

CALIFORNIA GAMBLING CONTROL COMMISSION

**INITIAL STATEMENT OF REASONS**

**CGCC-GCA-2015-01-R**

**HEARING DATE:** June 3, 2015

**SUBJECT MATTER OF PROPOSED REGULATIONS:** Program for Responsible Gambling

**SECTIONS AFFECTED:** California Code of Regulations, Title 4, Division 18:  
Sections 12460, 12461, 12462, 12463, 12464, 12465,  
and 12466

**SPECIFIC PURPOSE OF REGULATORY PROPOSAL:**

**INTRODUCTION:**

The California Gambling Control Commission (Commission) is the state agency charged with the administration and implementation of the California Gambling Control Act (Act).<sup>1</sup> Under the Act, the Legislature finds gambling to be addictive<sup>2</sup> and that the exclusion or ejection of certain persons from gambling establishments is necessary.<sup>3</sup> The Commission is required to "...coordinate with the office [Office of Problem and Pathological Gambling (OPPG)] to ensure that state programs take into account, as much as practicable, problem and pathological gamblers."<sup>4</sup> Regulations allowing individuals to self-exclude or self-restrict their gambling activities have been adopted to implement and make specific the Commission's requirement to coordinate with the OPPG and to provide for necessary public protections for individuals for whom gambling is addictive.

**PROBLEM ADDRESSED:**

Currently, Section 12466 provides a program where individuals may self-exclude from participation in activities conducted at a gambling establishment. These exclusions include one-year and five-year timeframes in addition to irrevocable lifetime exclusion. Concerns have been raised that individuals are inadvertently signing up for a lifetime exclusion and are then unable to make any change to their inclusion on the list of self-excluded persons. Additionally, concerns have been raised that the provisions of Section 12461 related to advertisements are overly broad and require gambling messages to be included on promotional materials where the addition of the message is impractical.

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<sup>1</sup> Business and Professions Code, Division 8, Chapter 5, section 19800 et seq.

<sup>2</sup> Business and Professions Code, section 19800, subdivision (c)

<sup>3</sup> Business and Professions Code, section 19800, subdivision (m)

<sup>4</sup> Welfare and Institutions Code, section 4369.4

**PURPOSE:**

This proposed action has been prepared to update the Program for Responsible Gambling to correct for issues that have arisen during the lifetime of the program and to better coordinate with the OPPG and address changes in the understanding of problem gambling and how to best provide a structure to assist individuals in recovery.

**ANTICIPATED BENEFITS OF PROPOSED REGULATION:**

This proposed action will have the benefit of providing the gambling patron with a broader level of flexibility in their personal decision to participate, or exclude or restrict their participation in controlled gambling and related gambling activities. Additionally, the proposed action provides clarification and additional specificity to inform the gambling enterprise on what minimum level it must participate and provide policies and procedures to assist the patron in their decisions related to the Self-Exclusion and Self-Restriction Programs. The proposed action also expands the requirement that a gambling message be included in advertising by or on behalf of gambling enterprises, providers of third-party services and gambling businesses. Finally, the proposed action expands which gambling enterprise employees are required to participate in problem gambling training to include food service employees. All of these changes provide greater transparency and openness in business and government and protect the health, safety and welfare of the public, particularly those individuals affected by problem gambling.

**PROPOSED ACTION:**

This proposed action will make changes within Article 6 of Chapter 7, Division 18, Title 4 of the California Code of Regulations.

The proposed changes in Chapter 7 are as follows:

Amend Section 12460. Article Definitions.

This proposed action provides non-substantive, editorial, revisions to the definitions in Section 12460.

Subsection (a) is modified to remove the reference to “irrevocability.” Proposed Section 12465 will now address the irrevocability, or revocability, or any removal request, and the continued inclusion in the definition is repetitive and unnecessary. The definition is also revised to remove operative text as the relevant regulation section already includes these provisions and they are unnecessary in the definition. Additionally, the reference to games is changed to controlled games. The term game is undefined. The purpose is to allow a patron to exclude him or herself from gambling. Therefore, for the purposes of clarity, the use of “controlled games,” as defined in Business and Professions Code section 19805, subdivision (g), is utilized.

Finally, two non-substantive, editorial corrections are proposed. The first provides consistent reference to the list of self-excluded persons and not a “Self-Exclusion list.” The second is an editorial correction to clarify that the list of self-excluded persons applies to all controlled games or gaming activities or privileges at all gambling establishments. These revisions

keep the definition consistent with other proposed changes to the regulation and provide clarity.

Subsection (b) is revised to clarify that self-restriction only applies to a single gambling establishment. This is a non-substantive, editorial correction that moves the references to an individual gambling enterprise from each paragraph to the subsection. The definition is also revised to remove operative text as the relevant regulation section already includes these provisions and they are unnecessary in the definition. Additionally, the subsection and paragraphs have a non-substantive, editorial correction for consistency that modifies references from “exclusion” to “restriction” as the limitations are related to self-restriction and not self-exclusion. These revisions keep the definition consistent with other proposed changes to the regulation and provide clarity.

Paragraph (1) of subsection (b) is modified to change the reference to games to controlled games. The term game is undefined. The purpose is to allow a patron to restrict him or herself from gambling. Therefore, for the purposes of clarity, the use of “controlled games,” as defined in Business and Professions Code section 19805, subdivision (g), is utilized.

Paragraph (2) of subsection (b) is modified to change the reference to games to controlled games. The term game is undefined. The purpose is to allow a patron to restrict him or herself from gambling in a specific controlled game or gaming activity. Therefore, for the purposes of clarity, the use of “controlled games,” as defined in Business and Professions Code section 19805, subdivision (g), is utilized. In addition, the reference to gambling establishment is changed to gambling enterprise. The gambling establishment is a physical location and the gambling enterprise is the entity that is operative and makes procedural decisions. An additional non-substantive, editorial change is made to remove unnecessary language.

Paragraph (3) of subsection (b) is modified to clarify that the restriction is on the availability of credit or check cashing. This is a non-substantive, editorial revision that does not alter the purpose or effect of the regulation.

Paragraph (4) of subsection (b) is modified to provide that the restriction from marketing or promotional activities applies to both those conducted by the gambling enterprise, and those conducted on its behalf. This revision is required as otherwise the definition would be inconsistent with proposed revisions to Section 12461.

Amend Section 12461. Posting Referral Information.

This proposed action expands the requirements for positing problem gambling messages to include third-party providers of proposition player services (TPPPS) and gambling businesses. Additionally, the proposed action clarifies what advertising materials are required to include a problem gambling message. Finally, the proposal includes non-sustentative, editorial changes.

Subsection (a) is revised to correct the reference to the “Office of Problem and Pathological Gambling” from “Office of Problem Gambling” which conforms to the title of the agency as

specified in the Welfare and Institutions Code. This is a non-substantive, editorial change with no regulatory effect and conforms to the title of the agency as specified in the Welfare and Institutions Code.

Subsection (b) specifies that any website operated by a gambling enterprise must contain a responsible gambling message and a link to the OPPG. This subsection is revised to provide that a website operated by or on the behalf of a gambling enterprise, TPPPS or gambling business must contain the required message. This provision corrects the reference from gambling establishment to gambling enterprise. A gambling establishment is a building or location, while a gambling enterprise is the operative entity. TPPPS and gambling businesses are added to this requirement as they are licensed or registered gambling related operations. Finally, the reference to “Office of Problem Gambling” is corrected to the “Office of Problem and Pathological Gambling.” This is a non-substantive, editorial change with no regulatory effect and conforms to the title of the agency as specified in the Welfare and Institutions Code.

Subsection (c) specifies that any advertising material must contain the responsible gambling message. This subsection is revised to provide that advertising material produced by, or on the behalf of any gambling enterprise, TPPPS or gambling business must include the required message. TPPPS and gambling businesses are added to this requirement as they are licensed or registered gambling related operations and it would be inconsistent to exempt them from advertising standards if advertising for a controlled game or gaming activity. Additionally, the following options are proposed:

- **Option 1** would require that the advertising material must contain both a reference to the 1-800-GAMBLER number and a link to <http://www.problemgambling.ca.gov>. This option acknowledges that often an individual is as likely to make a phone call or use a mobile device to look at a website and makes sure that all advertising materials have information that best suits each observer’s preferences.
- **Option 2** would require that the advertising material must contain either a reference to the 1-800-GAMBLER number or a link to <http://www.problemgambling.ca.gov>, or both. This is a non-substantive change as the current regulation already allows other references to be included, and does not prevent both from being included.
- **Option 3** would require that the advertising material must contain either a reference to the 1-800-GAMBLER number or a link to <http://www.problemgambling.ca.gov>, or both. Additionally, the proposed action clarifies which advertising materials are required to follow this provision. The list of television, radio, outdoor display, flyer, mail or digital encompasses those mediums with sufficient space to include the required message where it is not a burden on the advertisement. The proposal also specifically exempts digital materials where space is limited and the advertisement is only a link where a viewer would then be electronically directed to a website that does include the required message. Additionally, the proposal exempts promotional materials of a limited size. These revisions acknowledge the practical limitations in including the message on items of limited space, such as promotional pens or hats,

while still requiring that those materials used for broader delivery still include the message.

Amend Section 12462. Training Requirements.

This proposed action modifies and clarifies the minimum requirements for the policies and procedures related to problem gambling training for gambling enterprise employees. This section is expanded to provide requirements related to any employee that has direct interaction with gambling patrons in the gambling areas, including food and beverage servers. The requirements provide for a scaled instruction minimum, where individuals in lower level positions are required to have less instruction.

Subsection (a) provides that a licensee shall establish and implement procedures related to new employee orientations and annual trainings for those employees who have contact with gambling patrons in gambling areas. Food and beverage servers are currently exempt from the training requirement. This provision is revised to provide that the licensee need not establish the training program but may instead either use a third-party program or one developed and provided by the OPPG. This provides the licensee with flexibility in providing training. Additional, non-substantive, editorial changes are made to the language, including the removal of the no longer relevant compliance date.

New paragraphs (1) through (3) of subsection (a) are proposed to provide three categories of employees that have interaction with gambling patrons in gambling areas; key employees, employees who function in the operation of a controlled game, and any other employee including food and beverage servers. These categories correspond with proposed changes in subsection (c) to target individual employee groups to separately determine their level of required instruction. Food and beverage servers, formerly exempt from training, are included as they act as frequent points of contact with potential problem gamblers and, if armed with appropriate information, can report to an employee better equipped to assist patrons.

Current subsection (b) provides that new employee orientations and annual trainings must be documented and kept in the employee's personnel file for a minimum of five years. This subsection is repealed and its various provisions moved to a paragraph within either subsection (b) or subsection (c). The provision requiring that the training documentation be provided as part of the licensee's application for renewal is repealed. Section 12466 already allows the Bureau to request and review a gambling enterprise's program and an additional requirement for submittal is repetitive and unnecessary.

New paragraph (1) of subsection (b) provides that new employee orientations must be completed within 60 days of either the issuance of an employee's licensee or work permit or the date the employee begins work, whichever is later. This provision directs the gambling enterprise to provide a new employee orientation within the first 60 days of the employee's ability to participate in the conduct of a controlled game. The timeframe provides that training be prompt to maximize the employee's effectiveness in assisting patrons, and provides the gambling enterprise with flexibility in offering the training so that the gambling enterprise can efficiently comply with this provision.

New paragraph (2) of subsection (b) provides that annual training must be provided to an employee during a calendar year where a new employee orientation was not provided. Additionally, the training can be completed in segments as long as the entire program is completed in the same year. This proposal provides the gambling enterprise with maximum flexibility, while ensuring that every employee continues to be provided with the information and training necessary to assist patrons who may have a gambling problem or who may wish to participate in an available program.

New paragraph (3) of subsection (b) maintains many of the provisions moved from current subsection (b), including that an employee must be designated as being responsible for maintaining, coordinating and documenting the required training. The provision requiring the maintenance of training records is revised from being required to be included in the employee's personnel file to only being required to be maintained on file by the gambling enterprise. This provides the gambling enterprise with maximum flexibility, while maintaining the documents for review by the Bureau or another entity. Additionally, a new provision is proposed that would require that the training program be reviewed at least once a year to ensure that the information is correct. This ensures that employees are knowledgeable of information that will actually be of use to a patron needing assistance.

Subsection (c) requires that the training program include a minimum set of information. This subsection has two non-substantive, editorial revisions. The first provides specificity to the term training while the second moves the three existing provisions to paragraphs (1) through (3).

New paragraph (4) of subsection (c) provides that the training program must include information related to services provided by the OPPG. This is necessary to ensure that a patron can receive information related to available assistance. As the employee is the point of contact for the patron, it is the employee that can best provide the patron with information immediately.

New paragraph (5) of subsection (c) provides that the training program must include information related to services provided by any problem gambling programs or services available in the location around the gambling enterprise. This is necessary to ensure that a patron can receive information related to available assistance. As the employee is the point of contact for the patron, it is the employee that can best provide the patron with information immediately.

Current subsection (d) requires the gambling enterprise to designate an employee as being responsible for maintaining the program. This provision is now incorporated in paragraph (3) of subsection (b).

A new paragraph (1) of subsection (d) requires employees who have contact with gambling patrons in gambling areas but whose work functions are not related to the conducting of a controlled game only need to be trained on information related to the nature and symptoms of problem gambling behavior. While these employees do have contact with patrons, it is often brief and unrelated to actual participation in a controlled game. It is only necessary that these

employees be able to recognize the signs of problem gambling so that they can contact another employ in a better position to provide assistance to the patron. Therefore, only the training concerning the nature and symptoms of problem gambling is necessary.

A new paragraph (2) of subsection (d) requires employees whose work functions are directly related to the conduct of a controlled game, and who have contact with gambling patrons in gambling areas need to be trained only on information related to the nature and symptoms of problem gambling behavior and on how to assist patrons in obtaining information on problem gambling programs. While these employees do have contact with patrons, they are generally not authorized to act as the point of contact for the submittal of forms related to the list of self-restricted persons nor the list of self-excluded persons. They should therefore only be required to identify when a patron may be exhibiting issues and to assist them in getting more information, if desired.

A new paragraph (3) of subsection (d) requires that key employees receive training in all of the categories of subsection (c). Key employees can act as the signatory on problem gambling forms, and should therefore have an understanding not only of the symptoms but also on how the programs work. Finally, as the ultimate point of contact with a patron signing up for either the list of self-restricted persons or the list of self-excluded persons, the key employee should have knowledge of the services and programs that are available to the patron.

Amend Section 12463. Self-Restriction Program.

This proposed action provides four options to modify two aspects of the Self-Restriction program. Additionally, non-substantive, editorial changes are made to the Section.

Subsection (a) provides that a licensee shall establish and implement a program that allows patrons to restrict their access to specific aspects of the gambling operation, or from the gambling establishment completely. As the program should have already been established, the subsection is revised to remove no longer relevant compliance date requirements. This is a non-substantive, editorial change.

Paragraph (2) of subsection (a) provides that the gambling enterprise must develop and provide a form for the patron to participate in the self-restriction program. Additionally, a form is provided that may be used, if the gambling enterprise does not wish to create its own. The name of the form is changed and the revision date of the form updated. This is a non-substantive, editorial change.

Additionally, the provided form is updated to be consistent with other changes in the regulations, such as changing the “Office of Problem Gambling” to the “Office of Problem and Pathological Gambling” which conforms to the title of the agency as specified in the Welfare and Institutions Code. All of the changes to the forms are non-substantive, editorial changes.

Paragraph (3) of subsection (a) provides that the list of self-restricted persons must be protected as confidential and may only be shared with Bureau or law enforcement personnel

as part of an investigation. The provision allowing the list of self-restricted persons to be shared with a Commission-approved entity assisting in a problem gambling program is removed. This provision is not needed as the Commission does not approve or participate in any problem gambling programs. A non-substantive, editorial change is also made to clarify that law enforcement personnel would be conducting the investigation and could therefore require the restriction information.

Paragraph (4) of subsection (a) provides that a patron may exclude him or herself from certain controlled games or gaming activities. References to exclusion are changed to restriction. This change is necessary to make this provision consistent with other changes being made related to the Self-Restriction Program, and to provide clarity regarding the distinction between this program and the Self-Exclusion Program by using appropriate terminology.

- Subparagraph (A) is modified to change references to exclusion to restriction. This change is necessary to make this provision consistent with other changes being made related to the Self-Restriction Program, and to provide clarity regarding the distinction between this program and the Self-Exclusion Program by using appropriate terminology.
- Subparagraph (B) provides a requirement that a gambling enterprise must notify the Bureau of any incidents where a patron is removed and either security or the police were required to assist.
  - **Option 4, Part A**, would provide that the provision remain unchanged.
  - **Option 5, Part A**, would provide that a gambling enterprise need not contact the Bureau when a patron is removed, but must instead keep a record of the removal. The records of these removals would be accessible by the Bureau or another law enforcement agency pursuant to an investigation. The Self-Restriction Program is designed to be an internal program within the gambling enterprise. Unlike the Self-Exclusion Program, the Bureau is not involved in the maintenance of the program. Therefore, the Bureau's interest is limited to only its compliance and oversight responsibilities over the gambling enterprises. By maintaining records, the gambling enterprise's compliance can be verified without the Bureau having unnecessary involvement in the internal program of the gambling enterprise.
- Subparagraph (C) provides that when discovered, a patron forfeits any money or prizes won or any losses recovered and that any such funds must be deposited into the Gambling Addiction Program Fund. This provision is modified to change the references to exclusion to restriction. This change is necessary to make this provision consistent with other changes being made related to the Self-Restriction Program, and to provide clarity regarding the distinction between this program and the Self-Exclusion Program by using appropriate terminology. Additional modifications are proposed, as follows:
  - **Option 6, Part A**, would remove the requirement that a patron who is found in violation forfeit any money related to losses recovered. Gambling enterprises have expressed a concern that determining the value of a patron's

losses is cumbersome and impractical, if not impossible. In order to determine the value, someone would be required to review the surveillance recordings for the entire time the patron was playing, and factor in every use of their chips including tipping dealers and purchasing food items. Additionally, there is a non-substantive, editorial revision.

- **Option 7, Part A**, would remove the requirement that a patron who is found in violation forfeit any money related to losses recovered. Additionally, the patron would be forced to forfeit any chips currently in their possession. The purpose of the program is to assist a patron in their decision to limit their activity. As the core element of a controlled game is to take some money and risk it to make more money, guaranteeing a complete loss not only provides a simple method of enforcement but also provides maximum discouragement to the patron. Additionally, there is a non-substantive, editorial revision.

Paragraphs (5) and (6) of subsection (a) provide that a patron may exclude themselves from check cashing, credit and marketing. References to exclusion are changed to restriction. These changes are necessary to make this provision consistent with other changes being made related to the Self-Restriction Program, and to provide clarity regarding the distinction between this program and the Self-Exclusion Program by using appropriate terminology. Additionally, the provisions are modified to incorporate paragraph (7) as that paragraph overlaps with these provisions and its removal eliminates the duplication.

Paragraph (7) of subsection (a) provides that a patron may be removed from access to check-cashing, credit or other marketing opportunities. This provision is repealed and incorporated in paragraphs (5) and (6).

Subsection (b) is revised to provide a non-substantive correction for consistency in the name of the Self-Restriction Request form.

#### Amend Section 12464. Self-Exclusion Program.

This proposed action provides options to modify three aspects of the Self-Exclusion program. Additionally, non-substantive, editorial changes are made to the Section.

Subsection (a) provides that a licensee shall establish and implement the State program that allows patrons to exclude themselves from all gambling establishments. As the program has already been established the subsection is revised to remove the no longer relevant compliance date. This is a non-substantive, editorial change.

The name of the form is revised. This is a non-substantive, editorial change. The form is also updated to be consistent with other changes or options in the regulations, such as changing the Office of Problem Gambling to the Office of Problem and Pathological Gambling.

Paragraph (1) of subsection (a) requires that the gambling enterprise establish policies for both providing forms to patrons and submitting the completed forms to the Bureau. This

section is modified to revise the name of the form. This is a non-substantive, editorial change.

Paragraph (2) of subsection (a) requires that the gambling enterprise establish policies for protecting the confidentiality of the list of self-excluded persons. This provision explicitly allows the gambling enterprise to provide information to the Bureau, but as the Bureau not only maintains the list but provides it to the gambling enterprise, this is unnecessary. The removal of this unnecessary language is a non-substantive, editorial change without regulatory effect.

Additionally, the provision allowing the list of self-excluded persons to be shared with a Commission-approved entity assisting in a Problem Gambling program is removed. This provision is not needed as the Commission does not approve or participate in any Problem Gambling programs.

Paragraph (3) of subsection (a) requires that the gambling enterprise establish policies designed to thwart violations and notify the Bureau when the removal of a violator requires the use of security or police.

- **Option 4, Part B**, would provide that the provision remain unchanged.
- **Option 5, Part B**, would provide that a gambling enterprise need not contact the Bureau when a patron is removed, but must instead keep a record of the removal. The records of these removals would be accessible by the Bureau or another law enforcement agency pursuant to an investigation. This makes the reporting requirements of the Self-Exclusion Program consistent with the Self-Restriction Program. By maintaining records, the gambling enterprise's compliance can be verified without the Bureau having unnecessary involvement in the internal program of the gambling enterprise.

New paragraph (4) is added to subsection (a). Under current practice, patrons in violation of their self-exclusion are most often caught at a later stage in their violation. This means that they have managed to penetrate the gambling enterprise, exchange money for chips and participate in a controlled game. All of the options related to the new paragraph (4) require that the gambling enterprise establish procedures in an attempt to catch violators much earlier in their violation in order to minimize the negative effects caused by violation and provide additional discouragement to violation attempts.

- **Option 8** would require that a patron's identity be verified before cashing a check, extending credit, and purchasing or redeeming chips. This provision provides maximum protection, ensuring that no one is able to even acquire chips if they are on the list of self-excluded persons.
- **Option 9** would require that when otherwise verifying a patron's identity due to cashing a check, extending credit, or when purchasing or redeeming chips, the patron's name must also be checked against the list of self-excluded persons.

- **Option 10** would require that when a patron's identity is being otherwise verified, for any reason, the list of self-excluded persons must also be checked at that time.
- **Option 11** would require that when a patron's identity is being otherwise verified in conjunction with a controlled game or gaming activity, the list of self-excluded persons must also be checked at that time.

Paragraph (5) provides that when discovered, a patron forfeits any money or prizes won or any losses recovered and that any such funds must be remitted to the OPPG for deposit into the Gambling Addiction Program Fund. Modifications are proposed, as follows:

- **Option 6, Part B**, would remove the requirement that a patron who is found in violation forfeit any losses recovered. Gambling enterprises have expressed a concern that determining the value of a patron's losses is cumbersome and impractical, if not impossible. In order to determine the value, someone would be required to review surveillance recordings for the entire time the patron was playing, and factor in every use of their chips including tipping dealers and purchasing food items.
- **Option 7, Part B**, would remove the requirement that a patron who is found in violation forfeit any losses recovered. Additionally, the patron would be forced to forfeit any chips currently in their possession. The purpose of the program is to assist a patron in their decision to limit their activity. As the core element of a controlled game is to take some money and risk it to make more money, guaranteeing a complete loss not only provides a simple method of enforcement but also provides maximum discouragement to the patron.

Subsection (b) provides that the gambling enterprise is not required to provide the services of a notary public. This section is modified to correct the name of the form. This is a, non-substantive, editorial change.

Adopt Section 12465. Removal from the List of Self-Excluded Persons.

This section specifies how the self-exclusion terms work, and how removal from each term is conducted. Currently, regulations do not explicitly specify any removal function, just that requests are irrevocable for the specific time period. As such, at the conclusion of the one or five-year periods, individuals are automatically removed. Patrons who requested lifetime cannot be removed.

- **Option 12** maintains the current one-year and five-year exclusion periods. The lifetime exclusion period is modified from actually being the term of the patron's life to being a minimum of a four-year period but with no automatic end date. At any time after the four years has elapsed, the patron would be able to request removal from the list of self-excluded persons and would then be removed after a one-year waiting or "cool down" period. Accompanying these changes are revisions to the Self-Exclusion Request form and the addition of two new forms; Self-Exclusion Removal Request and Withdrawal of Self-Exclusion Removal Request.

- New subsection (a) would provide that for a lifetime self-exclusion term, a request for removal could be submitted after four years from the effective date of the exclusion. The timeframe of four years before a removal request could be submitted was selected as when it is combined with the “cool down” period in subsection (b) it makes a lifetime request a minimum of five years. As the lifetime request is of a higher standard than the one-year and five-year terms, it does not make sense to allow the available period to be less than the five-year term. By removing the permanence of the lifetime request, individuals who make a decision at one point are not forced to live with it for their entire lives if circumstances change. Additionally, during the “cool down” period a request to cancel the withdrawal request is available should an individual change his or her mind and wish to remain on the list of self-excluded persons. This new time frame, and the removal of an irrevocable lifetime exclusion is necessary to correct for faults in the current program. There have been reports that individuals have been signed up for the lifetime self-exclusion program who may not be the intended participants. The opening up of the lifetime exclusion would allow individuals who are not, or are no longer, at risk gamblers to remove themselves while still allowing individuals to maintain a permanent self-exclusion.
- New subsection (b) provides clarification to the Bureau on how a patron is removed from the list of self-excluded persons. As previously stated, the current practice is only implicit in the regulation. This provision is necessary to provide clarity.
- **Option 13** would remove the current one-year, five-year and lifetime term structure and replace it with a single self-exclusion list where every request is for an indeterminate amount of time. A patron could sign up for the program, and could then request to be removed at any point. There would then be a one-year waiting or “cool down” before removal. Accompanying these changes are revisions to the Self-Exclusion Request form and the addition of two new forms; Self-Exclusion Removal Request and Withdrawal of Self-Exclusion Removal Request.
  - New subsection (a) specifies that a removal request is required in order to be removed from the list of self-excluded persons. By removing the permanence of the lifetime request, individuals who make a decision at one point are not forced to live with it for their entire lives if circumstances change. Additionally, during the “cool down” period a request to cancel the withdrawal request is available should an individual change his or her mind and wish to remain on the list of self-excluded persons. This new time frame and the removal of the other exclusion periods are necessary to correct for faults in the current program. There have been reports that individuals have been signed up for the lifetime self-exclusion program who may not be the intended participants. The opening up of the lifetime exclusion would allow individuals who are not, or are no longer, at risk gamblers to remove themselves while still allowing individuals to maintain a permanent self-

exclusion. Additionally, the simplification of the program will alleviate confusion by the patron and also allow each individual to have whatever flexibility they require to assist them while not requiring repetitive submittal of forms.

- New subsection (b) provides clarification to the Bureau on how a patron is removed from the list of self-excluded persons. As previously stated, the current practice is only implicit in the regulation. This provision is necessary to provide clarity.
- **Option 14** would repeal Section 12464. This would leave each gambling enterprise with its own list of self-restricted persons. There would not be a statewide program. This is necessary if the Commission determines that the current program is unwieldy and not able to achieve the intended goals. The list of self-excluded persons is currently greater than 2000 individuals from across the state and even from outside the state. Most of the individuals on this list do not frequent more than a handful of gambling enterprises, and so such a large list becomes not only a burden to a gambling enterprise to review but also dilutes those patrons who could actually frequent a specific gambling establishment. Limiting the program to just a local one allows the gambling enterprise to focus on restricting practical violators.

Amend Section 12466. Responsible Gambling Program Review.

The proposed action moves the authority to issue notices of deficiency from the Executive Director to the Bureau. Additionally, the OPPG is authorized to request and review a gambling enterprise's policies and procedures related to the list of self-restricted persons and the list of self-excluded persons. Finally, non-substantive, editorial changes are made to this Section.

The existing subsection (a) authorizes both the Executive Director and the Bureau to request and review the elements of a gambling enterprise's policies and procedures related to the list of self-restricted persons and the list of self-excluded persons. The Executive Director could then issue a notice identifying deficiencies and specifying a term within which they must be corrected. Judicial review of the notice would be subject to the limitations of Business and Professions Code section 19804. This subsection would become paragraph (1) of subsection (a) and is modified to authorize the Bureau to issue the notice detailing deficiencies.

Following implementation of the Governor's Reorganization Plan No. 2 of 2012 (GRP No. 2) the Bureau has been given the exclusive responsibility of investigating issues and reporting to the Commission. Therefore, it is not necessary or appropriate for the Executive Director to issue the notice of deficiency. Additionally, since the Executive Director no longer issues a notice, and the Commission is available to review the Bureau's notice, the provision identifying judicial review is no longer necessary and is proposed to be removed.

A new paragraph (2) is added to subsection (a). This provision maintains the Commission's access to review the elements of a gambling enterprise's policies and procedures related to the list of self-restricted persons and the list of self-excluded persons. Additionally, the

OPPG is authorized to request and review the policies and procedures. This is necessary as OPPG is the agency with the expertise to best review a program for effectiveness. Additionally, this enhances the required coordination between agencies.

Subsection (b) provides that failing to establish the required programs, or to correct an identified deficiency is an unsuitable method of operation. This provision, while correct, is non-specific and unclear. The proposed change is necessary as it directly ties the “violation” into the disciplinary action under Chapter 10, providing clarity to both the gambling enterprise and the Bureau.

Subsection (e) is revised to correct the reference to the “Office of Problem and Pathological Gambling” from “Office of Problem Gambling.” This is a non-substantive, editorial change with no regulatory effect and conforms to the title of the agency as specified in the Welfare and Institutions Code.

**UNDERLYING DATA:**

Technical, theoretical, or empirical studies or reports relied upon: None.

**BUSINESS IMPACT:**

The Commission has made an initial determination that the adoption of these regulations would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

For the most part, this proposed action only modifies requirements already in place. These regulations increase in the number of employees requiring problem gambling training and so some additional cost would be associated with paying those employees to attend instruction; however, that instruction is already being provided under current regulations and any additional cost would be insignificant.

There may be a business impact involved with checking the identification of individuals, depending on the option selected; however, none of the options require additional points of contact and instead work within periods when the gambling enterprise employees are already in contact with patrons and so the impact would be insignificant.

**SPECIFIC TECHNOLOGIES OR EQUIPMENT:**

These regulations do not mandate the use of specific technologies or equipment.

**ECONOMIC IMPACT ASSESSMENT/ANALYSIS:**

This proposal only provides guidance on minimal aspects of patron-business interaction. Most of the provisions deal with an individual’s options when electing self-exclusion or self-

restriction. Current regulation already limits the gambling enterprise's ability to receive patronage from excluded or restricted individuals, and so any customer loss because of more effective identification policies will only limit income that should otherwise not have been earned under the current provisions. No significant additional burden has been placed upon the gambling enterprise, its employees, or the public.

**CREATION OR ELIMINATION OF JOBS WITHIN THE STATE OF CALIFORNIA:**

These regulations are designed to provide guidance to the gambling enterprise, patrons who wish to be either excluded or restricted, and to the Bureau as the keeper of the list of self-excluded persons and the entity with the responsibility of gambling enterprise compliance review. These regulations modify and clarify existing requirements, and should not alter current practices significantly enough to effect the gambling enterprise's decision to employ individuals. Therefore, it has been determined that the proposed action will not have an impact on the creation or elimination of jobs.

**CREATION OF NEW BUSINESSES OR ELIMINATION OF EXISTING BUSINESSES WITHIN THE STATE OF CALIFORNIA:**

These regulations are designed to provide guidance to the gambling enterprise, patrons who wish to be either excluded or restricted and to the Bureau as the keeper of the list of self-excluded persons and the entity with the responsibility of gambling enterprise compliance review. These regulations modify and clarify existing requirements, and should not alter current practices significantly enough to effect the gambling enterprise's decision to employ individuals. Therefore, it has been determined that the proposed action will not have an impact on the creation of new businesses or the elimination of existing businesses.

**EXPANSION OF BUSINESSES CURRENTLY DOING BUSINESSES WITHIN THE STATE OF CALIFORNIA:**

These regulations are designed to provide guidance to gambling enterprises, patrons who wish to be either excluded or restricted, and to the Bureau as the current keeper of the list of self-excluded persons and the entity with the responsibility of gambling enterprise compliance review. These regulations modify and clarify existing requirements, and should not alter current practices significantly enough to effect the gambling enterprise's decision to employ individuals. Therefore, it has been determined that the proposed action will not have an impact on the expansion of businesses currently doing business in California.

**BENEFITS OF THE REGULATIONS:**

This proposed action will have the benefit of providing the gambling patron with a broader level of flexibility in their personal decision to participate, or exclude or restrict their participation in controlled gambling and related gambling activities. Additionally, the proposed action provides clarification and additional specificity to inform the gambling enterprise on what minimum level it must participate and provide policies and procedures to assist the patron in their decisions related to the Self-Exclusion and Self-Restriction Programs. The proposed action also expands the requirement that a gambling message be included in advertising by or on behalf of gambling enterprises, providers of third-party services and gambling businesses. Finally, the proposed action expands which gambling enterprise employees are required to participate in problem

gambling training to include food service employees. All of these changes provide greater transparency and openness in business and government and protect the health, safety and welfare of the public, particularly those individuals affected by problem gambling.

### **CONSIDERATION OF ALTERNATIVES:**

No reasonable alternative to the regulation would be either more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed regulation, or more cost-effective to affected private person and equally effective in implementing the statutory policy or other provision of law.

Set forth below are the alternatives that were considered and the reasons each alternative was rejected:

- (1) Limited Term Exclusions Require Withdrawal Request: This option would maximize flexibility to the program by allowing individuals who have requested a one-year or five-year term to remain on the list of self-excluded persons after the term has ended instead of requiring them to submit an additional request to remain on the list. Concern was expressed that the requirement to request removal places a burden on the individuals and could cause confusion should they attempt to enter an establishment believing that their term has elapsed without further action.
- (2) First Self-Exclusion Request Cannot be Lifetime: This option would prevent an individual from requesting a lifetime self-exclusion the first time. This option would allow a permanent lifetime term to be maintained and would still allow flexibility to the individual considering restriction. Concern was expressed by problem gambling experts that maintaining the ability for an individual to make a lifetime declaration was more important than having an actual irrevocable lifetime option. The proposed options maintain a lifetime option, but just remove the irrevocability of it and replace it with a “cool down” period.
- (3) Medical Verification Requested with Withdrawal Request: This option would require that in addition to a withdrawal request, an individual must have information from a licensed, certified gambling addiction counselor recommending their release and showing that they had participated in problem gambling therapy sessions. This provision would place the Commission potentially in the position of determining a therapist’s credibility, and that is not something the Commission is qualified to do. Additionally, there is no requirement that an individual have any medical condition when adding themselves to the list of self-excluded persons, so it is inappropriate to assume such when allowing removal.
- (4) Provide Advertising Design Guidelines: This option would have specific design provisions related to font size, location and readability applied to the inclusion of the problem gambling message in advertising materials. This was not considered as part of this proposed action but was rejected as there is a need for a more expansive advertising

regulation that would be outside the scope of this regulation. Therefore, this option may be considered in a future regulatory package related to the content of advertising.

- (5) Require Bureau Notification for Any Violation: This option would have required gambling enterprises to track and report any violation of an exclusion or restriction. Current regulation only requires that incidents of removal when security or police are required to assist be reported to the Bureau. This alternative was rejected because requiring paperwork every time an individual unsuccessfully attempts to enter a facility would impose a burdensome reporting requirement on the gambling enterprise and impose a burdensome monitoring requirement on the Bureau.