisfied and no longer applicable. This paragraph does not preclude the Commission from applying additional conditions through a separate GCA hearing or with the consent of the applicant.

(2) An interim renewal license will be valid for a period of two years from the date the previous license, work permit, or other approval involving a finding of suitability, as well as an interim renewal license, expires, or until a decision is final under Section 12066, whichever is earlier, and is not subject to renewal.

(3) The holder of an interim renewal license must pay all applicable annual fees associated with that license.

(d) The issue date of the most recently granted interim renewal license will serve as the issue date for any initial or renewal license, work permit, or other approval granted thereafter.

(e) The issuance of an interim renewal license does not limit or impair, and is without prejudice to, any exercise of the discretion vested in the Commission with respect to the license at issue in the hearing process.

(f) The issuance of an interim renewal license is without prejudice to the Bureau's prosecution of an accusation and has no preclusive effect on any ground for discipline that may exist against the licensee, whether or not presented in an accusation.

Note: Authority cited: Sections 19811, 19823, 19824, 19840, 19841, 19893 and 19951, Business and Professions Code. Reference: Sections 19859, 19867, 19869, 19876, 19880, 19881, 19890, 19891 and 19951, Business and Professions Code.

## **Article 2. Procedures for Hearings and Meetings on Applications.**



## **§ 12050. Bureau Recommendation and Information.**

(a) When the Bureau report is submitted to the Commission with a recommendation to deny, limit, restrict, or condition a license, permit, finding of suitability, renewal, or other approval, as described in Business and Professions Code section 19868, subdivisions (b) and (c):

(1) The Bureau will provide to the applicant a copy of the following as relevant to the application:

(A) The Bureau report which will include any Bureau recommendation to the Commission.

(B) A detailed factual and/or legal basis for any recommendation.

(C) Any supplemental documents provided to the Commission.

(D) Any other information or documentation provided to the Commission.

(2) The documents or information provided under paragraph (1) need not include anything inconsistent with paragraph (7) of subsection (d) of Section 12012.

(b) The Commissioners, or Administrative Law Judge sitting on behalf of the Commission at an APA hearing, will consider, but are not bound by, any recommendations made by the Bureau or Commission staff.

Note: Authority cited: Sections 19811, 19823, 19824, 19840 and 19841, Business and Professions Code. Reference: Sections 19824, 19826, 19827, 19868, 19869, 19870, 19871 and 19930, Business and Professions Code.

## **§ 12052. Commission Meetings; General Procedures; Scope; Notice; Rescheduling of Meeting.**

(a) Nothing in this article is intended to limit the manner in which the Commission reviews an application, or otherwise limit its authority or discretion under the Act.

(b) This article does not apply to accusations brought under Business and Professions Code section 19930, subdivision (b) to revoke, suspend, or discipline a license, registration, permit, finding of suitability, renewal or other approval under the Act or a matter proceeding pursuant to Chapter 10 of this division.

(c) An applicant for any license, permit, finding of suitability, renewal, or other approval will be given notice of the meeting at which the application is scheduled to be heard. Notice will be given pursuant to Section 12006.

(1) If the application is scheduled at a Commission meeting under Section 12054, the notice will be provided at least 10 calendar days prior to the meeting date and will inform the applicant of the following:

(A) That the applicant will be afforded the opportunity to:

1. Address the Commission by way of an oral statement, written statement, or both; and,

2. Submit documents in support of the application; however, documents which are not received by the Commission and Bureau with sufficient time for consideration may result in the documents not being considered or the

consideration of the application being continued, at the Commission's discretion. Less than 72 hours in advance of the noticed meeting's scheduled start time is presumed to be insufficient time for consideration.

(B) That the application may be rescheduled for consideration at an evidentiary hearing pursuant to Section 12058, by Commission action.

(2) If the application is to be scheduled at an evidentiary hearing, pursuant to subsections (a) or (b) of Section 12060, the notice of hearing will inform the applicant of the following:

(A) The date, time and location of the evidentiary hearing at which the application is scheduled to be heard;

(B) The date, time and location of the pre-hearing conference, pursuant to paragraph (1) of subsection (h) of Section 12060;

(C) The individual assigned, pursuant to subsection (d) of Section 12060, as the presiding officer and his or her contact information;

(D) That the applicant will be afforded the opportunity to:

1. Address the Commission by way of an oral statement, written statement, or both;
2. Submit documents in support of the application;
3. Call, examine, cross-examine and impeach witnesses; and,
4. Offer rebuttal evidence.

(E) That a Notice of Defense, CGCC-CH1-03 (Rev. 09/21), which is attached in Appendix A to this chapter, will be included unless already provided by Commission staff or the Bureau.

(F) That the waiver of an evidentiary hearing, or failure of the applicant to submit a Notice of Defense, or failure by the applicant to appear at the evidentiary hearing, may result in a default decision or a hearing without applicant participation in accordance with Section 12057.

(d) Any application for a license, work permit, registration, or other approval involving a finding of suitability scheduled for Commission consideration at a noticed public meeting may be rescheduled for a later public meeting by the Executive Director, prior to the meeting, or by the Commission at the meeting, provided that in the case of renewal applications, the Commission must act before the license expires.

Note: Authority cited: Sections 19811, 19823, 19824, 19840 and 19841, Business and Professions Code. Reference: Sections 19816, 19823, 19824, 19856, 19870, 19871, 19876 and 19930, Business and Professions Code.

#### **§ 12054. Consideration at a Commission Meeting.**

(a) At a Commission meeting, the Commission may take, but is not limited to taking, one of the following actions:

- (1) Issue a license, temporary license, interim license, registration, permit, finding of suitability, renewal or other approval.
- (2) Issue a license, work permit, finding of suitability, or other approval with conditions, restrictions, or limitations, and for a renewal application, issue an interim renewal license pursuant to Section 12035.
- (3) Deny an application for a license, work permit, finding of suitability, or other approval, and for a renewal application, issue an interim renewal license pursuant to Section 12035.
- (4) Elect to hold or retract an evidentiary hearing in accordance with Section 12056 and, for a renewal application, issue an interim renewal license pursuant to Section 12035. The Commission will identify those issues for which it requires additional information or consideration related to the applicant's suitability.
- (5) Table or continue an item for consideration at a subsequent meeting, for any purpose, including obtaining new or additional information from the applicant, Bureau or Commission staff, provided that in the case of renewal applications, the Commission must act on the application before the license expires.
- (6) Extend a cardroom category license, TPPPS category license, registration, or finding of suitability for up to 180 calendar days, as necessary, if an applicant has submitted their renewal application prior to the original expiration date of the current license, Commission work permit, registration, or finding of suitability, and the Commission is unable to act on the application prior to the expiration date.
- (7) Approve or deny a request for withdrawal pursuant to Section 12015.
- (8) Make a finding of abandonment pursuant to subsection (c) of Section 12017.
- (9) If the Bureau has filed an accusation with the Commission pursuant to Business and Professions Code section 19930 prior to Commission action on a renewal application, the Commission will issue an interim renewal license pursuant to Section 12035.
- (10) Issue a default decision pursuant to Section 12057.
- (11) Consider a request for reconsideration pursuant to Section 12064.

(b) An applicant does not have a right to an evidentiary hearing pursuant to Section 12056 if the Commission approves or denies a request for withdrawal pursuant to paragraph (5) of subsection (a) or makes a finding of abandonment pursuant to paragraph (6) of subsection (a), and that decision is final when issued, unless the Commission specifies otherwise.

Note: Authority cited: Sections 19811, 19823, 19824, 19840 and 19841, Business and Professions Code. Reference: Sections 19816, 19823, 19824, 19869, 19870, 19871, 19876, and 19876.5 Business and Professions Code.

### **§ 12056. Evidentiary Hearings.**

(a) If the Commission elects to hold an evidentiary hearing, or an applicant has elected to request an evidentiary hearing following a Commission approval with conditions, restrictions, or limitations pursuant to paragraph (2) of subsection (a) of Section 12054 or a denial pursuant to paragraph (3) of subsection (a) of Section 12054, the hearing will be conducted as a GCA hearing under Section 12060, unless the Executive Director or the Commission determines the

hearing should be conducted as an APA hearing under Section 12058. The evidence will be presented by the complainant, which is selected by the Executive Director or the Commission, and may be either the Bureau or an advocate of the Commission. If an advocate of the Commission is selected, the determination will include a list of employees of the Commission who will be designated as an advocate of the Commission.

(b) Nothing in this section, Section 12058 or Section 12060 confers upon an applicant a right to discovery of the Commission's or Bureau's confidential information or to require production of any document or the disclosure of information which is otherwise prohibited by any provision of the Act, or is privileged from disclosure or otherwise made confidential by any other provision of law. Documentary evidence may be redacted as needed to prevent the disclosure of confidential information. Exculpatory or mitigating information will be provided to the applicant, but any confidential information may be redacted by the Bureau.

(c) Under either an APA or a GCA hearing, all parties will bear their own costs. This does not prevent the Bureau from requiring that additional sums be deposited pursuant to Business and Professions Code section 19867 for any necessary supplemental investigations.

(d) Where an application has been referred to a GCA hearing or an APA hearing, the Commission retains the authority to retract the referral, pursuant to paragraph (4) of subsection (a) of Section 12054, and refer the application to a GCA hearing or APA hearing pursuant to subsection (a) of Section 12056, or hear the matter at a Section 12054 meeting.

(e) An APA or GCA hearing is sufficient to meet the hearing requirement of Business and Professions Code section 19914.

Note: Authority cited: Sections 19811, 19823, 19824, 19825, 19840, and 19841, Business and Professions Code. Reference: Sections 19816, 19823, 19824, 19825, 19868, 19870, 19871, 19876, and 19914, Business and Professions Code; and Section 11512, Government Code.

## **§ 12057. Default Decisions and Uncontested Applications.**

(a) When an applicant fails to submit a completed Notice of Defense, CGCC-CH1-03 according to the timelines on the form, affirmatively waives his, her, or its right to an evidentiary hearing, or fails to appear at an evidentiary hearing, the Commission will, based on the interests of justice and judicial economy:

- (1) Issue a default decision after the consideration of the Bureau report, any supplemental reports by the Bureau, and any other documents or testimony provided or which may be provided to the Commission before the decision is issued;
- (2) Hold a GCA hearing without applicant participation;
- (3) When an applicant fails to appear at an evidentiary hearing, reschedule any GCA hearing on the applicant's application;
- (4) Act on the application as identified in subsection (a) of Section 12054 or,
- (5) Finalize the decision pursuant to paragraph (4) of subsection (b) of Section 12066.

(b) Notice of consideration of a default decision or a hearing without applicant participation under subsections (b) and (c) need not comply with the 60 or 90 day notice provisions of Section 12060, subsections (a) and (b).

(c) A default decision may be considered and approved at a Section 12054 meeting or at a GCA hearing.

(d) Default decisions may be reconsidered in accordance with Section 12064 regardless of whether the decision was considered at a Section 12054 meeting or at an evidentiary hearing.

Note: Authority cited: Sections 19811, 19823, 19824, 19840 and 19841, Business and Professions Code. Reference: Sections 19816, 19823, 19824, 19824.5, 19825, 19868, 19870, 19871 and 19876, Business and Professions Code; and Section 11512, Government Code.

### **§ 12058. APA Hearing.**

(a) When the Commission elects to hold an APA hearing the Commission will determine whether the APA hearing will be held before an Administrative Law Judge sitting on behalf of the Commission or before the Commission itself with an Administrative Law Judge presiding in accordance with Government Code section 11512. Notice of the APA hearing will be provided to the applicant pursuant to Government Code section 11500 et seq.

(b) The burden of proof is on the applicant to prove his, her, or its qualifications to receive any license or other approval under the Act.

(c) A Statement of Issues will be prepared and filed according to Government Code section 11504 by the complainant.

(d) At the conclusion of the evidentiary hearing, when the Commission is hearing the matter, the members of the Commission will take the matter under submission, may discuss the matter in a closed session meeting, may leave the administrative record open in order to receive additional evidence as specified by the Commission, and may schedule future closed session meetings for deliberation.

(e) The evidentiary hearing will proceed as indicated in the notice, unless and until the Executive Director or Commission approves the retraction of referral to an APA hearing.

Note: Authority cited: Sections 19811, 19823, 19824, 19840 and 19841, Business and Professions Code. Reference: Sections 19816, 19823, 19824, 19825, 19868 and 19876, Business and Professions Code; and Sections 11512 and 11517, Government Code.

### **§ 12060. GCA Hearings.**

(a) If the Executive Director determines it is appropriate, he or she may set an application for consideration at a GCA hearing in advance of a meeting pursuant to Section 12054. The Executive Director will give notice to the applicant, pursuant to paragraph (2) subsection (c) of Section 12052, to the Office of the Attorney General, and to the Bureau no later than 90 calendar days in advance of the GCA hearing. The Executive Director's determination will be based on information contained in the Bureau's report or other appropriate sources including, without limitation, a request from the Bureau or applicant as well as the Commission's operational considerations.

(b) When a GCA hearing is elected pursuant to Section 12056, subsection (a), the Executive Director will give notice to the applicant, pursuant to paragraph (2) subsection (c) of Section 12052, to the Office of the Attorney General, and to the Bureau no later than 60 calendar days in advance of the GCA hearing.

(c) An applicant may request that his, her, or its GCA hearing be held at a Southern California location instead of the Commission's principal office in Sacramento, by completing the

appropriate section on the Notice of Defense, CGCC-CH1-03 (Rev. 08/21). The request must be made on the initial Notice of Defense form submitted to the Commission and Bureau within the timeframes specified on the form.

(1) The Executive Director will approve a Southern California GCA hearing, if the request is timely made on the initial Notice of Defense form and meets all of the following criteria:

(A) The GCA hearing is estimated by Commission staff to last no longer than four hours.

(B) The primary residence of the applicant is located in one of the following counties: Imperial, Kern, Los Angeles, Orange, Riverside, San Diego, San Luis Obispo, San Bernardino, Santa Barbara, or Ventura.

(C) A GCA hearing will be noticed for a Southern California location only when it is in the best public interest, promotes judicial economy, and comports with the Commission's availability.

(2) If at any time before the hearing, the Executive Director determines that the criteria in subparagraphs (A) through (C) of paragraph (1) are no longer met, Commission staff may cancel the Southern California GCA hearing and issue a new notice for a hearing at the Commission's principal office in Sacramento.

(d) The presiding officer and her or his support staff will have no communication with the Commission or Commission staff upon the merits of an application prior to the evidentiary hearing. The Executive Director will designate a presiding officer which will be:

- (1) A member of the Commission's legal staff; or,
- (2) An Administrative Law Judge.

(e) The applicant or the complainant, or the applicant and the complainant, may request a continuance in writing to the Executive Director stating the reason for the continuance and any proposed future hearing dates. The Executive Director or Commission may approve the request. For a Southern California GCA hearing, if a continuance is granted, the hearing may be scheduled in Sacramento or Southern California based on the criteria specified in subparagraphs (A) through (C) of paragraph (1) of subsection (c).

(f) The complainant will provide to the applicant, subject to subsection (b) of Section 12056, at least 45 calendar days prior to the GCA hearing, and the applicant must provide to the complainant, at least 30 calendar days prior to the GCA hearing, the following items:

- (1) A list of potential witnesses with the general subject of the testimony of each witness;
- (2) Copies of all documentary evidence intended to be introduced at the hearing and not previously provided;
- (3) Reports or statements of parties and witnesses, if available; and
- (4) All other written comments, writings, or other items containing relevant evidence.

(g) The provisions of subsection (f) of this section provide the exclusive right to and method of discovery between the applicant and complainant to a GCA hearing. Discovery is not permitted upon a Commission member or an advisor of the Commission unless a showing is made that they have direct personal factual information pertaining to material issues related to

the application at issue and the information to be gained from the Commission member or advisor of the Commission is not available through any other sources.

(h) A presiding officer will rule on the admissibility of evidence and on any objections raised except for objections raised under subsection (h). A ruling by the presiding officer is final.

(1) In advance of the GCA hearing, upon a motion of a party or by order of the presiding officer, the presiding officer may conduct a pre-hearing conference, either in person, via teleconference, or by email exchange, subject to the presiding officer's availability and will issue a pre-hearing order if appropriate or requested by either party. The pre-hearing conference and order may address the following:

(A) Evidentiary issues;

(B) Witness and exhibit lists;

(C) Alterations in the Bureau recommendation;

(D) Stipulations for undisputed facts and/or the admission of evidence including without limitation the Bureau's report;

(E) Authorizing offsite livestreaming appearances for parties or witnesses if good cause has been presented and only if the process for offsite livestreaming has been approved by the Executive Director; and,

(F) Other issues that may be deemed appropriate to promote the orderly and prompt conduct of the hearing.

(2) The GCA hearing need not be conducted according to technical rules of evidence. Any relevant evidence may be considered, and is sufficient in itself to support findings if it is the sort of evidence on which reasonable persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule that might make improper the admission of that evidence over objection in a civil action.

(i) The Commission may, at any time upon a showing of prejudice by the objecting party:

(1) Prohibit the testimony of any witness or the introduction of any documentary evidence that has not been disclosed pursuant to subsection (f); or

(2) Continue any meeting or hearing as necessary to mitigate any prejudice.

(j) The complainant will present all facts and information in the Bureau report, if any, and the results of the Bureau's background investigation, and the basis for any recommendation, if the Bureau filed one with the Commission according to Business and Professions Code section 19868, to enable the Commission to make an informed decision on whether the applicant has met his, her, or its burden of proof. The complainant may but is not required to recommend or seek any particular outcome during the evidentiary hearing, unless it so chooses.

(k) The burden of proof is always on the applicant to prove his, her, or its qualifications to receive any license or other approval under the Act.

(l) The applicant may choose to represent himself, herself, or itself, or may retain an attorney or lay representative. Lay representatives may assist the applicant but are not authorized to serve as an attorney as otherwise defined and regulated by state law.

(m) Except as otherwise provided in subsection (i), the complainant and applicant will have the right to call and examine witnesses under oath; to introduce relevant exhibits and documentary evidence; to cross-examine opposing witnesses on any relevant matter, even if the matter was not covered in direct examination; to impeach any witness, regardless of which party first called the witness to testify; and to offer rebuttal evidence. If the applicant does not testify on his, her or its behalf, the applicant may be called and examined, under oath, as if under cross-examination.

(n) Oral evidence will be taken upon oath or affirmation, which may be administered by the Executive Director, a member of the Commission, or the presiding officer if an Administrative Law Judge.

(o) At the conclusion of the evidentiary hearing, the members of the Commission will take the matter under submission, may discuss the matter in a closed session meeting, and may schedule future closed session meetings for deliberation.

Note: Authority cited: Sections 19811, 19823, 19824, 19840 and 19841, Business and Professions Code. Reference: Sections 19816, 19823, 19824, 19824.5, 19825, 19868, 19870, 19871 and 19876, Business and Professions Code; and Section 11512, Government Code.

### **§ 12062. Issuance of GCA Hearing Decisions.**

(a) Within 75 calendar days of the conclusion of a GCA hearing, the Commission will issue its decision, which will comply with Business and Professions Code section 19870, and will be served pursuant to Section 12006 and, in the case of a gambling license, on any associated or endorsed owner or owner-licensee.

(b) All decisions of the Commission issued pursuant to this section will specify an effective date and may include further directions as to any stay provisions or orders to divest.

(c) Only members of the Commission who heard the evidence presented in the hearing are eligible to vote on a decision and may vote by mail or by another appropriate method unless such a requirement would prevent the existence of a quorum qualified to act on the particular application. In that event, a member of the Commission who has not heard the evidence may be allowed to vote after a review of the complete record and any additional briefing or hearing the Commission believes necessary.

Note: Authority cited: Sections 19811, 19823, 19824, 19840 and 19841, Business and Professions Code. Reference: Sections 19823, 19824, 19825, 19870, 19871, 19876, 19883 and 19892, Business and Professions Code.

### **§ 12064. Requests for Reconsideration.**

(a) After the Commission issues a decision following a GCA hearing conducted pursuant to Section 12060, an applicant denied a license, permit, registration, or finding of suitability, or whose license, permit, registration, or finding of suitability has had conditions, restrictions, or limitations imposed upon it, may request reconsideration by the Commission. A request for reconsideration must be:

(1) Made in writing to the Commission, copied to the complainant. The Bureau may provide a written response to the Commission within 10 calendar days of receipt of the request; and,



(2) Received by the Commission and complainant within 30 calendar days of service of the decision, or before the effective date specified in the decision, whichever is earlier.

(b) A request for reconsideration must state the reasons for the request, which must be based upon either:

(1) Newly discovered evidence or legal authorities that could not reasonably have been presented before the Commission's issuance of the decision or at the hearing on the matter; or,

(2) Other good cause which the Commission may decide, in its sole discretion, merits reconsideration.

(c) The Commission will place the request on the Commission's agenda within 60 calendar days of its receipt. The applicant and complainant will be given at least 10 calendar days' advance written notice, pursuant to Section 12006, of the date and time of the Commission meeting at which the request will be heard. The applicant and complainant, whether present at that meeting or not, will be notified in writing of the Commission's decision on the request within 10 calendar days following the meeting pursuant to Section 12006.

(d) The effective date of the decision will be stayed while the request is under review by the Commission.

(e) The granting or denial of reconsideration under this section will be at the sole discretion of the Commission.

(f) When the Commission grants reconsideration, the decision is stayed pending further action on the application, including but not limited to affirming its decision, or vacating the initial decision and issuing a reconsidered decision.

(g) The Commission may stay the effective date of the decision for a period it deems appropriate when the Commission denies a request for reconsideration.

Note: Authority cited: Sections 19811, 19823, 19824, 19840 and 19841, Business and Professions Code. Reference: Sections 19823, 19824, 19825, 19870, 19871 and 19876, Business and Professions Code; and Section 11521, Government Code.

## **§ 12066. Final Decisions; Judicial Review.**

(a) A withdrawal or abandonment decision is final:

(1) 30 calendar days after the date of notice of abandonment pursuant to either paragraph (2) of subsection (a) or paragraph (2) of subsection (b) of Section 12017 if not repealed by the issuing agency.

(2) Upon approval by the Commission pursuant to paragraph (7) of subsection (a) of Section 12054 or the making of a finding of abandonment pursuant to paragraph (8) of subsection (a) of Section 12054.

(b) A Commission decision is final

(1) Upon the effective date specified in the decision or 30 calendar days after service of the decision if no effective date is specified, and if reconsideration under Section 12064 has not been requested; or,

(2) If a request for reconsideration has been granted under Section 12064, immediately upon the Commission's re-issuing its decision or the date specified in the decision upon issuance of a reconsidered decision.

(3) If a request for reconsideration has been denied under Section 12064,

(A) Immediately upon the denial of the request; or,

(B) Upon the expiration of any stay granted pursuant to subsection (g) of Section 12064.

(4) If the Commission approved an application with conditions, restrictions, or limitations pursuant to paragraph (2) of subsection (a) of Section 12054 or denied an application pursuant to paragraph (3) of subsection (a) of Section 12054, then either, upon the Commission's receipt of a Notice of Defense, CGCC-CH1-03 that indicates the waiving of the right to an evidentiary hearing or after 30 calendar days has passed immediately following the approval with conditions, restrictions, or limitations, or the denial.

(c) A decision of the Commission denying an application or imposing conditions or restrictions on a license after an evidentiary hearing will be subject to judicial review as provided in Business and Professions Code section 19870, subdivision (e). Neither the right to petition for judicial review nor the time for filing the petition will be affected by failure to seek reconsideration.

Note: Authority cited: Sections 19811, 19823, 19824, 19840 and 19841, Business and Professions Code. Reference: Sections 19823, 19824, 19825, 19870, 19871 and 19876, Business and Professions Code; and Section 11521, Government Code.

### **§ 12068. Decisions Requiring Resignation or Divestiture.**

When an application is denied or conditions, limitations, or restrictions are imposed under the Act or this chapter and that decision is final under Section 12066, any requirements set forth in the decision must be complied with, and the following will apply to the extent not inconsistent with the decision, as applicable:

(a)(1) If the denied applicant is an officer, director, employee, agent, representative, or independent contractor of a corporation licensed, registered, or found suitable by the Commission, the denied applicant must resign according to the date specified in the Commission's decision and must notify the Commission in writing.

(2) If the denied applicant is an officer or director of a corporation that is licensed, registered, or found suitable by the Commission, the corporation must remove that person from office according to the date specified in the Commission's decision and must notify the Commission in writing.

(3) If the denied applicant is an employee, agent, representative, or independent contractor of a corporation licensed, registered, or found suitable by the Commission, the corporation must terminate its relationship with that person pursuant to the date specified in the decision and must notify the Commission in writing.

(4) Any denied applicant subject to paragraphs (1) or (2) of this subsection and the corporation licensed, registered, or found suitable by the Commission, must comply with Business and Professions Code section 19882, if applicable.

(b)(1) If the denied applicant is an officer, director, manager, member, employee, agent, representative, or independent contractor of a limited liability company licensed, registered, or found suitable by the Commission, the denied applicant must resign according to the date specified in the Commission's decision and must notify the Commission in writing.

(2) If the denied applicant is an officer, director, manager or member of a limited liability company that is licensed, registered, or found suitable by the Commission, the limited liability company must remove that person from office according to the date specified in the Commission's decision and must notify the Commission in writing.

(3) If the denied applicant is an employee, agent, representative, or independent contractor of a limited liability company licensed, registered, or found suitable by the Commission, the limited liability company must terminate its relationship with that person pursuant to the date specified in the decision and must notify the Commission in writing.

(4) Any denied applicant subject to paragraphs (1) or (2) of this subsection and the limited liability company that is licensed, registered, or found suitable by the Commission, must comply with Business and Professions Code section 19892, if applicable.

(c)(1) If the denied applicant is a general or limited partner in a general or limited partnership licensed, registered, or found suitable by the Commission, the denied applicant must resign as a partner according to the date specified in the Commission's decision and must notify the Commission in writing.

(2) If the denied applicant is an owner or holder of an interest in a limited partnership licensed, registered, or found suitable by the Commission, the denied applicant and the limited partnership must comply with Business and Professions Code section 19892 and must notify the Commission in writing.

(d) If the denied applicant is a principal in a business entity not otherwise described above that is licensed, registered, or found suitable by the Commission:

(1) The denied applicant must resign his or her position within that entity and divest whatever interest is held in that entity pursuant to the timelines and instructions specified in the Commission's decision, and must notify the Commission in writing.

(2) The business entity must remove the denied applicant from any principal role in the business entity and must notify the Commission in writing.

(e) Where the decision does not specify a time for removal and there is no other controlling statutory or regulatory timeframe under paragraph (2) of subsection (a), paragraph (2) of subsection (b), or paragraph (2) of subsection (d), the specified person must be removed no later than 60 days after the effective date of the decision.

Note: Authority cited: Sections 19811, 19823, 19824, 19840 and 19841, Business and Professions Code. Reference: Sections 19823, 19824, 19825, 19870, 19871, 19876, 19882, 19883 and 19892, Business and Professions Code.