

DRAFT

CALIFORNIA GAMBLING CONTROL COMMISSION
DESCRIPTION OF PROPOSED REGULATORY ACTION
APPLICATION WITHDRAWALS AND ABANDONMENTS, AND
HEARING PROCEDURES

INTRODUCTION:

The California Gambling Control Commission (Commission) is proposing regulations that would amend previously adopted regulations, as well as add several new sections related to the manner in which the Commission acts on applications. These regulations better implement various aspects of the Gambling Control Act (Act)¹ and provide further clarification as to the procedures for expeditious Commission action while preserving an applicant's right to an evidentiary hearing.

Essentially, except for a few new terms and new concepts, these proposed regulations establish a transparent process generally consistent with current Commission practice. The Commission will continue to hear applications during Bagley-Keene compliant open meetings in which the vast majority of the applications considered result in unqualified approvals. During the open meeting, Commissioners, applicants, Bureau of Gambling Control (Bureau) staff, Commission staff, and the public are able to engage in meaningful dialogue which encompasses all aspects of the publicly available application process. Most importantly, applicants are able to speak with Commissioners to meet their burden of proof under the Act to prove suitability. Through such a meeting, applicants are usually able to resolve any questions that the Commissioners may have without the need of an evidentiary hearing. Only a small percentage of the applications considered by the Commission are denied or approved with conditions. From that point in the process an even smaller percentage of applicants actually seek an evidentiary hearing concerning the application. This regulation package attempts to define the main paths of the application process and critical undefined branches which occur on a regular basis in an effort to improve internal efficiency as well as transparency to the public.

This proposed regulation also addresses the statutory requirements regarding *ex parte* communications, and provides a mechanism by which applications may be withdrawn or determined to be abandoned.

EXISTING LAW:

Business and Professions Code sections 19870 and 19871, along with 19825, provide applicants with the right to an evidentiary hearing concerning their application or request for approval.

Business and Professions Code section 19872 defines and prohibits *ex parte* communications while an application is pending.

¹ Business and Professions Code section 19800, et seq.

DRAFT

DESCRIPTION OF PROPOSED REGULATORY ACTION APPLICATION WITHDRAWALS AND ABANDONMENTS, AND HEARING PROCEDURES

California Code of Regulations Section 12002 provides pertinent definitions under Title 4, Division 18, Chapter 1.

California Code of Regulations Section 12047 provides for the withdrawal of applications.

California Code of Regulations Section 12048 provides for the abandonment of applications.

California Code of Regulations Section 12050 provides the working procedures on how and when an evidentiary hearing is to occur.

California Code of Regulations Section 12218.5 discusses the timeliness of withdrawal requests for applications to convert a Third-Party Provider registration to license.

California Code of Regulations Section 12234 discusses the timeliness of withdrawal requests for applications to convert a Third-Party Provider registration to license.

PROPOSED ACTION:

ARTICLE 1. DEFINITIONS AND GENERAL PROCEDURES.

Section 12002 – General Definitions

Seven terms would be added to Section 12002, three subsections would be updated, and others would be renumbered accordingly.

- Subsection (a) adds the term “Administrative Procedure Act Hearing” or “APA hearing” which defines evidentiary hearings which occur pursuant to Business and Professions Code sections 19825 and 19930 and which proceed pursuant to the Administrative Procedure Act. This definition provides needed separation between the more extensive APA hearing and the default GCA hearing defined below.
- Subsection (c) is modified to eliminate language that is no longer applicable in regards to Bureau practices.
- Subsection (g) updates the definition of “Deadly Weapon” to conform with recent legislative enactments to the Penal Code which changed the pertinent section from 12020 to 16430.
- Subsection (h) adds the term “Employee or Agent of the Commission” to differentiate between employees of the Commission and “Members of the Commission” for purposes of prohibitions on *ex parte* communications. Providing a distinction amongst people at the commission helps clarify the applicability of the provisions of the Act regarding *ex parte* communications at different points in the application process as well as helping to deter inappropriate communications.

DRAFT

DESCRIPTION OF PROPOSED REGULATORY ACTION APPLICATION WITHDRAWALS AND ABANDONMENTS, AND HEARING PROCEDURES

- Subsection (j) adds the term “Final action by the Bureau” or “final action” to help delineate a point in time under the Act when the Bureau has completed certain efforts in regards to an application. This is beneficial to the Commission, the applicant and the Bureau from an operational perspective.
- Subsection (k) adds the abbreviation “GCA” to the previous definition of Gambling Control Act for the sake of clarification.
- Subsection (l) adds the term “GCA hearing” which is a basic default evidentiary hearing available to an applicant under the Act. This evidentiary hearing occurs pursuant to Business and Professions Code sections 19870 and 19871. This definition provides the basis for clarity between the two types of hearings (GCA and APA).
- Subsection (m) adds “Interim License” which is a term more fully developed later in these regulations and in prior regulations adopted by the Commission. Essentially, it is a license of finite duration during the pendency of some ongoing or future event such as an evidentiary hearing, pending accusation, or application process. This definition is necessary to define a category of license which now covers both interim gambling licenses, which were addressed in an approved prior rulemaking package and interim renewal licenses which are addressed in this rulemaking package.
- Subsection (n) defines “Member of the Commission” as an individual appointed to the Commission by the Governor pursuant to Business and Professions Code sections 19811 and 19812. Similar to subsection (h), this helps clarify the application of the provisions of the Act regarding *ex parte* communications, who can communicate with whom, and when they can communicate.
- Subsection (q) adds “Temporary License” which is a license that the Commission may issue prior to the consideration of an application. A temporary license is generally subject to conditions that the Commission may deem appropriate on a case-by-case basis. These licenses have been granted in the past and are referenced in statute, but are not been specifically addressed in current regulations.

Section 12006 – Service of Notices, Orders and Communications

This section describes how the Commission will communicate with applicants and is the default manner for all notices in the following regulations.

- Subsection (a) specifies that when this section is cited, notices will be sent to an applicant, the licensee or designated agent by certified mail at the address of record. This helps make clear what parties can expect in advance as well as provide guidance to Commission staff.

DRAFT

DESCRIPTION OF PROPOSED REGULATORY ACTION APPLICATION WITHDRAWALS AND ABANDONMENTS, AND HEARING PROCEDURES

- Subsection (b) specifies that notice is effective upon mailing of the communication. This helps make clear to parties when the relevant time frames under these regulations and the Act begin to run so that everyone can act accordingly.

Section 12012 – Ex Parte Communication

This section is added to address and clarify *ex parte* communications. The Act² imposes prohibitions on communication between “Members of the Commission” and an applicant or an agent of an applicant under certain conditions. These prohibitions are ambiguous. Section 12012 is added to clarify and provide guidance regarding prohibited communications to Members of the Commission, employees or agents of the Commission, Bureau staff, the applicant, and interested parties. Specifically, the proposed regulation does the following:

- Subsection (a) states that the APA limitations on *ex parte* communications apply when a proceeding is pending. The three paragraphs specify a proceeding is pending when: the Executive Director has elected to hold an evidentiary hearing; the Commission has elected to hold one; or the Bureau has filed an accusatory pleading. This clarification is vital to provide operational guidance for all parties.
- Subsection (b) and paragraph (1) of subsection (b) clarify that the *ex parte* limitations of the Act apply as soon as an application is filed with the Bureau. This clarification is necessary to provide a finite starting point to the *ex parte* limitations, which provides reasonable guidelines of all parties.
- Paragraph (2) of subsection (b) excludes from *ex parte* communications those which are: related to procedure or at a properly agendized meeting; provided by the Bureau or applicant to an employee or agent of the Commission which is also provided to the other party; or provided by an interested party to an employee or agent of the Commission as well as to the Bureau and applicant. An exception is allowed for the Bureau to provide confidential information to the Commission without it also being provided to the applicant.
- Subsection (c) specifies what must happen if an applicant communicates on an *ex parte* basis. The information must be provided to the Bureau, the communication may be used as basis to deny the applicant’s application, and any subsequent meeting may be delayed. This helps alleviate any hardship that the *ex parte* communication may have caused and also eliminates any incentive to try to gain an advantage.
- Subsection (d) specifies that an employee or agent of the Commission may communicate and convey information or documents as long they are simultaneously conveyed to the Bureau and Applicant. This helps provide operational guidance to Commission staff as

² Specifically Business and Professions Code section 19872

DRAFT

DESCRIPTION OF PROPOSED REGULATORY ACTION APPLICATION WITHDRAWALS AND ABANDONMENTS, AND HEARING PROCEDURES

well as informing the public as to staff actions. The section also provides guidance on any disqualification of a Commission member in the event of *ex parte* communication.

- Subsection (e) specifies that the Commission and its employees are also subject to *ex parte* in their communications upon the merits of the application with either the applicant or the Bureau. This clarifies that *ex parte* is in effect for communication in both directions with Commission and its staff.
- Subsection (f) states that, in the event of a conflict between relevant *ex parte* communication prohibitions under the Act and the APA, the more stringent rules or penalties apply. The Commission is dedicated to ensuring that all communications to Commission members related to pending applications or hearings are open to public view and in full accordance with the law. To that end, it is preferable to operate under more stringent disclosure requirements than risk falling short of this goal.

Section 12015 – Withdrawal of Applications

Previous Section 12047 is deleted and replaced with Section 12015. This new section continues the current application withdrawal procedures and expands upon them. The application process can be lengthy, especially for those applying to be owners of a cardroom, and requires a significant investment in time and funds for the applicant, the Bureau, and the Commission. If at any point in the process, the applicant no longer wishes to proceed with the application, it is beneficial to all parties to have a procedure by which the application process can be ended. The Act, in section 19869, provides for a request to withdraw an application and differentiates between a withdrawal granted “with prejudice” and one granted “without prejudice.”

- Subsection (a) defines the time during which an applicant may seek to withdraw his or her application and establishes internal procedures for Commission staff for confirmation of the request. This subsection will provide helpful guidance to the industry, Bureau and Commission staff as to the relevant expectations at any given point in time for withdrawal procedures.
- Subsection (b) states that the Commission may grant a request either with or without prejudice, at its discretion, based upon the relevant facts of the application and request. This insures that the Commission can act in the best interest of the public as directed in statute.
- Subsection (c) requires any unused portion of the background investigation deposit to be returned if the request to withdraw is granted. The background deposit is intended to reimburse the Bureau for their expenses related to a background investigation. However, if an application is withdrawn and no further background investigation is required, any unexpended deposit balance should be returned to the applicant. This provides needed guidance to the Bureau and is informative to the applicant.

DRAFT

DESCRIPTION OF PROPOSED REGULATORY ACTION APPLICATION WITHDRAWALS AND ABANDONMENTS, AND HEARING PROCEDURES

- Subsection (d) clarifies that, if a request for withdrawal is granted with prejudice, the applicant is not eligible to re-apply for licensure until after one year from the date the requested is granted. This prohibition is imposed by section 19869 and is included in the regulation for the sake of clarity.
- Subsection (e) requires the Bureau to continue and conclude its investigation of an applicant in the event a request to withdraw an application is denied, as allowed by section 19869.

Section 12017 – Abandonment of Applications

Previous Section 12048 is deleted and replaced with Section 12017. This new section continues the practice of allowing the abandonment of applications under limited specified circumstances.

- Subsection (a) defines the process whereby the Chief of the Bureau may deem an application abandoned based on certain criteria, including when an applicant is essentially no longer cooperating in the application process. This section is intended to provide a helpful mechanism to address applications which do not warrant continued Bureau investigation due to lack of cooperation, interest, or other circumstances that may warrant abandonment, such as the applicant's death or unemployment.
- Subsection (b) defines a process whereby the Executive Director may deem an application abandoned based on certain criteria, including when an applicant is essentially no longer cooperating in the application process. This subsection is intended to provide a helpful mechanism to address applications which do not warrant Commission consideration due to lack of cooperation, interest, or other circumstances that may warrant abandonment, such as the applicant's death or unemployment.

The subsection also discusses Commission procedures for deeming applications abandoned and the treatment of corresponding deposits related to the application. This provides important details about the abandonment process.

DRAFT

DESCRIPTION OF PROPOSED REGULATORY ACTION
APPLICATION WITHDRAWALS AND ABANDONMENTS,
AND HEARING PROCEDURES

ARTICLE 2. INTERIM RENEWAL LICENSES

Section 12035 – Issuance of Interim Renewal License

The term “interim license” is referenced briefly in Business and Professions Code section 19841, but no definition or other information is included in the statute. The Commission has already created a category of “interim gambling licenses” for use during specific qualifying events³. This proposal adds a definition of “interim license” to Section 12002, and clarifies that an “interim license” includes both (1) an interim gambling license issued pursuant to Section 12349, and (2) an interim *renewal* license issued pursuant to Section 12035, created by this package.

- Subsection (a) states that an interim renewal license shall be issued after the Commission or Executive Director has elected to hold an evidentiary hearing upon a renewal application or where an accusation has been filed. The applicant’s previously issued license will, at some point, expire, leaving him or her without a valid license and legally unable to continue in the licensed activity. The interim renewal license is issued to address this gap in licensure while the evidentiary hearing is pending.
- Subsection (b) lists the relevant conditions that interim renewal licenses will contain as a matter of course:
 - Paragraph (1) states that the interim renewal license shall be issued under the same terms and conditions as the previously held license, except for any condition that has already been satisfied. This provides continuity between the current license and the interim license and presumably would not be objectionable for the licensee as any problems with the original conditions would have been addressed in a prior evidentiary hearing to the extent there was one.
 - Paragraph (2) sets the term of the interim renewal license at two years from the date the previous license expires, or the conclusion of the evidentiary hearing, whichever is sooner. Two years is the standard term for licenses issued by the Commission based on section 19876. This paragraph also states that interim renewal licenses cannot be renewed; however, the Commission may issue a subsequent, new interim renewal license if the evidentiary hearing process has not been concluded.
 - Paragraph (3) requires the holder of an interim renewal license for a state gambling license to pay all applicable annual fees. Annual fees are assessed pursuant to section 19951, and Sections 12008 and 12357. Annual fees are used to fund regulatory oversight of gambling establishments. Any gambling establishment with an active license is obligated to pay annual fees. This

³ Title 4, CCR, Section 12349.

DRAFT

DESCRIPTION OF PROPOSED REGULATORY ACTION APPLICATION WITHDRAWALS AND ABANDONMENTS, AND HEARING PROCEDURES

paragraph makes that obligation explicitly clear for holders of an interim renewal license.

- Paragraph (4) states that the issue date of the most recently granted interim renewal license shall serve as the issue date for any regular license that may be granted at the conclusion of the evidentiary hearing process. This is intended to ensure that licensees pay the correct amount in annual fees.
- Paragraph (5) states that the Commission has not given up any discretion it has by awarding an interim renewal license and can take actions it deems appropriate during the hearing process. This is to make clear that the award of an interim renewal license is primarily ministerial and does not limit the Commission statutory mandate.
- Paragraph (6) makes clear that the award of an interim renewal license does not impact the prosecution by the Bureau of an accusation and also has no precedential effect on anything that may or may not be raised in an accusation. This is to make clear that the award of an interim renewal license is primarily ministerial.

ARTICLE 3. HEARING PROCEDURES AND DECISIONS.

Section 12050 – Commission Meetings; General Procedures; Scope; Rescheduling of Meeting

The current Section 12050 is amended, divided, and renumbered as Sections 12058, 12056 and 12050. The new Section 12050 provides general procedures regarding the hearing process.

- Subsections (a) and (b) clarify Commission authority and that this article does not apply to disciplinary proceedings which helps all parties understand their rights and obligations.
- Subsection (c) lists the specific notices that applicants are to receive in advance of a meeting and what those notices are to contain. This is to insure that each applicant is informed and has an opportunity to address the Commission if they so choose.
- Subsection (d) codifies existing practices which allow the Executive Director to reschedule items before a meeting and the Commissioners at a meeting. It does not change the current operation of the Commission.
- Subsection (e) clarifies that anyone who provides testimony at a Commission meeting may be sworn.

Section 12052 – Bureau Recommendation and Information; Commission Staff Recommendation

DRAFT

DESCRIPTION OF PROPOSED REGULATORY ACTION APPLICATION WITHDRAWALS AND ABANDONMENTS, AND HEARING PROCEDURES

The Act, in subdivision (a) of section 19826, allows the Bureau to recommend the denial or limitation, conditioning, or restriction of any license, permit, or approval, after the completion of the background investigation. Section 12052 details the manner in which any recommendation shall be provided to the applicant and how the information may be considered by the Commission. Specifically:

- Subsection (a) requires the Bureau to provide the applicant with the Bureau's report, any recommendation, and any other documents or information at the same time it is provided to the Commission. This requirement ensures that all parties are informed, are provided the same information, and can all properly address the Commission at the Commission meeting.
- Subsection (b) clarifies that the authority to make a decision on the suitability of an applicant ultimately rests with the Commission and, if the Commissioners deem it appropriate, the Administrative Law Judge, and are not bound by the Bureau's recommendation. This makes sure that the applicant is aware that the Bureau's and Staff's recommendation, while important, have not satisfied the applicant's burden under the Act to prove their suitability.

Section 12054 – Approval; Commission Elected Hearings

This section lays out the various decisions the Commission may make at a Commission meeting in regards to an application.

- Subsection (a) describes the actions Commissioners may take at a Commission meeting, including approval of an application, sending a matter to a hearing under section 12056 (an evidentiary hearing), extending a license as necessary under Business and Professions Code section 19876(c), tabling or continuing an item, approving the withdrawal of an application, deeming a license abandoned, and granting an interim renewal license if appropriate. This list is intended to be informative and provides all parties with a non-exhaustive list of the possible actions that may occur during the meeting process.
- Subsection (b) states that evidentiary hearings are not available to an applicant when the Commission approves or denies withdrawal or makes a finding of abandonment under paragraphs (5) and (6). This is to improve efficiency and clarity in the application process. If a party wanted to contest the rejection of the withdrawal or abandonment via an evidentiary hearing they are still able to avail themselves of the normal licensing process which affords them an opportunity for an evidentiary hearing.

DRAFT

DESCRIPTION OF PROPOSED REGULATORY ACTION APPLICATION WITHDRAWALS AND ABANDONMENTS, AND HEARING PROCEDURES

Section 12056 – Evidentiary Hearing

The Act provides two ways by which the Commission may consider matters. Business and Professions Code sections 19870 and 19871 describe the manner by which the Commission shall conduct “meetings” and section 19825 allows the Commission to require any matter that the Commission is authorized to consider in a hearing or meeting of an adjudicative nature to be conducted according to the APA. In order to expedite the handling of applications, this regulation defines the “meeting” required by Business and Professions Code sections 19870 and 19871 as a GCA hearing.

An evidentiary hearing is a more in-depth examination of the application conducted either in front of the Commission, with or without an Administrative Law Judge presiding, or before an Administrative Law Judge, with or without the Commissioners present.

- Subsection (a) states that a GCA hearing, as described in Business and Professions Code sections 19870 and 19871, is the default evidentiary hearing path, unless otherwise specified by the Commission or the Executive Director. It also allows an applicant in their evidentiary hearing request to supply information in support of either a GCA or APA hearing. This provides helpful procedural guidance to the applicant as to how an evidentiary hearing is selected and how they can be involved in that process.
- Subsection (b) reiterates the requirement that certain elements of a Bureau report remain confidential from an applicant, as specified in the Act. This is merely meant to comport with the limitations of the Act and does not provide any new basis for withholding information.
- Subsection (c) makes clear that under an APA or a GCA hearing, each side bears their own costs. This simply provides guidance to public expectations regarding the licensure process.

Section 12058 – APA Hearings

- Subsection (a) states that the Commission will determine whether an 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 and that notice of the hearing will be provided pursuant to the APA. This provides procedural guidance to all parties.
- Subsection (b) states that the burden is on the applicant at all times to prove his or her qualifications under the Act. This reiterates the mandate in the Act that the applicant must prove they are suitable for licensure.

DRAFT

DESCRIPTION OF PROPOSED REGULATORY ACTION APPLICATION WITHDRAWALS AND ABANDONMENTS, AND HEARING PROCEDURES

- Subsection (c) states that the Bureau will prepare and file a Statement of Issues according to Government Code section 11504, whether they made a recommendation or not. This provides guidance to all parties.
- Subsection (d) makes it clear that the Bureau is not required to make a recommendation or seek any particular outcome as a result of an APA process, but rather to merely provide the facts to the decision makers. This makes clear what is expected of all parties.
- Subsection (e) discusses the process at the end of an evidentiary hearing for the Commission to reach a decision. This provides guidance to the applicant and the Commission.
- Subsection (f) clarifies that only the Executive Director or the Commission can delay or cancel any scheduled hearing date.

Section 12060 – GCA Hearings

- Subsection (a) creates a path for the Executive Director to schedule an application for a GCA hearing without an initial Bagley-Keene public meeting. The Commission still retains the option of sending a matter that has been scheduled for a GCA hearing to an APA hearing. This is intended to provide speedier final resolutions of certain applications which would benefit all applicants and the public in general and it is also consistent with the spirit of the Act. The subsection also provides a timeline for notification of this decision and guidelines by which the Executive Director may make the decision. This subsection also provides the timeframe should either party have documents or a witness list that require an exchange.
- Subsection (b) provides guideline's for when the Commission elects to hold an evidentiary hearing pursuant to Section 12054. This is intended to provide a timeline that is accelerated for when no documents or witness list are being included. If documents or a witness list requires an exchange, the timeline is extended to allow for one similar to the timeline in subsection (a).
- Subsection (c) requires the Commission to designate a presiding officer as a properly segregated member of the Commission's legal staff or an Administrative Law Judge. This provides important clarification under the Act and a procedural requirement for the Commission.
- Subsection (d) allows the applicant or the Bureau to request, in writing to the Executive Director, a continuation of the GCA hearing. This allows for a delay as necessary to eliminate any potential burden on the parties and flexibility for the Commission.

DRAFT

DESCRIPTION OF PROPOSED REGULATORY ACTION APPLICATION WITHDRAWALS AND ABANDONMENTS, AND HEARING PROCEDURES

- Subsection (e) requires the Bureau and applicant to exchange certain items in advance of the GCA hearing and in conjunction with the timelines included in subsections (a) and (b). This provides guidance to both parties as to procedure.
- Subsection (f) discusses when and how pre-hearing conferences may occur as well as what issues may be discussed during the conference. This provides guidance to both parties and the presiding officer.
- Subsection (g) allows the Commission to prohibit the admission of certain evidence upon a showing of prejudice. This provides guidance to both parties so as to discourage certain potential discovery abuses for any potential advantage.
- Subsection (h) requires the Bureau to commence the GCA hearing by presenting the facts and information in the Bureau's report, the background investigation, and the basis for any recommendation. This provides helpful procedural guidance to the Bureau and applicant.
- Subsection (i) reiterates that the burden remains with the applicant to prove their suitability under the Act.
- Subsection (j) makes clear the Bureau is not required to make any recommendation or seek any particular outcome, unless it so chooses, but simply to provide the Commission with the facts and law related to the application along with their background investigation so that the Commission can make an informed decision. This provides guidance to both parties.
- Subsection (k) makes clear that applicants may represent themselves or retain an attorney or lay representative. This is meant to confirm the somewhat informal nature of the evidentiary hearing proceeding and that the point is not to protect any particular form, but rather further the Commission's understanding of an application.
- Subsection (l) discusses what the Bureau or applicant may do during a GCA hearing including calling witnesses, introducing documentary evidence, cross-examining witnesses, and impeaching witnesses. The applicant may also be called to testify. This provides helpful procedural guidance to both parties.
- Subsection (m) discusses that relevant evidence will be admitted and that there are no applicable technical rules which would bar evidence from being admitted so long as normal people would rely on it. This provides helpful procedural guidance to both parties and further supports the idea that this is to be more of an informal evidentiary hearing than the APA hearing.

DRAFT

DESCRIPTION OF PROPOSED REGULATORY ACTION APPLICATION WITHDRAWALS AND ABANDONMENTS, AND HEARING PROCEDURES

- Subsection (n) requires that oral evidence be taken upon oath or affirmation, administered by the Executive Director, a member of the Commission, or an Administrative Law Judge. This provides helpful procedural guidance to all.
- Subsection (o) discusses the process at the end of an evidentiary hearing for the Commission to reach a decision. This provides guidance to the applicant and the Commission.

Section 12062 – Issuance of GCA Hearing Decisions

- Subsection (a) requires the designated presiding officer to prepare and submit to the Commission a proposed decision with a detailed statement of reasons within 30 days of the conclusion of the hearing. This provides guidance to the applicant and the Commission.
- Subsection (b) requires the Commission to issue its decision, in compliance with Business and Professions Code section 19870, within 45 days of the issuance of the proposed decision. The decision shall be served upon the applicant at the applicant's address of record by certified mail. This provides guidance to the applicant and the Commission.
- Subsection (c) requires all decisions to specify an effective date and allows the inclusion of directions as to any stay provisions or orders to divest. This provides guidance to the applicant and the Commission.
- Subsection (d) restricts voting on the decision only to members of the Commission who heard the evidence presented in the hearing, unless such restriction would prevent the existence of a quorum. In such case, another member may be allowed to vote after a review of the record and any additional briefing or hearing deemed necessary. This provides guidance to the applicant and the Commission.

Section 12064 – Requests for Reconsideration

- Subsection (a) allows an applicant to request reconsideration of an issued decision within 30 days of service of that decision.
- Subsection (b) specifies the conditions under which an applicant may request reconsideration, either on:
 - Paragraph (1) – Newly discovered evidence or legal authorities that could not reasonably have been presented at the hearing or before the Commission's issuance of a decision; or

DRAFT

DESCRIPTION OF PROPOSED REGULATORY ACTION APPLICATION WITHDRAWALS AND ABANDONMENTS, AND HEARING PROCEDURES

- Paragraph (2) – Other good cause for which the Commission may, in its sole discretion, decide merits reconsideration.
- Subsection (c) authorizes the Executive Director to initially determine whether a request for reconsideration is complete and should be placed on the Commission agenda for consideration. This provides important guidelines for the handling of a request including; that the approved request to be placed on the Commission agenda within 60 days of its receipt, and requires the applicant to be given at least 10 days advance notice of the Commission meeting. This paragraph also states that the applicant will be notified of the Commission’s decision on the request within 10 days following the meeting.
- Subsection (d) states that a decision will be stayed while the request is under review by the Executive Director or Commission.
- Subsection (e) clarifies that the granting or denying of a reconsideration request shall be at the sole discretion of the Commission.

Section 12066 – Final Decisions; Judicial Review

- Subsection (a) provides that the decision of the Commission following a GCA or APA hearing shall become final: 30 days after service of the decision, if reconsideration has not been granted; immediately after the Commission affirms its decision or issues a reconsidered decision, if reconsideration has been granted; or immediately upon the applicant’s waiver of reconsideration.
- Subsection (b) reiterates the requirement that the applicant must still exhaust all administrative remedies before seeking judicial review.

Section 12068 – Decisions Requiring Resignation or Divestiture

This section takes much of subsection (c) from former Section 12050 and relocates it here. It remains in substantially the same form.

Section 12218.5 - Withdrawal of Request to Convert Registration to License

- Subsection (a) merely removes language regarding the Bureau’s final action which is now a defined term.

Section 12234 - Withdrawal of Request to Convert Registration to License

- Subsection (a) merely removes language regarding the Bureau’s final action which is now a defined term.