

CALIFORNIA GAMBLING CONTROL COMMISSION  
**DESCRIPTION OF PROPOSED REGULATORY ACTION  
PROGRAM FOR RESPONSIBLE GAMBLING**

**INTRODUCTION:**

The California Gambling Control Commission (Commission) is considering amendments to previously adopted regulations, as well as the addition of a new section and form related to the Self-Exclusion element of the Program for Responsible Gambling (Program). These amendments to the regulations would better implement various aspects of the Gambling Control Act (Act)<sup>1</sup> and provide further protection to the public.

Essentially, except for changes and clarification related to responsible gambling messages, training requirements and review of the program elements, the proposed regulations revise the way in which individuals apply for, and are removed from the list of self-excluded persons. Under the proposed system, the Bureau of Gambling Control (Bureau) would continue to process applications and maintain the list of self-excluded persons.

**SUMMARY:**

Several substantive amendments to the regulations for the Program have been suggested. These amendments relate to:

- Licensee requirements for posting problem gambling referral information.
- New minimum requirements in the procedures for new employee orientation and annual training.
- Changes to non-lifetime exclusion requests for the Self-Exclusion Program.
- Changes to lifetime exclusion requests for the Self-Exclusion Program.
- Elimination of the State-wide self-exclusion list.
- Changes to the process for reviewing program elements for compliance and identifying deficiencies.

Posting Problem Gambling Referral Information

The language has been revised to clarify that owners of third-party providers and gambling business, not just owners of a gambling establishment, must include problem gambling messages in gambling advertisements and websites.

New Minimum Training Program Requirements

The minimum guidelines for new employee orientations and annual training are revised to provide clarity to the type of information that is required, including different levels of information depending on an employee's role in the gambling establishment.

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<sup>1</sup> Business and Professions Code section 19800, et seq.

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### Changes to Lifetime Exclusion Requests in the Self-Exclusion Program

Concerns have been raised that individuals are not able to remove themselves from lifetime exclusion. Current regulations allow an individual to request to be excluded on a lifetime basis. This request is permanent and irrevocable. Three options are being suggested for implementing changes to lifetime requests. Option 1 would provide a system for individuals who have requested lifetime exclusion to request removal after four years, with a required one-year “cool down” period. This option would maintain the current regulation provisions allowing for the automatic removal of individuals from the list of self-excluded persons if their request was for either a one-year or five-year term. Option 2 provides for no minimum exclusion period, but in all cases would require a removal request and a one year “cool down” period prior to removal. Additionally, this option would not include the current one-year and five-year terms. Option 3 would repeal the statewide self-exclusion program, and would instead provide revisions to the site-specific self-restriction program, by removing limits on time frames or including provisions similar to either Option 1 or Option 2.

In addition, several less substantive amendments to the regulations for the Program have been suggested. These amendments relate to:

- Revising the reporting requirements for removals of restricted or excluded persons for the respective programs.
- Correcting the name of the Office of Problem and Pathological Gambling (OPPG).
- Requiring identity verification at certain points.
- Permitting the OPPG, in addition to the Bureau and Commission, to request and review the policies and procedures of any gambling enterprise’s self-restriction or self-exclusion program.

### Office of Problem and Pathological Gambling

The originally adopted regulations referred to the Office of Problem Gambling. However, the name of the agency in statute<sup>2</sup> is the Office of Problem and Pathological Gambling.

### Require Identity Verification

Current regulations require the gambling establishment to establish policies and procedures for the forfeiture of money or prizes won or losses recovered by an excluded person. The regulations provide no guidelines for how or when to identify the individuals on the list of self-excluded persons. The proposed text provides a minimal standard that gambling establishments must incorporate into their policies and procedures.

### Program Review

Current regulations allow the Executive Director and Bureau staff to request copies of a gambling establishment’s self-restriction and self-exclusion policies and procedures. The proposal will add the Office of Program and Pathological Gambling staff, and allow them to

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<sup>2</sup> Welfare and Institutions Code §4369.

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request and review the gambling establishment's policies and procedures. Additionally, the determination of deficiencies by the Executive Director would be revised by having the Bureau, as the investigative and enforcement agency, issue any notice of deficiency. This is consistent with the Governor's Reorganization Plan Number 2 of 2012 (GRP No. 2), as that shifted all investigation, compliance and enforcement functions to the Bureau.

### **BACKGROUND:**

The Program became operative March 5, 2007, and has not been substantively revised since the initial approval. The current list of self-excluded persons allows for requests to be made for one-year, five-year or lifetime terms. All terms are irrevocable, with the individuals in the one-year and five-year terms being removed from the self-exclusion list automatically at the conclusion of their term. Requests for exclusion can be made at a gambling establishment with establishment employees, or with either the Bureau or the Commission using a notary public. The list is maintained by the Bureau and enforced by the gambling enterprises, which are required to have policies and procedures in place to both assist potential applicants in requesting exclusion, and restrict those on the list from participating in gambling activities. As part of the required assistance, gambling establishments must include specific program information in any advertising materials, on the gambling premises and on any websites. Individuals on the list are barred from access to any facilities or services, including receiving directed advertising.

In addition to maintaining the statewide self-exclusion program, gambling enterprises are required to establish and maintain a site-specific self-restriction program. This allows an individual to bar themselves from a specific location, or a specific service at a specific location. Like the list of self-excluded persons, the list of self-restricted persons is confidential, but instead of being maintained by the Bureau, it is maintained independently by each individual gambling establishment.

Since the operative date of the Program, anecdotal stories and complaints have arisen where individuals claim to have placed themselves on the list of self-excluded persons for a lifetime term when that term was not intended. These incidents include individuals using the wrong form; individuals who were intoxicated and felt they had made a mistake; and, individuals who did not feel they had a gambling problem, but were pressured into making a request by another person.

In considering revisions to the regulations, staff reviewed existing regulations in other states and consulted with problem gambling experts on the topic of lifetime exclusion.

### **EXISTING LAW:**

Business and Professions Code section 19801 provides that gambling is addictive and that the exclusion or ejection of certain persons from a gambling establishment is necessary to effectuate the policies of the Act.

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Business and Professions Code section 19845 provides that a licensee may remove from their establishment any person who the Commission has determined should be excluded from licensed gambling establishments in the public interest.

Business and Professions Code section 19920 provides that a gambling establishment must be operated in a manner suitable to protect the public health, safety and general welfare of residents of the state.

Business and Professions Code section 19954 establishes the Gambling Addiction Program Fund, and requires gambling establishment licensees to annually pay a \$100 per table fee to the State Department of Public Health, to assist community-based organizations that provide aid and assistance to persons with a gambling addiction problem.

Welfare and Institutions Code section 4369.2 requires OPPG to develop a problem gambling prevention program which includes, in part, the training of gambling industry personnel in identifying customers at risk for problem and pathological gambling and knowledge of referral and treatment services.

Welfare and Institutions Code section 4369.4 provides, in part, that any agency that regulates casino gambling or cardrooms within the State, along with other departments, shall coordinate with the OPPG to ensure that state programs take into account, as much as practicable, problem and pathological gamblers.

California Code of Regulations Section 12461 provides requirements for gambling enterprises to post or provide OPPG information, including guidelines for display inside the gambling establishment, on any website and in any advertising material.

California Code of Regulations Section 12462 provides requirements for gambling enterprises to develop and implement problem gambling training for employees.

California Code of Regulations Section 12463 provides that gambling enterprises shall design and implement a self-restriction program through which patrons can request restriction from various services that allow patrons to be restricted from certain games or gaming activities with the gambling establishment or complete restriction from the gambling establishment. An optional model form is also included which may be utilized in the operation of the program.

California Code of Regulations Section 12464 provides that gambling enterprises shall design and implement a program that allows patrons access to the statewide self-exclusion program which provides for the exclusion of the patron from all gambling establishments, statewide. A form is also provided in this section which must be utilized in the program.

California Code of Regulations Section 12466 provides that the Executive Director or Bureau staff may require a licensee to provide any elements of their required programs for review and that the Commission may make an administrative determination that a program is inadequate and

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provide timelines to address deficiencies. This section also provides that failure to establish a program or maintain the confidentiality of the lists of self-restricted or self-excluded persons, or to cure a deficiency, is a violation.

### **PROPOSED ACTION:**

#### Section 12460 – Article Definitions

- The definition of “Self-Exclusion” in subsection (a) is revised to delete the reference to irrevocability, as the options for Section 12465 address the irrevocability, or revocability, of each provision.
- The definition of “Self-Restriction” in subsection (b) is revised to clarify that the irrevocable restriction only applies to a single gambling establishment. Additionally, all references to exclusion are changed to restriction to remove any confusion that the Self-Restriction program is linked in any way to the Self-Exclusion program.
- The remaining proposed changes to this Section include non-substantive changes for clarity and consistency with the rest of the Article.

#### Section 12461 – Posting Referral Information

- Proposed changes to subsections (a) through (c) include non-substantive changes for consistency; such as the correction of the title of the OPPG and the removal of expired date references.
- Proposed changes to subsection (b) require that any website operated by or on behalf of a gambling enterprise, TPPPS, or gambling business contain a responsible gambling message and a link to the OPPG, as specified. This change provides clarification that this requirement applies to all businesses engaged in gambling.
- Proposed changes to subsection (c) require that any advertising material produced by or on behalf of a gambling enterprise, TPPPS, or gambling business contain a responsible gambling message and the OPPG information and referral service telephone number and website address, as specified. This change provides clarification that this requirement applies to all businesses engaged in gambling.
- The proposed change to subsection (c) removes the requirement to include a “link to a website” and instead requires only a reference to the website listed, in order to resolve a concern that the term “link” may mean only a selectable item in an electronic format that would not apply to printed material. The section would provide that any advertising material shall refer to the website <http://www.problemgambling.ca.gov>, without the possibly ambiguous reference to a link.

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### Section 12462 – Training Requirements

- The proposed changes to subsection (a) revise training requirements to include any employee who has direct interaction with customers in the gaming areas. The gambling enterprise must either develop a training program or utilize a program developed by OPPG. Additionally, three categories of employees are established. The exception of food and beverage servers from the training requirement is removed.
- The proposed changes to subsection (b) revise the scheduling requirements for training. The proposal would provide that new employee orientations must be completed no more than 30 days after the issuance of a license or work permit. Additionally, the proposal allows for annual training, given during each calendar year in which a new employee orientation wasn't provided, to be completed in segments throughout the year.
- The proposed paragraph (3) of subsection (b) maintains the requirement of the existing subsections (b) to document training and adds additional specificity.
- The proposed changes to subsection (c) add two additional categories of information that must be included in the training program; information related to the programs offered by the Office of Problem and Pathological Gambling and current information on services available in the area in and around the location of the gambling establishment.
- Current subsection (d) is moved and incorporated as part of paragraphs (1) and (2) of subsection (b). The proposed subsection (d) provides that the training topics identified in subsection (c) are to be applied according to the three employee categories established in subsection (a).

### Section 12463 – Self-Restriction Program

- The proposed changes to this Section and associated form include non-substantive changes for clarity and consistency.
- The proposed change to subparagraph (B) of paragraph (4) of subsection (a) removes the requirement to report to the Bureau any incidents of removal. Instead, the gambling enterprise is required to maintain records that may be requested by the Bureau or other law enforcement agencies as part of an investigation.

### Section 12464 – Self-Exclusion Program

- The proposed changes to this Section and associated form include non-substantive changes for clarity and consistency.
- The proposed change to paragraph (3) of subsection (a) would revise the requirement to report to the Bureau the removal of a self-excluded person from only when police or security are involved, to instead require the reporting of any removal.

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- The proposed addition of paragraph (4) of subsection (a) would add the requirement that gambling enterprise employees check the list of self-excluded persons whenever it is otherwise necessary to check the identity of a patron. This additional requirement would further serve the public by ensuring that individuals are screened in a manner that is unobtrusive to the gaming experience.

The following are proposed substantive changes to the Self-Exclusion program:

### OPTION 1 - Section 12465 – Lifetime is a minimum of 4 years with a 1 year cool down after removal request

This option would allow individuals with a lifetime self-exclusion to request removal from the list after a period of four years. After requesting removal, a one year “cool down” period would begin, after which the individual would be automatically removed.

Pro:

- Individuals would be able to remove themselves from the list of self-excluded persons once they have served the minimum period should they feel that their reasons for enrolling are no longer relevant.

Con:

- This proposal effectively removes a true lifetime self-exclusion term. During previous discussions, problem gambling experts suggested that any change that removes a true lifetime exclusion period could impair the integrity of the self-exclusion program.

### OPTION 2 - Section 12465 – No defined exclusion period

This option would remove any specific time frames and would make all exclusions an indeterminate amount of time. An individual could request removal from the list of self-excluded persons at any time. After requesting removal, a one year “cool down” period would begin, after which the individual would be automatically removed.

Pros:

- Individuals would be able to remove themselves from the list of self-excluded persons once they have served the minimum period should they feel that their reasons for enrolling are no longer relevant.
- The process is simple, streamlined and easy to understand.

Con:

- This proposal effectively removes a true lifetime self-exclusion term. During previous discussions, problem gambling experts suggested that any change that removes a true lifetime exclusion period could impair the integrity of the self-exclusion program.

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### *OPTION 3 - Section 12465 – Repeal the State-wide Self-Exclusion Program*

This option would repeal the self-exclusion program, leaving the site-specific self-restriction program in place. This would be accomplished by modifying the self-restriction program to provide a higher level of specificity, no fixed restriction time frame, or possible provisions for removal similar to either Option 1 or Option 2. Other conforming changes would be made in other sections as well.

#### Pro:

- The list of self-restricted persons is a smaller, more relevant list of individuals to monitor. The list of self-excluded persons contains a majority of individuals living in other parts of California, or out of state, who do not frequent any specific gambling establishment. Limiting a gambling enterprise to only being required to monitor a site-specific list means gambling enterprise employees are able to focus on those customers most likely to attempt to violate a restriction at that location.

#### Cons:

- This proposal would remove any participation by the State in the maintenance of the self-exclusion list. As lists of persons that are self-restricted are maintained by each gambling enterprise (and not by the Bureau), this would negatively impact the ability of the Bureau to ensure gambling enterprise compliance.
- As a self-restriction program is currently available, removing the self-exclusion program removes one of the tools individuals can use to assist in recovery.

### *Section 12466 – Responsible Gambling Program Review*

- Paragraph (1) of subsection (a) provides that the Bureau may require that licensees make available for review their required programs as provided in the article. Additionally, to be consistent with other provisions of regulation, the Act, and GRP No. 2, the notification of any deficiency is changed to issuance by the Bureau.
- Paragraph (2) of subsection (a) provides that Commission staff or the staff of the OPPG may request program information for review. The Commission staff is currently authorized to make this request but the OPPG staff is not. The addition of this agency enhances the required coordination between the OPPG, the Commission, and the Bureau, and will further protect the people of California.
- Subsection (b) is revised to clarify that failure to establish or remedy a deficiency is a ground for disciplinary action.