LICENSING

CGCC-GCA-2020-01-R

COMMENTS AND RESPONSES FOR PROPOSED REGULATIONS

I. 45-DAY WRITTEN COMMENTS[1]

The Commission received the following written comments/objections/recommendations regarding the text of the proposed action during the 45-day written comment period that commenced June 19, 2020 and ended August 5, 2020:

A. AMEND SECTION 12002. GENERAL DEFINITIONS.

This section provides general definitions for overall use in this division.

1. Comment made on this section, in general, [pg. 9, line 6].

a. **Alan Titus, representing Artichoke Joe's**: Mr. Titus expressed a concern that the proposed terminology with the new definitions is confusing and that it is a large amount of effort to determine what is being referenced. Mr. Titus suggested that the solution is to not use the term "license" except when referring to the eight types of licenses or to discard the grouping of licenses all together. If the Commission chooses to maintain the groupings, Mr. Titus suggested the following amendment:

Noticed Term	Suggested Change
Cardroom Owner Type License	Cardroom Owner License Group
Cardroom Employee Type License	Cardroom Employee License Group
TPPPS Owner Type License	TPPPS Owner License Group
TPPPS Employee Type License	TPPPS Employee License Group
Cardroom Category License	Cardroom Industry License Group
TPPPS Category License	TPPPS Industry License Group
Owner Category License	Owner License Group
Employee Category License	Employee License Group

The proposed terms place the emphasis on group and not license, meaning that a cardroom would hold a cardroom business license, which would be part of the cardroom owner license group, the cardroom industry license group, and the owner license group. Mr. Titus noted that while still vast, it avoids confusion by having licenses referred to as a license within a group.

Recommended Response: This comment was considered but was not incorporated. While the suggested language provides a similar method to the proposal, it does not provide any additional clarity to the proposed terms. As the proposed terms are defined, their meaning is specific and clear. Finally, if we did accept the removal of

[1] All page numbers in this section refer to the proposed text dated March 27, 2020 and noticed on June 19, 2020.

the type and category terms, this would cause some provisions to become unwieldy, as some would require multiple instances of every license type being listed.

2. Subsection (j) [pg. 2, line 10] provides the definition for "cardroom business license". This definition provides a single term for the holder of the license certification. The Act uses two terms to refer to this entity; gambling enterprise and owner licensee [also owner-licensee].

a. **Alan Titus, representing Artichoke Joe's**: Mr. Titus commented that this definition requires the reader to read the referenced statutes and suggested that this definition should be revised to be self-contained and that separate definitions for gambling enterprise and owner licensee should be added. Mr. Titus suggested that the revised definition should be:

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

Recommended Response: This comment was considered but was not incorporated. At some point, the regulation needs either to reference back to the provisions of the Gambling Control Act (GCA) or directly restate all of the referenced provisions. If the regulation did not do so, it would fail to connect the terms to the ones used in statute. There are many places in the Commission's regulations where a reader is required to reference statutes in order to fully understand the regulations. It is not the purpose or scope of these regulations to eliminate that necessity. Furthermore, this comment would merely supplant the definition's statutory reference clarity with the ambiguity of their omission leaving the reader to guess or speculate as to their origin. Finally, the proposed language fails to cover the conflicting way the GCA uses the terms gambling enterprise and owner licensee; something that this definition is utilized to resolve.

3. Subsection (k) [pg. 2, line 14] provides the definition for "cardroom employee type license." This definition incorporates the definition of "gambling enterprise employee," as provided in Business and Professions (B&P) Code section 19805, subdivision (n), but also provides clarity that for the purposes of the Commission's regulations, the term is limited to include only key employee licenses and Commission issued work permits.

a. **Tiffany Conklin-Lichtig, representing Empire Sportsmen's Association, Outlaw's Card Parlour, and The Deuce Lounge & Casino**: Ms. Conklin-Lichtig expressed concern that the creation of this definition will exacerbate the existing requirement on Commission issued work permits to prove their suitability that is in excess of what is required in the GCA by including licensing standards under B&P Code section 19857 in addition to the statutory limitations B&P Code section 19912

incorporates from B&P Code section 19859. Ms. Conklin-Lichtig proposed the following amendment:

> (k) "Cardroom employee type license" means a license issued to any person as provided in Business and Professions Code section 19805, subdivision (n), who does not only hold a local work permit; and, for the purposes of this division also includes a key employee license ~~or a Commission work permit~~.

Recommended Response: This comment was considered but was not incorporated. There are places in the Commission's regulations where referencing more than one license type makes sense and having a single term to make that reference simplifies those provisions. The proposed definition's structure allows for the reference of individual license categories such as, all employees in a license category, all owners in a license category, and all license types in a license category. Lastly, the creation of a definition to allow a simpler reference creates no burden and no requirement in regards to proving suitability on any applicant, work permittee, licensee, registrant, the Commission, or the Bureau.

b. **Alan Titus, representing Artichoke Joe's**: Mr. Titus commented that the definition is unclear and unnecessarily complicated. Mr. Titus suggested that the definition should not refer to B&P Code section 19805. Mr. Titus suggested the following amendment:

> (k) "Cardroom employee type license" refers to and~~means a license issued to any person as provided in Business and Professions Code section 19805, subdivision (n), who does not only hold a local work permit; and, for the purposes of this division also~~ includes all key employee licenses and ~~or a~~ Commission work permits.

Recommended Response: This comment was accepted, in part. The commenter's proposed amendment does reflect one aspect of this definition, which is to group Commission work permits and key employees. However, to keep the format of the definition consistent to others like it, the following amendment is proposed:

> (k) "Cardroom employee type license" ~~a license issued to any person as provided in Business and Professions Code section 19805, subdivision (n), who does not only hold a local work permit; and, for the purposes of this division also includes~~ a key employee license or a Commission work permit.

4. Subsection (l) [pg. 2, line 17] provides the definition for "cardroom endorsee license." This definition provides a term to refer to those who are endorsed on a license certificate. While these individuals currently exist and are referenced in both the Act and regulations, there has not previously been a consistent term to refer to them.

a. **Yolanda Morrow, representing the Bureau of Gambling Control, Department of Justice (Bureau)**: Ms. Morrow expressed a concern that even though "person" is defined in statute as a person or entity, this may not be clear to the reader. Ms. Morrow proposed the following amendment:

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

Recommended Response: This comment was considered but was not incorporated. As stated in the comment, person is a defined term in B&P section 19805(ae); however, it is not defined to mean "person or entity" but is instead defined to mean:

> (ae) "Person," unless otherwise indicated, includes a natural person, corporation, partnership, limited partnership, trust, joint venture, association, or any other business organization.

Should the proposed change be made, the regulation would instead have the following meaning:

> (l) "Cardroom endorsee license" means a license issued to any natural person, corporation, partnership, limited partnership, trust, joint venture, association, or any other business organization or entity…

This change would not provide clarity to the definition, but would instead confuse the meaning by adding an undefined "entity" element, which is largely duplicative of "any other business organization." The reader would be forced to speculate as to its meaning, which does not aid in the clarity of the provision. The beginning of Section 12002 directs the reader to familiarize themselves with the definitions found in B&P section 19805 as doing so is critical to properly understand not only this provision, but also many provisions provided in both the GCA, the Commission's regulations, and the Bureau's regulations.

b. **Alan Titus, representing Artichoke Joe's**: Mr. Titus commented that the second half of the definition is repetitive, a substantive rule, and does not belong in a definition.

Recommended Response: This comment was considered but not incorporated. This definition is not repetitive or substantive as the language in B&P sections

19852, 19853, and 19851(b) work together to explain who must be licensed and how those licenses are issued. This regulation merely clarifies that relationship in the context of a new term, which is utilized throughout these regulations. This relationship specifically means those entities under B&P sections 19852 and 19853 who are endorsed on the cardroom business license but do not receive a separate license based on B&P section 19851(b). The term wraps these entities together to provide clarity.

5. Subsection (l) [pg. 2, line 17] provides the definition for "cardroom endorsee license." This definition provides a term to refer to those who are endorsed on a license certificate.

a. **Tiffany Conklin-Lichtig, representing Empire Sportsmen's Association, Outlaw's Card Parlour, and The Deuce Lounge & Casino**: Ms. Conklin-Lichtig suggested that the requirements of B&P section 19853 is permissive, not mandatory, and suggested the following amendment:

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

Recommended Response: This comment was considered but was not incorporated. B&P section 19853 is only permissive in regards to the Commission's discretion, not the "person" identified in the regulatory definition. When the Commission exercises its discretion under this section in regards to an applicant, it *requires* their licensure. Furthermore, the proposed edit would change the focus of the definition. While the provisions identified discuss who must be endorsed on a cardroom license, these individuals are ultimately not licensed pursuant to these sections, but rather, the Commission uses other statutes and regulations to issue these licenses.

6. Subsection (n) [pg. 2, line 22] provides the definition for "cardroom owner type license."

a. **Alan Titus, representing Artichoke Joe's**: Mr. Titus repeated his comment that the definition should not require the reader to read outside material. Mr. Titus suggested the following amendment:

> (n) "Cardroom owner type license" refers to and includes all cardroom business licenses and all cardroom endorsee licenses, and has the same meaning as "gambling license" and "state gambling license" ~~means the same as provided~~ in Business and Professions Code section 19805, subdivision (p)~~, and for the purposes of the division, includes a cardroom business license or a cardroom endorsee license~~.

Recommended Response: This comment was accepted, in part. While the suggested change to the definition essentially reorders the original proposed language, the inclusion of the specific terms from B&P section 19805 do provide

additional clarity while not removing the statutory reference. Commission staff recommends the following amendment to the proposed definition:

> (n) "Cardroom owner type license" means all cardroom business licenses and all cardroom endorsee licenses, and has the same meaning as "gambling license" and "state gambling license" ~~means the same as provided~~ in Business and Professions Code section 19805, subdivision (p)~~, and for the purposes of the division, includes a cardroom business license or a cardroom endorsee license~~.

7. Subsection (p) [pg. 2, line 26] provides the definition for "conviction."

a. **Tiffany Conklin-Lichtig, representing Empire Sportsmen's Association, Outlaw's Card Parlour, and The Deuce Lounge & Casino**: Ms. Conklin-Lichtig suggested that the definition of Conviction might need to be amended due to amendment to B&P section 7.5, effective on July 1, 2020, and suggested the following amendment:

> (p) "Conviction" means ~~a plea or verdict of guilty or a plea of nolo contendere, irrespective of a subsequent order of expungement under the provisions of Penal Code section 1203.4, 1203.4a, or 1203.45, or a certificate of rehabilitation under the provisions of Penal Code section 4852.13. A plea of guilty entered pursuant to Penal Code section 1000.1 does not constitute a conviction for purposes of Business and Professions Code section 19859, subdivisions (c) or (d) unless a judgment of guilty is entered pursuant to Penal Code section 1000.3.~~ means the same as provided in Business and Professions Code section 7.5.

Recommended Response: This comment was considered but was not incorporated. In addition to the non-applicability to the Commission, this definition has not been noticed for substantive amendment, but only to non-substantively renumber the provision to account for the proposed adoption and repeal of other definitions.

8. Subsection (t) [pg. 3, line 5] provides the definition for "drop."

a. **Alan Titus, representing Artichoke Joe's**: Mr. Titus suggested that the definition treats TPPPS business licenses differently than other players, when a TPPPS business license is the same as other players for this purpose. Mr. Titus suggested the following amendment:

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

Recommended Response: This comment was considered but was not incorporated. While the commenter is correct that for this purpose a TPPPS business licensee is a player and should be treated the same, this provision was noticed only for non-substantive changes and therefore, the proposed change is outside the scope of this proposal.

9. Subsection (ab) [pg. 3, line 25] provides the definition for "initial license." This definition provides a common term to reference all initial licenses and incorporates the terms for all eight licenses, all four license types, and all four license categories.

a. **Tiffany Conklin-Lichtig, representing Empire Sportsmen's Association, Outlaw's Card Parlour, and The Deuce Lounge & Casino**: Ms. Conklin-Lichtig expressed concern that including work permits as part of this definition will exacerbate the existing requirement on Commission issued work permits to prove their suitability that is in excess of what is required in the GCA by including licensing standards under B&P Code section 19857 in addition to the statutory limitations B&P Code section 19912 incorporates from Section 19859. Ms. Conklin-Lichtig proposed the following amendment:

(ab) "Initial license" means the same as provided in Business and Professions Code section 19805;
and, for the purposes of this division also includes:
(1) The following licenses:
(A) Initial cardroom business license;
(B) Initial cardroom endorsee license;
(C) Initial key employee license;
~~(D) Initial Commission work permit;~~
(E) Initial TPPPS business license;
(F) Initial TPPPS endorsee license;
(G) Initial TPPPS supervisor license; or,
(H) Initial TPPPS worker license.
…

Recommended Response: This comment was considered but was not incorporated. There are places in the Commission's regulation where referencing more than one license type makes sense and having a single term to make that reference simplifies those provisions. The proposed definitions structure allows for the reference of individual license categories, all employees in a license category, all owners in a license category, and all license types in a license category. The creation of a definition to allow a simpler reference creates no burden and no requirement in regards to proving suitability on any applicant, work permittee, licensee, registrant, the Commission, or the Bureau.

10. Subsection (ad) [pg. 4, line 17] provides the definition for "interim renewal license." This definition provides the term "interim renewal license."

a. **Tiffany Conklin-Lichtig, representing Empire Sportsmen's Association, Outlaw's Card Parlour, and The Deuce Lounge & Casino**: Ms. Conklin-Lichtig expressed concern that including work permits as part of this definition will exacerbate the existing requirement on Commission issued work permits to prove their suitability that is in excess of what is required in the GCA by including licensing standards under B&P Code section 19857 in addition to the statutory limitations B&P Code section 19912 incorporates from Section 19859. Ms. Conklin-Lichtig proposed the following amendment:

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

Recommended Response: This comment was considered but was not incorporated. This definition has not been noticed for substantive amendment, but only to non-substantively renumber the provision to account for the proposed adoption and repeal of other definitions. In addition, Section 12035, the section that deals with the issuance of interim renewal licenses, has likewise not been noticed for substantive amendment, but only to non- substantively modify the use of a term "interim renewal license" to be consistent with other proposed changes to definitions and does not alter the existing licensing standards currently found in Section 12105 for work permits.

11. Subsection (af) [pg. 4, line 23] provides the definition for "key employee."

a. **Alan Titus, representing Artichoke Joe's**: Mr. Titus suggested that the definition be revised to directly restate the GCA.

Recommended Response: This comment was considered but was not incorporated. The definition for key employee provided in the GCA is clear, and while the Commission has chosen to provide a definition for key employee in order to remind the reader that they need to refer to the GCA, a direct restatement would be inappropriate as no clarity or alternation is necessary.

12. Subsection (aj) [pg. 4, line 31] provides the definition for "player's bank."

a. **Alan Titus, representing Artichoke Joe's**: Mr. Titus suggested that the definition treats TPPPS business licenses differently than other players, when a TPPPS business license is the same as other players for this purpose. Mr. Titus suggested the following amendment:

(aj) "Player's bank" means any and all monies a patron, including~~or~~ TPPPS business licensees, has on deposit with the cardroom business licensee.

Recommended Response: This comment was considered but was not incorporated. While the commenter is correct that for this purpose a TPPPS business licensee is a player, and should be treated the same, this provision was noticed only for non-substantive changes and therefore the proposed change is outside the scope of this proposal.

13. Subsection (al) [pg. 5, line 1] provides the definition for "renewal license."

a. **Alan Titus, representing Artichoke Joe's**: Mr. Titus noted an error in the header provided in paragraph (1).

Recommended Response: This comment was accepted. The following revision is proposed:

(al) …
(1) The following licenses ~~types~~:
…

14. Subsection (an) [pg. 5, line 23] provides the definition for "temporary license." This definition provides a common term to reference all temporary licenses and incorporates the terms for all eight licenses, all four license types, and all four license categories.

a. **Tiffany Conklin-Lichtig, representing Empire Sportsmen's Association, Outlaw's Card Parlour, and The Deuce Lounge & Casino**: Ms. Conklin-Lichtig expressed concern that including work permits as part of this definition will exacerbate the existing requirement on Commission issued work permits to prove their suitability that is in excess of what is required in the GCA. Ms. Conklin-Lichtig proposed the following amendment:

(an) "Temporary license" means a preliminary license ~~or Commission work permit~~ issued to an applicant prior to action on an initial license application, with appropriate conditions, limitations or restrictions determined on a case-by-case basis and, for the purposes of this division also includes:
(A) Temporary cardroom business license;
(B) Temporary cardroom endorsee license;
(C) Temporary key employee license;
~~(D) Temporary Commission work permit;~~
(E) Temporary TPPPS business license;
(F) Temporary TPPPS endorsee license;
(G) Temporary TPPPS supervisor license; or,
(H) Temporary TPPPS worker license.

…

Recommended Response: This comment was considered but was not incorporated. There are places in the Commission's regulation where referencing more than one license type makes sense and having a single term to make that reference simplifies those provisions. The proposed definitions scheme allows for the reference of individual license categories such as, all employees in a license category, all owners in a license category, and all license types in a license category. The creation of a definition to allow a simpler reference creates no burden and no requirement in regards to proving suitability on any applicant, work permittee, licensee, registrant, the Commission, or the Bureau.

b. **Alan Titus, representing Artichoke Joe's**: Mr. Titus noted that paragraph (1) is missing.

Recommended Response: This comment was accepted. The following revision is proposed:

(al) …
(1) The following licenses:
…

15. Subsection (ao) through (ax) [pg. 6, line 11] provides the definition for "third-party proposition player services."

a. **Alan Titus, representing Artichoke Joe's**: Mr. Titus noted that the term does not make sense because the TPPPS is a funded player which pays for services provided by the cardroom and is not providing a service to the cardroom.

Recommended Response: This comment was considered but was not incorporated. While the commenter posits that TPPPS business licensees do not provide services to a cardroom, this assertion is mistaken. B&P section 19984 specifically mentions a licensed gambling enterprise may "contract with a third party for the purpose of providing proposition player services." While a TPPPS contract might include the cardroom providing services to the TPPPS business licensee, the TPPPS business licensee is also providing a service to the cardroom; specifically, ensuring there is always a player at the table able to accept the deal.

B. ADOPT SECTION 12005. PROHIBITED PLAYER-DEALER POSITION.

This section provides a prohibition from participating, either as an owner or as an employee, in any group or entity that provides proposition player services without having a TPPPS business license and TPPPS contract.

1. Comment made on this section, in general, [pg. 9, line 6].

a. **David Fried, representing Oaks Card Club and California Grand Casino**: Mr. Fried expressed three comments for this section: (1) that the use of the word "participate" should be changed to "play" as this is the term used in the definitions and participation could be interpreted to include cardroom employees providing functions necessary for the cardroom to offer the game; (2) subsection (b) does not provide an exemption for employees working under a TPPPS contract; and, (3) that subsection (c) does not provide an exception for working under an approved contract or else could be duplicative of other provisions. Mr. Fried suggested the following amendments:

> (a) A person cannot hire or finance, including but not limited to providing loans, advances, or any other thing of value, the hiring of employees or independent contractors, or both, whose job duties include ~~participation in the~~ playing in ~~of~~ any California game without an approved TPPPS contract.
> (b) A person cannot ~~participate in the play of a California game~~ as an employee or independent contractor play in a California game as part of their employment or contractual duties without an approved TPPPS contract or unless employed by a licensed TPPPS with an approved TPPPS contract.
> (c) A person cannot ~~participate in the~~ playing in ~~of~~ a California game pursuant to any oral or implied agreement with a cardroom business licensee that requires their play in a California game, except under an approved TPPPS contract.
> …

Recommended Response: This comment was accepted, in part. For comment (1), in regards to the use of the word "participation," the commenter is partially correct. The definition for third-party proposition player services or TPPPS uses the term "play as a participant in any California game". In regards to comment (2), the commenter's concern that "without an approved TPPPS contract" fails to include employees is understood; however, there is a simpler clarification that can be made to address this concern. Finally, in regards to comment (3), it is correct the substance of subsection (c) is related to subsection (b) and its use of "TPPPS contract" which specifies a *written* agreement is required to work. However, to the extent there is any redundancy or duplication in explicitly stating that *oral or implied* agreements are not allowed the duplication provides clarity on the subject and therefore no change is necessary. Commission staff recommends the following amendments:

> (a) A person cannot hire or finance, including but not limited to providing loans, advances, or any other thing of value, the hiring of employees or independent contractors, or both, whose job duties include the play as a

participant~~participation~~ in ~~the play of~~ any California game without an approved TPPPS contract.
(b) A person cannot play as a participant~~participate~~ in ~~the play of~~ a California game as an employee or independent contractor except as authorized in~~without~~ an approved TPPPS contract.
(c) A person cannot play as a participant~~participate~~ in ~~the play of~~ a California game pursuant to any oral or implied agreement with a cardroom business licensee.

b. **Alan Titus, representing Artichoke Joe's**: Mr. Titus expressed a concern that the provision is not necessary, and stated that the Commission does not have the authority to adopt this regulation. Finally, Mr. Titus questioned how this provision would apply to players who pool funds and split winnings, something that is currently allowed in Bureau approved game rules.

Recommended Response: This comment was considered but was not incorporated. First, the question of whether the Commission has the statutory authority to adopt this provision should not be in question. B&P Code sections 19841 and 19984(b) provide broad authority. In addition, Section 12005 is not a new provision, and is a merely new application of Section 12220.23 related to the entirety of Chapter 2.2.

Section 12220.23 provides, in summary, that if a cardroom identifies that someone has been hired for the purposes of playing in a California game, the cardroom must notify the Commission and Bureau in order to provide notification to the unlicensed individual that there is a registration and licensing process for such actions. In other words, individuals and entities are not allowed to hire people to play in a California game without the individual being registered or licensed. With the repeal of Chapter 2.2, the process under which such a group would be registered or licensed does not exist.

Furthermore, the commenter is mistaken that there is no authority despite concurrently citing B&P sections 19811, 19841(o) and 19984. While the commenter is correct that these sections do not precisely state "the Commission may prohibit certain player-dealer participation" that level of specificity is unnecessary. Indeed the Commission has adopted many pages of regulations regarding third party providers based almost exclusively on B&P sections 19984 and 19841. In short, the legislature has directed the Commission the responsibility under B&P section 19811 to regulate "all persons or things having to do with the operations of gambling establishments." These businesses fall into that category and overarching authority. To that end, the repeal of Chapter 2.2 and the prohibition of that type of action is consistent with and authorized by statute.

In addition, in regards to the comment concerning the reference to kum-kum, which purportedly appears in the Bureau approved rules, there is nothing preventing that practice from continuing, unless the participants in the game violate the provisions of Section 12005. To put it another way, if the game rules authorize a practice then

the participants are not employees or independent contractors per se. Lastly, in regards to B&P section 19842, the Commission is not prohibiting or restricting the manner in which an individual game is played, but rather preventing prohibited player-dealer participation through the usage of employees and independent contractors as a business.

2. Subsection (a) [pg. 9, line 7] provides that a person cannot hire or finance the hiring of employees or independent contractors whose job duties include participation in the play of any California game without an approved TPPPS contract.

a. **Alan Titus, representing Artichoke Joe's**: Mr. Titus expressed a concern that this provision, as written is ungrammatical and unclear.

Recommended Response: This comment was considered but was not incorporated. This provision essentially provides that: A person cannot hire or finance…the hiring of employees or independent contractors…whose job duties include participation in the play of any California game without an approved TPPPS contract. To put this in other words, one cannot hire someone, or support the hiring of someone to play in a California game without a contact. That is clear. The sentence also provides examples of what hiring or supporting the hiring of someone means, such as providing loans, advances, or any other thing of value.

C. AMEND SECTION 12006. SERVICES OF NOTICES, ORDERS, AND COMMUNICATIONS.

This section provides standards for notices that are required by Commission regulation.

1. Comment made on this section, in general, [pg. 9, line 20].

a. **David Fried, representing Oaks Card Club and California Grand Casino**: Mr. Fried requested that the provision be amended to allow for a designated agent or licensee request service by both mail and email. Mr. Fried proposes the following amendment:

> (b) Notwithstanding subsection (a), notice and other written communication may also be provided using email, or exclusively provided via email, to the email address of the applicant, licensee, or designated agent as last reported to the Commission where they provide the Commission written authorization including, for instance in a completed and returned Notice of Defense, CGCC-ND-002 (Rev. 12/18) received under subparagraph (E) of paragraph (2) of subsection (c) of Section 12052 or at an earlier point from the Commission staff.

Recommended Response: This comment was considered but was not incorporated. This provision has not been noticed for substantive amendment as proposed by the commenter, but only to provide clarity that a holder of a work permit is covered by the section.

b. **Proposed Amendment to Section**: Commission staff proposes the following amendment, not in response to a comment, but to ensure that the correct version of the form is referenced.

> (b) Notwithstanding subsection (a), notice and other written communication may be provided exclusively via email, to the email address of the applicant, licensee, or designated agent as last reported to the Commission where they provide the Commission written authorization including, for instance in a completed and returned Notice of Defense, CGCC-CH1-03~~ND-002~~ (New 05/20~~Rev. 12/18~~) received under subparagraph (E) of paragraph (2) of subsection (c) of Section 12052 or at an earlier point from the Commission staff.

D. ADOPT SECTION 12040. MANDATORY AND DISCRETIONARY GROUNDS FOR DENIAL.

This section provides minimum criteria for the denial of a license.

1. Comment made on this section, in general, [pg. 12, line 38].

a. **Tiffany Conklin-Lichtig, representing Empire Sportsmen's Association, Outlaw's Card Parlour, and The Deuce Lounge & Casino**: Ms. Conklin-Lichtig expressed a concern with the discretionary grounds for denial in B&P section 19857 being applied to work permits. In conjunction with her recommendation to remove work permits from the definition of initial and renewal license, Ms. Conklin-Lichtig suggested the following amendment:

> …
> (d) An application for a Commission initial or renewal work permit:
> (1) Will be denied if the Commission finds that any provisions of Business and Professions Code section 19859 apply to the applicant.
> (e) An application for a Commission renewal work permit:
> (1) May be denied if the Commission makes a finding that any of the provisions of Business and Professions Code section 19914 apply to the applicant.

Recommended Response: This comment was considered but was not incorporated. Existing provision Section 12105(a)(2) already provides that an application for a work permit will be denied if the applicant is found unqualified pursuant to the criteria in subdivisions (a) and (b) of B&P section 19857. The inclusion of work permits in proposed Section 12040(a)(2) does not alter this existing standard.

2. Subsection (a), paragraph (1), [pg. 13, line 1] provides that an application must be denied if the Commission is not satisfied that the applicant has met the requirements of B&P section 19857.

a. **Yolanda Morrow, representing the Bureau**: Ms. Morrow noted that the wording of this provision is different than the others in this section and suggested the following revision for the purposes of clarity and consistency:

> (1) Will be denied if the Commission finds~~makes a finding~~ that the applicant has not satisfied the requirements of Business and Professions Code section 19857; or,

Recommended Response: This comment was accepted.

E. AMEND SECTION 12056. EVIDENTIARY HEARINGS.

This section provides direction and guidelines for the election of either an Administrative Procedures Act (APA) or GCA hearing.

1. Subsection (e) [pg. 14, line 7] specifies that an APA or GCA hearing is sufficient to meet the statutory hearing requirement listed in a B&P Code section 19914.

a. **Tiffany Conklin-Lichtig, representing Empire Sportsmen's Association, Outlaw's Card Parlour, and The Deuce Lounge & Casino**: Ms. Conklin-Lichtig commented that the provision was renumbered because the section currently only contains subsections (a) through (c) and that the proposed new provision should be subsection (d).

Recommended Response: This comment was considered but was not incorporated. The commenter is mistaken in their assentation that Section 12056 does not have a subdivision (d). The adoption of subdivision (d) to Section 12056 was filed with the Secretary of state on January 22, 2020 and became effective April 1, 2020, as part of the Commission's Updates and Amendments to Application Withdrawals and Abandonments, and Hearing Procedures (Commission file number CGCC-GCA-2018-04-R).

F. ADOPT SECTION 12080. REQUIREMENTS.

This section provides regulations for the appointment of designated agents. A designated agent is a person who is authorized to assist an applicant or licensee on a specified set of issues and may appear before the Commission on behalf of an applicant or licensee if so designated.

1. Comment made on the Appointment of Designated Agent form, CGCC-CH1-04, [pg. 14, line 15 and pg. 178].

a. **David Fried, representing Oaks Card Club and California Grand Casino**: Mr. Fried suggested two changes to the proposed designated agent process: (1) that instead of filling out one designated agent form per designated agent, the form should instead allow for multiple designated agents to be assigned on each form and then have a separate form where each designated agent would individually certify acknowledgement of their designation; and, (2) that the form should include subject matter distinctions for designated agent scope of authority.

Recommended Response: This comment was considered but was not incorporated. The proposed amendment to the process regarding designated agents is less effective than what has been proposed by the Commission. The proposed process has each designated agent having a form unique to them, which when updated requires a parallel update of their acknowledgement. If the proposal were accepted, it would mean that when an updated designation form came in, either the Commission or Bureau would be required to receive a new acknowledgement from each designated agent or verify each scope of authority that has not been re-acknowledged as un-changed. Additionally, making the form allow, for example three designated agents, would not prevent multiple forms should four designated agents be desired. By keeping each designation separate, the Commission and Bureau can be confident that everything is accurate and acknowledged. Finally, while the commenter is correct that not all possible areas of designation have been included, it is more efficient to include a write in option as contained in the form. Please note that after this form has been put into use, the Commission may choose to reexamine this area should commonly used write-in scope of authority be identified.

b. **Alan Titus, representing Artichoke Joe's**: Mr. Titus expressed a concern that the introduction to the form might inaccurately reflect the extent of the Bureau's regulatory authority.[2] Mr. Titus also questioned the legality of the Bureau's regulations.

Recommended Response: This comment was accepted, in part. The Bureau's regulations speak for themselves and those two sentences are not necessary to the form. The legality of the Bureau's regulations is not the subject of this rulemaking and so no response is necessary on their legality, form, or function. The following amendment is proposed to the Appointment of Designated Agent form:

> An applicant may designate a person(s) to serve as his/her agent(s) in addressing matters with the Bureau and California Gambling Control Commission (Commission). The designation must specify any limit of authority of the agent(s). The Bureau retains the right to exercise its discretion to disapprove, in whole or in part, such designation(s) to the

[2] Title 11, California Code of Regulations, Section 2010(e)

extent consistent with Title 11, Cal. Code Reg., Section 2030(a). The Bureau Chief has the authority to require a designated agent to be appointed, it if is determined that such a need exists to the extent consistent with [Title 11, Cal. Code Regs., Section 2030(a) and (b)]…

2. Subsection (b) [pg. 14, line 20] provides that a designated agent must be authorized prior to representing another person before the Commission.

a. **Yolanda Morrow, representing the Bureau**: Ms. Morrow requested that the Bureau be added to the Commission's proposed designated agent process.

(b) A natural person(s) must be authorized as the applicant's, licensee's, or holder of a Commission work permit's designated agent before representing the applicant, licensee, or holder of a Commission work permit before the Commission and Bureau.

Recommended Response: This comment was considered but was not incorporated. The Bureau has its own regulations related to designated agents and the Commission is concerned that if the Bureau is added to the Commission's proposal it might conflict with existing Bureau regulations.

G. ADOPT SECTION 12082. GENERAL PROVISIONS.

This section provides the minimum standards and responsibilities of a designated agent while they remain appointed.

1. Subsection (b) [pg. 15, line 1] provides that the designated agent may provide annual fees to the Bureau on behalf of a gambling business applicant or licensee only if the applicant or licensee provides reimbursement to the designated agent.

a. **Alan Titus, representing Artichoke Joe's**: Mr. Titus commented that this provision is unnecessary and following the presented logic could be used to require to present proof of every single bill they receive. Mr. Titus commented that the Commission has presented no evidence that this is an issue or could reasonably be expected to be an issue in the future.

Recommended Response: This comment was considered but was not incorporated. The commenter's suggestion that the logic of this provision, specifically the issuing of a loan, would result in any bill issuer to be licensed is a misstatement of the proposed provision and the statutory requirement provided B&P section 19852, subdivision (i). B&P section 19852(i) provides that there must be both indebtedness and the power to exercise a significant influence over the gambling operation. This would exclude most regular businesses with whom a cardroom business licensee or TPPPS business licensee conducts business. However, a designated agent is in a unique position to act on behalf of an applicant, especially one that is empowered to directly speak to the Commission and/or Bureau on behalf of their client. Therefore, as an agent with significant influence, should they also become a holder of

indebtedness, B&P section 19852(i) would require the designated agent be licensed. However, respecting that the agent might act as a pass through for client funds, the Commission is proposing to adopt an exemption that would limit the need for a designated agent to be licensed as a significant influence holder.

H. ADOPT SECTION 12102. GENERAL PROVISIONS.

This section provides general provisions related to each license.

1. Subsection (a) [pg. 16, line 13] specifies that initial and renewal licenses will be valid for two years.

a. **Tiffany Conklin-Lichtig, representing Empire Sportsmen's Association, Outlaw's Card Parlour, and The Deuce Lounge & Casino**: Ms. Conklin-Lichtig, consistent with her proposed change to the definitions for initial and renewal license, has proposed the following change:

> (a) An initial or renewal license or Commission work permit referenced in this chapter will be valid for a period of two years.

Recommended Response: This comment was considered but was not incorporated. As the previous suggestion to alter the proposed definitions for initial and renewal licenses was not accepted, no change is required here.

2. Subsection (b) [pg. 16, line 14] specifies that no applicant can receive both a TPPPS business license and cardroom business license.

a. **Tracey Buck-Walsh, representing Patrick Tierney; and, Keith Sharp**: Ms. Buck-Walsh expressed concern that the proposed language would change current law and prohibit an individual from receiving both a TPPPS business license and a cardroom business license. Ms. Buck-Walsh notes that the Initial Statement of Reasons specifies that it is not the intent of the provision to alter current law, which allows an individual to receive both a TPPPS business license and a cardroom business license. Ms. Buck-Walsh states that clarification of the proposed provision is necessary to prevent confusion.

Mr. Sharp expressed a concern that the proposed language does not maintain the clarity currently provided in subdivision (d) of Section 12201 and is concerned that the proposed language could be interpreted much more broadly than the existing provision. Mr. Sharp observes that the proposed language, instead of limiting a sole proprietor or business entity from being registered, the proposed language would prohibit an "applicant" from holding both a cardroom business license and a TPPPS business license. Mr. Sharp suggested that the proposed provision be replaced with the following:

> (b) A sole proprietor or business entity holding a cardroom business license may not also simultaneously hold a TPPPS business license.

Mr. Sharp asserts that the proposed language clearly reflects that intent and has the same effect as the existing provision. Finally, Mr. Sharp expressed a concern that the use of the term "house" in the initial statement of reasons is misplaced and further confuses the issue, as that term is more expansive than just the owner and also includes entities that are not classified as a cardroom business license or TPPPS business license.

Recommended Response: These comments were considered but were not incorporated. The comments are correct that an individual may not receive a TPPPS business license and a cardroom business license; however, the comment mistakenly asserted that the proposed provision changes the current status quo. As provided in the initial state of reasons, current regulations[3] provide that the primary owner (now TPPPS business license) cannot also be licensed to operate a gambling establishment (now cardroom business license). The inverse would accordingly also be true, though not specifically promulgated under current regulations.

It is important to understand that the primary owner of a TPPPS is only one of three types of owners. The other two category of owners, representing those identified in B&P section 19852, subdivisions (a) through (i), and funding sources, are not currently prohibited from holding both licenses and would not be classified as TPPPS business licenses under the proposed regulations. Rather, these entities would be TPPPS endorsee licensees and not prohibited. A similar analysis would find that while cardroom business licensees would be prohibited, cardroom endorsee licensees would not be.

It is also important to note that there is no substantive difference between the prior section 12201(d) language which prohibited a "business entity or sole proprietor" from being "registered" and the proposed language, which refers to an "applicant" being prohibited from receiving a "TPPPS business license." Moreover, the latter provides superior clarity as it utilizes standardized terms used across the proposed regulations, whereas the former refers to terminology, "business entity or sole proprietor" which is not defined in the Act or regulation.

Next, the comments express concern about changing "business entity or sole proprietor" to "applicant" as being a substantive change. This is not true. Simply stated a "business entity or sole proprietor" presently must submit an application to receive a registration or license necessarily making them an "applicant." The present Section 12201(d) has no applicability to business entities or sole proprietors that do not apply for a registration or license.

Finally, while the commenters are correct that this provision does not directly limit the actions of every person in the term "house," it is only one part of how the

[3] Regulation 12201(d)

Commission has implemented the limitation. In the rulemaking documents for subsection (d) of Section 12201, the Commission stated:

> Subsection (d) prohibits any business entity or sole proprietor licensed under the Gambling Control Act to operate a cardroom from also becoming registered as a proposition player. This provision is needed in order to comply with the prohibition against house banking (see, e.g., Business and Professions Code section 19984(a)).

The reasoning provided at that time is effectively the same as provided now for implementing B&P Code section 19984(a). Additionally, while the Legislature's use of "house" in statute could be confusing, that confusion is the same in the prior Section 12201(d) as it is in the proposed language. However, what is different is that the present language utilizes more precise terminology to refer to different levels of licensees and hopefully reduces or eliminates any confusion caused by the current undefined terms.

3. Subsection (g) [pg. 16, line 28] specifies that an individual working for a cardroom business licensee or TPPPS business licensee, who is not directly employed by a cardroom business licensee or TPPPS business licensee, must still apply for and receive an employee license if they are performing the duties of a person who would be required to be licensed should they be directly employed by a cardroom business licensee or TPPPS business licensee.

a. **Tracey Buck-Walsh, representing Patrick Tierney, and Alan Titus, representing Artichoke Joe's:** Ms. Buck-Walsh expressed a concern that the proposed requirement would require the licensure of attorneys and consultants retained for a limited or short-term compliance purpose. The comment suggested modifying the provision to include the qualifier of "internal."

Mr. Titus expressed a concern that the first sentence is unclear and suggested the following amendment:

> (g) Any individual who is not an employee of a cardroom business licensee or TPPPS business licensee but who is operating in any position that would otherwise require licensure must apply for and be approved for an employee category license consistent with the licensing requirements of an employee.

Recommended Response: These comments were accepted, in part. The purpose of this proposal is to require all individuals serving in roles that require licensure by the GCA or Commission regulation to be licensed and to prevent the circumvention of these requirements by utilizing individuals who are not technically employees of a cardroom or TPPPS business licensee. For example, if a consultant is hired, even for a temporary basis, and is authorized to either instruct employees at a cardroom

(supervise) or make any type of discretionary decision on behalf of the cardroom, then that person should be licensed as a key employee pursuant to existing law.

However, in order to provide further clarity, the Commission is proposing to amend the provision as follows:

> (g) Any individual who is not an employee of a cardroom business licensee or TPPPS business licensee but who is operating in any position that would otherwise require licensure under the Gambling Control Act or Commission regulation must apply for and be approved for an employee category license consistent with the licensing requirements of an employee….

I. AMEND SECTION 12353. LICENSE CONTENT; LICENSE DISPLAY AND PRESENTATION. (SECTION 12106. BADGES).

This section provides the provisions related to the content and requirements related to producing and wearing a badge.

1. Subsection (d) [pg. 17, line 3] provides the requirements related to when a badge must be worn by the recipient.

a. **Alan Titus, representing Artichoke Joe's**: Mr. Titus suggested that key employees not be required to wear their badges when not in public areas. Mr. Titus suggested amending the proposal by combining paragraphs (1) and (2) in one and modifying them to require employees to wear badges when on duty and in public areas of the cardroom.

Recommended Response: This comment was accepted, in part. Due to the limitation for cardroom owner type licensees only having to wear a badge when performing duties and in line with the justification that being in the public view as the deciding factor, Commission staff proposes the following amendments:

> (d)(1) A cardroom employee type licensee must wear their badge at all times while on duty in the gambling establishment and in a location allowing for public view, and if not must maintain the badge within the gambling establishment or on their person;
> (2) A cardroom owner type licensee must wear their badge at all times while on duty in the gambling establishment and in a location allowing for public view if performing the duties of ~~either~~ a cardroom employee type licensee ~~key employee licensee or holder of a work permit~~, and if not must maintain the badge within the gambling establishment or on their person; and,
> …

b. **Tiffany Conklin-Lichtig, representing Empire Sportsmen's Association, Outlaw's Card Parlour, and The Deuce Lounge & Casino**: Ms. Conklin-Lichtig

expressed a concern that the proposed language is overly broad and that TPPPS employees should not be required to wear their badge when they are not on duty in a cardroom. Ms. Conklin-Lichtig proposed the following amendment:

> (d)…
> …
> (3) A TPPPS owner type ~~category~~ licensee must wear their badge whenever present in any gambling establishment which has an approved TPPPS contract with a TPPPS business licensee that is owned by ~~or employs~~ the licensee, including when not on duty.
> (4) A TPPPS employee type licensee must wear their badge at all times while on duty in a gambling establishment.

Recommended Response: This comment was considered but was not incorporated. B&P section 19984, subdivision (b), states in part that:

> Those employed by a third-party provider of proposition player services, including owners, supervisors, observers, and players, shall wear a badge which clearly identifies them as proposition players whenever they are present within a gambling establishment.

This regulation requirement looks at the context of B&P Code section 19984, which is to regulate the operation of a TPPPS business licensee within a gambling establishment and their contractual relationship to the cardroom business licensee providing controlled games. As such, this provision clarifies the B&P Code 19984 requirements based on the relationship between the TPPPS business licensee and the cardroom business licensee and does not place a burden on those who may enter a gambling establishment for which there is no relationship and no offering of third-party services.

J. ADOPT SECTION 12108. REPLACEMENT OF A BADGE.

This section provides procedures for a licensee or a holder of a work permit to request a replacement badge.

1. Comment made on this section, in general, [pg. 18, line 22].

a. **David Fried, representing Oaks Card Club and California Grand Casino**: Mr. Fried questioned if a person would be allowed to work while waiting for a replacement badge, by using either a self-generated or employer generated badge that included all required information. Mr. Fried noted that if an employee would not be allowed to work, it could adversely affect both the employer and other employees.

Recommended Response: The answer to the commenter's question is no, an individual who has lost their badge would not be allowed to conduct any activity without their required badge. Section 12106(c) states "[w]hen required to be worn, a

Commission issued badge must be worn by the person to whom it was issued in a prominently visible and conspicuous manner." This, and other requirements in Section 12106, would preclude any substitute for a Commission issued badge.

K. ADOPT SECTION 12110. CHANGE IN EMPLOYMENT STATUS.

This section provides a process for an employee and owner to inform the Bureau of a change in employment status.

1. Comments made on this section, in general, [pg. 19, line 5].

a. **Yolanda Morrow, representing the Bureau**: Ms. Morrow suggested adding a section to form Notification of Employment Change, CGCC-CH2-02, or a new form, allowing the business to notify the Bureau of an employee's change in status.

Recommended Response: This comment's suggestion corresponds to paragraph (2) of subsection (b) and the form Notification of Employee Separation, CGCC-CH2-03. As such, no change was made.

2. Subsection (b) [pg. 19, line 13] provides that when an employee category licensee ceases to be employed by an owner category licensee both the employee and owner must provide notice to the Bureau within 10 business days.

a. **Alan Titus, representing Artichoke Joe's**: Mr. Titus expressed a concern that "owner category licensee" is confusing and not the correct reference for this requirement and that the requirement should be on the business and not on the business *and* all the endorsees.

Recommended Response: This comment was accepted. The following amendment is proposed:

(b) When an employee category licensee ceases to be employed by a~~n~~ cardroom business licensee or TPPPS business licensee~~owner category licensee~~, both the employee category licensee and the cardroom business licensee or TPPPS business licensee~~owner category licensee~~ must provide notice to the Bureau within 10 business days of the conclusion of employment.
(1) The employee category licensee must provide notification by completing a Notification of Employment Change, CGCC-CH2-02 (New 05/20), referenced in subsection (a). This does not require an employee category licensee to submit notification twice if a new employment notification is already required.
(2) The cardroom business licensee or TPPPS business licensee~~owner category licensee~~ must provide notification by completing a Notification of Employee Separation, CGCC-CH2-03 (New 05/20), which is attached in Appendix A to this chapter.

L. <u>AMEND SECTION 12342. INITIAL GAMBLING LICENSE APPLICATIONS; REQUIRED FORMS; PROCESSING TIMES. (SECTION 12112. INITIAL LICENSE APPLICATIONS; REQUIRED FORMS.).</u>

This section provides a single consistent application process for initial licenses.

1. Comments made on this section, in general, [pg. 21, line 1].

a. **<u>Yolanda Morrow, representing the Bureau</u>**: Ms. Morrow expressed a concern that an addition to the supplemental forms may result in more instances of non-disclosure. Specifically, the proposed forms add the following language:

> If this applicant currently holds a valid license, this question need only be answered in a manner to update since the last time this form or another supplemental information form was submitted and licensure granted.

Ms. Morrow expressed a concern that this would require an applicant to remember what they provided on their last form. Ms. Morrow noted that currently applicants already have a hard time recalling their employment history and that it is unlikely that an applicant would recall the information disclosed on a previous application. Ms. Morrow requested that the provision be removed and applicants be required to submit all information in response to the question.

Additionally, Ms. Morrow provided that the Bureau estimated that Bureau staff would be required to spend additional time reviewing previously submitted information. These costs were provided based on license type, and include 4-5 additional hours per owner license and 2-3 additional hours per employee license.

Recommended Response: This comment was accepted, in part.

First, the comment requesting the removal of the provision limiting the information on a supplemental was considered but was not incorporated. The current process creates an unnecessary repetition of provided information, with more risk to an applicant then benefit to the State. When an applicant first applies, the applicant completes a supplemental form and provides the required information. The only reason a person would be required to submit another supplemental is if a new license (not a renewal) was being requested, or if something in their renewal application has prompted the Bureau to request they submit a supplemental with their renewal.

Either way, the relevant information already provided in the old supplemental information will not have changed. If the applicant is confused on what they previously submitted and did not maintain a copy of their application, there is nothing preventing or limiting the applicant from providing extra historical information. Additionally, the Bureau maintains a record of past applications and an applicant, if confused, can request a copy. While there are some instances where information on an older application (which has already been reviewed by the Bureau

and considered by the Commission) may need reconsidering (for example, it helps to show a pattern of behavior), there is limited reason for the person to resubmit it.

If an applicant is not required to resubmit previously submitted information, the Bureau may have some limited additional work to review its past work; however, if an applicant were to incorrectly resubmit information then the Bureau would likely have even more work verifying and correcting inconsistencies with the renewal applicant for matters that had already been considered.

Finally, the estimated costs correspond to the costs provided by the Bureau prior to noticing the proposed action and have already been included in the Initial Statement of Reasons and Economic Impact. No additional revision is necessary.

2. Subsection (a) [pg. 21, line 4 and pg. 190] provides the two applications, the Application for Employee Category License, CGCC-CH2-04 and the Application for Owner Category License, CGCC-CH2-05.

a. **Alan Titus, representing Artichoke Joe's**: Mr. Titus commented that the statement in the instructions related to B&P section 19828 misstates the provision. Mr. Titus stated that B&P section 19828 provides for the protection of privileged information and prohibits the Bureau or Commission from releasing such information without prior written consent of the holder of the privilege. Mr. Titus requested that the statement be amended to accurately reflect the statute or be removed.

Recommended Response: This comment was considered but not incorporated. The commenter correctly identities B&P section 19828, subdivisions (b) and (c), for the continued protections they provide to applicants and their information. However, the comment omits B&P section 19828(a), which specifically states communications or publications by the Commission or the Bureau undertaken as part of their official duties under the GCA are themselves privileged and cannot serve as the basis for defamation or for civil action.

The Commission is beholden to the Bagley-Keene Open Meeting Act and must keep a record of actions taken under B&P section 19819. These public meetings, just as this regulatory process, involves recorded public discussion and comment, absent very narrow authorization for closed session deliberation. Furthermore, where the Commission denies an application, it must issue a detailed statement for its reasons for denial. These actions may make public facts, obtained from the Applicant's application or corresponding background investigation, which otherwise might be protected.

This application provision merely clarifies how these sections operate to provide transparency to applicants regarding the application process.

b. **Alan Titus, representing Artichoke Joe's**: Mr. Titus objected to the form requesting a job description. Mr. Titus noted that the request was duplicative of the Key Employee or TPPPS Supervisor: Supplemental form, which requires a copy of any employment agreement or duty statement. Mr. Titus pointed out that an employer determines an employee's job duties and that an applicant should not be expected to have this information and therefore any response would be incomplete, inaccurate, or both. Finally, Mr. Titus noted that the current key employee application asks for a "description of job duties" which is different than requesting the job description.

Recommended Response: This comment was considered but was not incorporated. The commenter is correct in that all three existing forms from which this new form was derived use the phrase "description of job duties" and the proposed form requests "job description". The commenter is mistaken in the assessment that these are in any way different. Job description has the plain English definition of "an abstract of a job analysis containing the classification of and requirements for a job, used in hiring and placing prospective employees"[4] which is the same as saying, what they are required to do (or job duties). Additionally, this is only somewhat duplicative during an initial application, when an applicant would both fill out this provision and provide a copy of any employment agreement or duty statement. During any subsequent renewals, a copy of any employment agreement or duty statement would not be required.

While it is true that an employer determines an employee's work functions, an applicant would need to know those functions when providing a copy of any employment agreement or duty statement. Finally, by asking the question of the applicant, the Bureau and Commission get the applicant's understanding of their job duties. It has been the Commission's experience that sometimes an applicant's practical job duties differ from their official job duties. For example, an employee for one level of duties might provide information leading to the Commission requiring a different level of licensure then what was applied.

c. **David Fried, representing Oaks Card Club and California Grand Casino**: Mr. Fried suggested that the Commission should provide a separate application form for work permit employees, currently Application for Employee Category License, CGCC-CH2-04, and that the questions in Section 3, Renewal Information, should include a narrowed scope. Mr. Fried provided the following specific suggestions:

Question 1: Have you been a party to any civil litigation since last filing a license or Commission work permit application?
Mr. Fried suggested that for work permits this question should be limited to specific types of civil proceedings, such as child support, as it is done in other states. Additionally, for key employees, Mr. Fried suggested that the form should provide examples of common types of civil litigation in order to avoid misunderstandings.

[4] Dictionary.com

Question 3: Have you been convicted of any crime (misdemeanor or felony) since last filing a license or Commission work permit application?
Mr. Fried suggested that the form should include examples of misdemeanors that commonly arise.

Question 5: Have you entered into any new agreements? If yes, attach a list of agreements including the amount and all contracting parties.
Mr. Fried suggested that for key employees, this question should be limited to gambling related agreements and agreements with an employer or TPPPS and should not be broadly asked for anything that could be considered a contract. Mr. Fried also noted that work permit applications are not asked to provide contract information on the initial applications.

Recommended Response: This comment was accepted, in part. The commenter is correct in that the renewal application asks for information not being requested on the initial background investigation. The Commission is proposing to amend the question to limit only two of the questions to work permit and TPPPS worker applications. Additionally, the question related to agreements is being amended to limit its scope since the last filing of a license, which makes it consistent with the timeframe of the other questions. However, in order to remain consistent with the scope of the questions on the background document the scope of these questions has not been limited. Additionally, examples have not been provided in the form. It is the intent of the Commission to provide non-regulatory guidance and examples alongside the form. While this guidance will not have the weight of regulation, it should assist applicants and will be in a format that is flexible as additional questions come up. The proposed changes are as follows:

SECTION 3: RENEWAL INFORMATION **Complete this section only for a renewal application. If you answer "YES" to any of the questions below, please provide a detailed explanation for each item marked "YES" on a separate sheet of paper and attach to the application.**	
ALL APPLICANTS 1~~2~~. Have you been named in any administrative action affecting any license certification since last filing a license or Commission work permit application?	☐ YES ☐ NO
2~~3~~. Have you been convicted of any crime (misdemeanor or felony) since last filing a license or Commission work permit application? Note: It is your responsibility to verify the circumstances and status of all crimes and you should err on the side of disclosure as failing to disclose a conviction can weigh against your application being approved.	☐ YES ☐ NO
KEY EMPLOYEE OR TPPPS SUPERVISOR 3~~1~~. Have you been a party to any civil litigation since last filing a license or Commission work permit application?	☐ YES ☐ NO
4. Have you acquired or increased your financial interest in a business that conducts lawful gambling outside the State since last filing a license or Commission work permit application?	☐ YES ☐ NO
5. Have you entered into any new agreements since last applying for a license? If yes, attach a list of agreements including the amount and all contracting parties.	☐ YES ☐ NO

3. Subsection (a) [pg. 21, line 4 and pg. 193] provides the two applications, the Application for Employee Category License, CGCC-CH2-04 and the Application for Owner Category License, CGCC-CH2-05.

a. **Alan Titus, representing Artichoke Joe's**: Mr. Titus repeated the comment related to B&P section 19828, which can be found in comment I.I.2.a.

Recommended Response: This comment has the same response as provided in the response to comment I.I.2.a.

b. **David Fried, representing Oaks Card Club and California Grand Casino**: Mr. Fried made three comments on form Application for Owner Category License, CGCC-CH2-05. The first two suggest that examples be provided of civil litigation and misdemeanors that commonly arise. The final comment requests clarity as to why this form requests information related to what games are being offered.

Recommended Response: This comment was considered but was not incorporated. It is the intent of the Commission to provide non-regulatory guidance and examples alongside the form. While this guidance will not have the weight of regulation, it should assist applicants and will be in a format that is flexible as additional questions come up. Additionally, the reason that the games are requested on this form is because B&P section 19864, paragraph (4) of subdivision (b) requires, in part, that the "[T]he application for a gambling license shall include…[t]he gambling games proposed to be conducted."

c. **Alan Titus, representing Artichoke Joe's**: Mr. Titus commented that the term "owner licensee" is incorrect and should be replaced with "cardroom business licensee."

Recommended Response: This comment was accepted.

4. Subsection (b), paragraph (1), [pg. 21, line 9 and pg. 197] provides the supplemental form Business Entity: Supplemental Information, CGCC-CH2-06.

a. **Alan Titus, representing Artichoke Joe's**: Mr. Titus expressed a concern that the request for a State Tax ID number is not clear.

Recommended Response: This comment was accepted. Commission staff recommends removing the space requesting the State Tax ID Number from the form.

b. **David Fried, representing Oaks Card Club and California Grand Casino**: Mr. Fried commented that this section requires a list of contracts, but there is no monetary threshold to contract amounts. Mr. Fried advised that cardrooms can have contracts for a few thousand dollars or less, for items like photo or add shoots, or repairs, and that listing all contracts regardless of monetary amounts would mean listing hundreds of transactions, only some of which are recurring or of any magnitude. Additionally, Mr. Fried suggested that for sole proprietors, contracts should be limited to cardroom related agreements and not include personal or household agreements.

Recommended Response: This comment was considered but was not incorporated. The GCA is filled with requirements that licensed individuals and businesses are disallowed from conducting business with unsuitable persons,[5] Otherwise the Bureau would be unable to ensure that an applicant has or does not have an inappropriate contract or agreement. In addition, when requesting a new license, the Bureau needs to be able to understand a person's existing connections in order to complete its background investigation.

To provide additional clarity, the Commission is proposing the following amendment to the section:

> Note: Authority cited: Sections 19811, 19824, 19840, 19841, 19850, 19912 and 19984, Business and Professions Code. Reference: Sections 19801, 19811, 19824, 19826, 19841, 19850, 19951, 19852, 19855, 19864, 19865, 19866, 19867, 19868, 19878, 19880(d), 19883, 19890(e), 19893, 19912, 19951, 19982 and 19984, Business and Professions Code.

c. **Alan Titus, representing Artichoke Joe's**: Mr. Titus expressed a concern that the requirement to provide information on any agreements or contracts is vague and potentially extremely broad. Mr. Titus asked a number of questions, including:

1. Does the question cover employee agreements?
2. Does it cover utility services?
3. Is this only cover current agreements or does it include agreements that have been concluded?
4. Does it include purchases?

Recommended Response: This comment was considered but was not incorporated. The purpose of this form is to get a snap shot of a business that is applying to be a license holder. To do this, for reasons stated in comment I.L.4.b., the application asks for a list of any agreements or contracts. The question is worded in the present tense, so contracts that have concluded or one-time purchases would not be covered.

---

[5] B&P Code section 19801(k): The legislature hereby finds and declares…that unsuitable persons not be permitted to associate with gambling activities to gambling establishments…
B&P section 19824(d): The commission shall have…the power to…take actions deemed to be reasonable to ensure that no ineligible, unqualified, disqualified, or unsuitable person are associated with controlled gambling activities."
B&P section 19826(a): The department shall perform all investigatory functions… and shall have the following responsibilities…[t]o monitor the conduct of all licensees…for the purposes of ensuring…that there is no direct or indirect material involvement…by ineligible, unqualified, disqualified, or unusable persons…"
B&P section 19878(a): Neither an owner licensee, nor a California affiliate of an owner licensee, shall enter into, without prior approval of the commission, any contract or agreement with a person who is denied a license, or whose license is suspended or revoked by the commission, or with any business enterprise under the control of that person…
B&P section 19878(b): Neither an owner licensee, nor a California affiliate or an owner licensee, without prior approval of the commission, shall enter into any contract or agreement with a person whose application has been withdrawn with prejudice, or with any business enterprise under the control of that person…

Ongoing agreements, such as employees or utilities, would have to be included. The statute does not provide a threshold for agreements with disapproved individuals and so including a minimum threshold here would be inappropriate.

5. Subsection (b), paragraph (2) [pg. 21, line 10 and pg. 210] provides the supplemental application Individual Owner/Principal: Supplemental Information, CGCC-CH2-07.

a. **David Fried, representing Oaks Card Club and California Grand Casino**: Mr. Fried provided the following comments:

Section 4
Mr. Fried expressed a concern that an applicant may believe when filling out the forms, subparts B and C only relate to criminal or civil proceedings.

Mr. Fried suggested that the word "bookmaking" be deleted from subpart C. Mr. Fried notes that based on the wording of the subpart, bookmaking would be included in "illegal gambling activities" and that due to the placement of "knowingly engaged," it could be construed to be asking an applicant if they participated in bookmaking without being aware of it. Mr. Fried further noted that it is unclear how bookmaking is applied to contemporary activities such as daily fantasy sports, e-sports, loot boxes, etc. Finally, Mr. Fried requested that "knowingly engaged" should be clarified to mean that the person knew or should have known that what the person did was established at that time to be illegal.

Section 10
Mr. Fried suggested that the request for contract information should be limited to gambling related agreements or agreements with the employer or a TPPPS only and should not include contracts for personal or household use. Additionally, Mr. Fried requested a monetary threshold and suggested a $10,000 threshold.

Recommended Response: This comment was accepted, in part.

Section 4
The commenter is correct, that the specific bookmaking reference is not necessary as it, if illegal when conducted, would be included in the "other illegal activities" portion of the question. Therefore, the following revision is proposed:

C) HAVE YOU EVER ENGAGED IN ~~BOOKMAKING OR KNOWINGLY ENGAGED IN OTHER~~ ILLEGAL GAMBLING ACTIVITIES THAT YOU KNEW OR SHOULD HAVE KNOWN WERE ILLEGAL?	☐ YES ☐ NO

Section 10
This part of the comment was considered but was not incorporated. As previously mentioned, in response to comment I.L.4.b, the GCA is filled with requirements that licensed individuals and businesses are disallowed from conducting business with unsuitable persons.

b. **Alan Titus, representing Artichoke Joe's**: Mr. Titus provided a comment on Individual Owner/Principal: Supplemental Information, CGCC-CH2-07, provided in paragraph (2).

Section 4
Mr. Titus commented on the question asking for the degree of the conviction (felony or misdemeanor) and that some applicants do not know the degree of their conviction. Further, Mr. Titus noted that if a conviction has been reduced the applicant might be confused. Mr. Titus pointed out that the Bureau has access to databases and court records, which would reveal the information correctly and exactly, and further submitted that asking this question is a trap for the applicant who might be tempted to guess and then guess wrong. Mr. Titus suggested that the Bureau first determine the degree of conviction and only if unsuccessful, request the information from the applicant.

Mr. Titus also noted that while California might seal court records, other states use different procedures to achieve the same result. Mr. Titus suggested that the provision be revised as follows:

> Any conviction sealed pursuant to a court order (or similarly treated in other states). …

Section 10
Mr. Titus repeated the comment summarized in comment I.L.4.b related to the scope of requesting agreements and contracts.

Recommended Response: This comment was considered but was not incorporated.

Section 4
The GCA provides an application process where the applicant has the burden to prove their suitability, not the Bureau or the Commission. In addition, while the Bureau may have access to various criminal databases, these databases are not absolute in information. Further, it is the obligation of the applicant to answer the questions and provide the requested information. Like many, if not all, California licensing agencies, the GCA does not lay out a process where it is the Bureau or Commission's responsibility to research an applicant's background in order to establish they are unsuitable.

Moreover, the intent of this question is not to trap the applicant, but to have the applicant provide all relevant information about their background. If for some reason an applicant does not know the nature of the crime for which they were convicted, it is their responsibility to conduct the necessary research, be it by contacting their attorney, the court, or reviewing their files. The applicant should not guess on this question or any question on their application, but should answer the question correctly.

Section 10
See the response to comment I.L.4.b.

6. Subsection (b), paragraph (3) [pg. 21, line and 11 and pg. 225] provides the form Key Employee or TPPPS Supervisor: Supplemental Information, CGCC-CH2-08.

a. **David Fried, representing Oaks Card Club and California Grand Casino**: Mr. Fried provided the same comments on this form as was provided for form Individual Owner/Principal: Supplemental Information, CGCC-CH2-07. See comment I.L.5.a. Please note that in making his comment, the reference to Section 10, Item I, refers to form CGCC-CH2-07 and that on form CGCC-CH2-08 the reference should be Section 10, Item H.

Recommended Response: See the response to comment I.L.5.a.

b. **Alan Titus, representing Artichoke Joe's**: Mr. Titus provided the same comments on this form as was provided for form Individual Owner/Principal: Supplemental Information, CGCC-CH2-07. See comment I.L.5.b. Please note that for this form Mr. Titus references Section 10, Item H, which is Section 10, item I on form CGCC-CH2-08.

Recommended Response: See the response to comment I.L.5.b.

7. Subsection (b), paragraph (4) [pg. 21, line 12 and pg. 188] provided the form Trust: Supplemental Information, CGCC-CH2-09.

a. **Alan Titus, representing Artichoke Joe's**: Mr. Titus expressed a concern that by including requirements on this form that are not otherwise provided in a regulatory section constitutes an underground regulation. Specifically, Mr. Titus noted that this form contains substantive rules on who must be licensed and for the first time, requires that all current trust beneficiaries be licensed.

Mr. Titus additionally commented that requiring all current trust beneficiaries to be licensed is not required by the GCA, but instead provides the Commission discretion in requiring the licensure of trustors and beneficiaries. Mr. Titus noted that in the 20-year history of the Commission, it has never required all trust beneficiaries to be licensed, and that if it is to adopt such a requirement, it must be adopted into regulation.

Mr. Titus further commented that the requirement to license all trust beneficiaries is not summarized in the Notice of Proposed Action nor discussed in the Initial Statement of Reasons. No explanation of the reason for this change, the problem being addressed, the purpose, necessity, or benefits of the change is provided.

Mr. Titus also commented that requiring all current beneficiaries to be licensed does not serve a good purpose. One of the key uses of trusts is to provide for

management of assets for someone incapable of managing the assets on their own and a policy, which requires all current trust beneficiaries to be licensed defeats the benefits of using a trust. Finally, Mr. Titus pointed out that requiring all beneficiaries be licensed is contrary to the Legislature's directive in B&P section 19852, subdivision (e), for the Commission to exercise discretion.

Recommended Response: This comment was accepted, in part. The commenter mistakenly misstates the requirements of the forms exemption included in Government Code section 11340.9. Government Code section 11340.9(c) states:

> This chapter [Chapter 3.5 Administrative Regulations and Rulemaking] does not apply to…[a] form prescribed by a state agency or any instructions relating to the use of the form, but this provision is not a limitation on any requirement that a regulation be adopted pursuant to this chapter when one is needed to implement the law under which the form is issued

What this means is that if a form *does not* implement a law it does not need to go through the formal rulemaking process. For example, if the regulation stated that an applicant must provide their name, address, preferred phone number, and preferred email address, then the Commission could create a form requiring those four items without taking that form through the regulatory process. The form could include nothing more because it itself was not a regulation and could only reflect what was included in the regulations.

The commenter is correct, our forms do act in addition to, and separately from, the regulation body and are therefore not exempt from the rulemaking process. However, by including the forms as attachments to the regulations, noticing them, and taking them through the rulemaking process, the forms themselves are regulations and therefore do not need to only reflect the regulations.

The Commission has historically included all of its forms in the regulatory process. This is why *every single Commission form* asks questions that are not directly reflected in the regulations, from personal identification information to requiring a signature.

That all being said, the first paragraph of the form does have one change that is not specifically mentioned in the rulemaking record, that being a change from "percentage share of revenue" to "income." While the intent was for this change to be non-substantive simplification of the language as part of the transition of existing requirements into a new form, out of an abundance of caution, the following change is proposed to revert the new form to the old standard:

> A **current beneficiary** of the trust must also be licensed if the beneficiary receives a distribution or any percentage share of revenue ~~income~~ from a Trust which holds the assets of a business or person that requires

licensure. [Business and Professions Code sections 19850, 19852(e), ~~and~~ 19852(h), and 19852(g)]~~.~~ For example, under the terms of the Washington Family Trust, beneficiary William Washington is to receive 10% of the net gaming revenue from Washington's Cardroom every six months. However, a current beneficiary who is less than 21 years of age does not need to submit an application, as they would otherwise be disqualified. [Business and Professions Code section 19859(g)] In lieu of the two forms required above of other current beneficiaries, the trustee shall submit, as part of the trust application package, a copy of a birth certificate or other documentation of the birth date and identity of the underage beneficiary.

8. Subsection (b), paragraph (5) [pg. 21, line 13 and pg. 246] provides the Commission Work Permit or TPPPS Worker: Supplemental Information, CGCC-CH2-10.

a. **David Fried, representing Oaks Card Club and California Grand Casino**: Mr. Fried commented on two sections of the form.

Section 4
Mr. Fried suggested that the Commission should consider the scope of the work permit investigations and if they are appropriate given the maximum $250 authorized fee in B&P section 19915. In explaining his position, Mr. Fried presents details related to the cost and scope of the licensing practices in Nevada and New Jersey, where the licensing scopes purportedly concerns an applicant's criminal background and other civil matters discernible from public records (such as delinquent child support, delinquent taxes, bankruptcies, or gambling law violations); and accordingly have a smaller staff and larger monthly volume of licenses issued. Mr. Fried suggested that the Commission's licensing scope should be narrowed and exclude items like unlawful detainers, collections, and small claims disputes. Mr. Fried further requested non-gaming work history should be limited to the last three jobs or a maximum period of five or three years, as an applicant's memory can cause them to make unintentional, careless mistakes.

Section 6
Mr. Fried suggested that an applicant's employment history should be limited to the last 3 jobs or 3-5 years.

Recommended Response: This comment was considered but was not incorporated. At present, the Commission has noticed its intent to increase the requests for information to ten years for the three categories, residence history, employment history, and gambling licensing history, and otherwise maintain the existing scope of review for a work permit application, with minor changes as indicated in the regulations. Currently, the Commission provides 11 different license types, 10 of them, all but work permits, have a 10-year reporting requirement for these three categories of information. While the proposal does increase the amount information required for an initial work permit application, it only increases the standards to be

equivalent with the other license types, including that of TPPPS work (currently TPPPS player and TPPPS other employees). The Commission is currently conducting a cost and fee analysis and may consider the commenter's request at the analysis conclusion as a separate regulatory discussion.

Notwithstanding, the commenter appears mistaken in their presentation of Nevada's data. Based on public data available online and recent discussions with Nevada's regulators, the state of Nevada processes 3,000 applications per year, not per month. Additionally, the number of staff referenced by the commenter (15), only refers to the staff performing intake processing and not the entire application processing staff. The actual staff allocated by Nevada is in fact closer to 400 for the processing and maintenance of licenses.

b. **Alan Titus, representing Artichoke Joe's**: Mr. Titus provided the same comments on this form as was provided for form Individual Owner/Principal: Supplemental Information, CGCC-CH2-07 for Section 4. See comment I.L.5.b.

Recommended Response: See the response to comment I.L.5.b.

9. Subsection (b), paragraph (6) [pg. 21, line 15 and pg. 254] provides the Supplemental Information: Schedules, CGCC-CH2-11.

a. **Alan Titus, representing Artichoke Joe's**: Mr. Titus provided the following comments:

Schedule H
Mr. Titus expressed a concern that the instructions are not clear. Mr. Titus inquired to the scope of the types of taxes that might be included and if the question had any limitation on types or jurisdictions. Mr. Titus also stated that the term "unpaid taxes" is unclear and could refer to taxes shown on a return, yet not due, or taxes that are due and unpaid. Finally, Mr. Titus stated that the term "estimated taxes" could refer to estimated taxes required under law, or could refer to estimates based on current year's income and therefore requiring the applicant to estimate taxes.

Schedule I
Mr. Titus expressed a concern that including a reference to business entity in the instructions causes confusion and suggested it be revised to applicant.

Recommended Response: This comment was accepted, in part.

Schedule H
This comment was considered but was not incorporated.

All existing versions of this schedule currently in regulation include the language "List all unpaid and estimated taxes." The words as they currently existing are clear. Is the tax unpaid? If yes, include it. As to the source of those taxes, the form

provides a space for the taxing authority to be included, and even provides both State and Federal examples. Additionally, the form does not require an applicant to create an estimate of future taxes and is clearly referring to the normal estimated taxes process.

Schedule I
This comment was accepted and the following amendment proposed:

> List all loans and notes payable (monies owed by the applicant~~business entity~~). Please submit copies of loan agreements for any loans not obtained from a financial institution.

10. Subsection (b), paragraph (7) [pg. 21, line 22 and pg. 266] provides the Spousal Information: Supplemental Information, CGCC-CH2-12.

a. **David Fried, representing Oaks Card Club and California Grand Casino**: Mr. Fried commented on Section 3 on the form; specifically, expressed a concern that it is inappropriate for the form to assign a burden of proof regarding separate property status. Mr. Fried asserted that family law establishes what separate property is, what community property is, and how the classification can change. Mr. Fried requested that the first two parts of Section 3 be removed. Finally, Mr. Fried suggested that in Section 4 documents showing that the business entity and accounts were established before the married should be allowed.

Recommended Response: This comment was considered but not incorporated. The GCA first and foremost requires that all cardroom owners must be licensed. The commenter is mistaken as far as they believe the concern is that an unlicensed spouse may seek a property interest after a spouse's licensure. Rather the concern is that a spousal applicant and their spouse will impermissibly avoid licensure when the Act requires it.

Furthermore, as the commenter is probably aware, if an owner is married in California then their cardroom ownership interest may be held as separate property or community property. The commenter is correct that family law and not the Act govern this property characterization question. However, the commenter is mistaken in stating that it is inappropriate that a burden of proof regarding the property status be placed on the applicant as the commenter mischaracterizes the forum for establishing proof as a matter of family law. Rather, the GCA states under B&P section 19856(a), the burden of proving an applicant's qualifications squarely rests on the applicant. If the applicant has a community or separate property interest in a cardroom then they should be able to establish that to the Bureau and Commission's satisfaction. The example regarding establishing business accounts before marriage are on point in potentially meeting this threshold.

b. **Alan Titus, representing Artichoke Joe's**: Mr. Titus repeated the comment related to B&P section 19828, which can be found comment I.I.2.a.

Recommended Response: This comment has the same response as provided in the response to comment I.I.2.a.

M. ADOPT SECTION 12116. PROCESSING TIMELINES FOR APPLICATIONS.

This section provides the timelines for application review.

1. Subsection (d) [pg. 26, line 15] provides that if a renewal application is not submitted within 10 calendar days after the expiration of the current license, the license will be considered abandoned.

a. **Yolanda Morrow, representing the Bureau**: Ms. Morrow suggested an amendment to be consistent with statute.

> (d) If a complete renewal application, including all required fees and deposits, has not been submitted within 10 calendar days after the expiration date of the current cardroom business license, the cardroom business license will be deemed surrendered~~abandoned~~ and will be subject to the provisions of subsection (b) of Section 12142.

Recommended Response: This comment was considered but not incorporated. The provision was moved from Section 12345(f) without substantive modification. The regulations provide different functions of the terms surrender and abandonment. Surrender is a process where a license holder voluntarily relinquishes their license. A surrender may be in conjunction with a disciplinary action, for example, but is subject to approval or rejection by the Commission. In contract, abandonment is a function that does not require affirmative action on either the part of the licensee or Commission and is instead linked to a pre-determined series of events, in this case failure to submit a complete renewal application by a specified date. While surrender and abandoned licenses may both result in the same outcome under section 12142(b), they have a different path to that point.

N. AMEND SECTION 12122. CRITERIA FOR THE ISSUANCE OF TEMPORARY WORK PERMIT. (SECTION 12124. TEMPORARY EMPLOYEE CATEGORY LICENSES.).

This section provides the conditions and requirements of temporary licenses associated with an application for an employee category license.

1. Subsection (a) [pg. 29, line 7] specifies that the Executive Director will issue a temporary employee category license if specified requirements are met.

a. **Tiffany Conklin-Lichtig, representing Empire Sportsmen's Association, Outlaw's Card Parlour, and The Deuce Lounge & Casino**: Ms. Conklin-Lichtig, consistent with her proposed change to the definitions for initial and renewal license, proposed the following change:

(a) The Executive Director will issue a temporary employee category license or Commission work permit if all of the following requirements are met:

Recommended Response: This comment was considered but was not incorporated. As the previous suggestion to alter the proposed definitions was not accepted under comment I.A.3.a, no change is required here.

O. AMEND SECTION 12128. CANCELLATION OF TEMPORARY WORK PERMIT. (SECTION 12128. CANCELLATION OR CONDITIONING OF TEMPORARY LICENSES.).

This section provides the conditions and requirements for cancellation or conditioning temporary licenses.

1. Comment made on this section, in general, [pg. 32, line 33].

a. **Tiffany Conklin-Lichtig, representing Empire Sportsmen's Association, Outlaw's Card Parlour, and The Deuce Lounge & Casino**: Ms. Conklin-Lichtig expressed a concern that the proposed amendments to this section conflict with other proposed changes in subdivision (d) of Section 12122, which provides that a temporary license or work permit only becomes void once a license or work permit is issued or denied. Ms. Conklin-Lichtig additionally commented that temporary licenses and temporary work permits should only be revoked without a hearing when based on mandatory grounds and that revocation on discretionary grounds should occur only after a hearing in order to ensure an applicant's due process. Ms. Conklin-Lichtig proposed the following amendment:

(a) Any temporary license or Commission work permit issued in accordance with this article~~ will be cancelled or conditioned, as provided in subsection (a) and (b), if at any time, any of the following applies~~:
(1) Will be cancelled if ~~T~~the Commission determines that it has received reliable information that the holder of the temporary license or Commission work permit is ineligible under section 12040 ~~paragraphs (2) or (3) subsection (a) of Section 12124, has failed to reveal any fact material to the holder's qualification for a temporary license,~~ or has supplied information to the Bureau or Commission that is untrue or misleading as to a material fact pertaining to the criteria for issuance of a temporary license or work permit.
(2) Will be conditioned if ~~T~~the applicant's initial license or Commission work permit application is referred by a vote of the Commission to an evidentiary hearing~~, and the Commission directs the Executive Director to cancel or condition the temporary license~~.
~~(3) The temporary license is for a temporary TPPPS category license, and the applicant:~~
~~(A) Buys or sells chips other than to or from the cardroom business licensee, except for exchanging with a patron one denomination of chips for chips of another denomination.~~

~~(B) Lends money or chips to gambling establishment patrons, except for exchanging with a patron one denomination of chips for chips of another denomination.~~
~~(C) Makes a wager that was not specifically authorized by the Bureau approved game rules.~~
~~(D) Provided proposition player services at a gambling establishment without a Bureau-approved contract on and after April 30, 2004.~~
~~(4) The temporary license is for a TPPPS owner type license or a TPPPS supervisor license and the applicant:~~
~~(A) Knowingly permitted one or more TPPPS category licensee to commit any act described in paragraph (3).~~
~~(B) Knew, or failed to implement reasonable oversight procedures that would have apprised the TPPPS business licensee, that one or more employees was in violation of the Act or Commission regulations, and failed or refused to take action to prevent the recurrence of the violation(s).~~
(b) If a temporary license or Commission work permit is cancelled pursuant to subsection (a)(1), ~~any of the circumstances set forth in subsection (a) apply, and the temporary license a temporary employee category license, then the license must be summarily cancelled and~~ the Executive Director will immediately do all of the following:
(1) Notify the temporary licensee or work permit holder, any owner category licensee that the temporary license or work permit holder is currently associated with, the local law enforcement agency, and the Bureau, in writing, of the cancellation of the temporary license and the grounds thereof.
(2) Require the cardroom business licensee, the TPPPS business licensee or any applicable hiring authority to terminate, immediately, any employment of the holder covered by the cancelled temporary license or work permit.
(3) Notify the temporary licensee or work permit holder that he or she is required to surrender their badge to the Bureau not more than ten calendar days following the date that the notice of cancellation was mailed or a greater time as specified by the Executive Director in the notice.
…

Recommended Response: This comment was considered but was not incorporated. As the previous suggestion to alter the proposed definitions for temporary licenses was not accepted under comment I.A.3.a, no change is required here. Additionally, the comment asserts that this provision conflicts with subsection (d) of Section 12122, which states:

(d) Upon issuance or denial of a license or Commission work permit by the Commission, the temporary license will become void and cannot be used thereafter.

This assertion is mistaken, as subsection (d) only deals with what happens to the license when a license or work permit is issued, not cancelled. Indeed, subsection (e) of Section 12122 specifically references the "cancellation" of a temporary license, which is further explained in Section 12128. Simply stated the cancellation of a temporary license or work permit is not the same as a temporary license being rendered void. The commenter conflates "revocation" with cancellation by saying that temporary licenses and work permits should only be revoked after a hearing. These two terms are used differently in the Commission's regulations, as cancellations are generally ministerial in nature, whereas revocations are only ordered by the Commission.

This commenter's recommendation also would remove the main distinction between temporary licenses and work permits and regular licenses and work permits, which is that the latter have been issued to persons the Commission has deemed suitable. It is important to note that temporary licenses and work permits are not issued to people deemed suitable, but to persons not yet deemed unsuitable. Regular licenses and work permits cannot be revoked without an APA evidentiary hearing under the Act, which is an extensive process that frequently takes years, and often beyond even the duration of the underlying approval. To require temporary licenses and work permits to undergo the same revocation process would require the same administrative burden.

It is important to note that temporary licenses and work permits are issued precisely because this process is not required. They reflect a balance of the applicant's interests against the public interest under the GCA. Essentially allowing persons with no obvious background concerns to start work with a temporary license or work permit, before they have been fully investigated, allows the industry to move forward while allowing the Bureau and Commission adequate time to fully consider an applicant's suitability. However, making the cancellation of a temporary license or work permit undergo this same administrative process would collapse this important distinction and likely undercut the rationale for issuing them in the first place.

Finally, the commenter suggested the repeal of every portion proposed to be moved from Section 12200.18 but without providing any additional rational. These existing revocation requirements for registrations were proposed to be maintained in this new provision, and the purpose for this has been provided in the initial statement of reasons.

b. **Proposed Amendment to Section**: Commission staff would like to propose the following amendment, not in response to a comment, but to ensure that all existing terms are modified to reflect the new definitions.

(a)…
(3)…

(D) Provided TPPPS ~~proposition player services~~ at a gambling establishment without a Bureau-approved contract on and after April 30, 2004.

P. ADOPT SECTION 12134. GENERAL PROVISIONS.

This section is the second part of what was Section 12349, expanded to include TPPPS business licensees.

1. Subsection (a) [pg. 38, line 25] provides that a cardroom business licensee or TPPPS business licensee may continue its gambling operations following a qualifying event upon specific conditions.

a. **Yolanda Morrow, representing the Bureau**: Ms. Morrow suggested an amendment to be consistent with statute.

(a) Subject to the provisions of the Act, this division and Title 11, Division 3, of the California Code of Regulations, a cardroom business licensee may continue gambling operations or a TPPPS business license may continue to provide third-party proposition player services following a qualifying event only if an owner or a licensed person affiliated with the cardroom business licensee or TPPPS business licensee has control of the gambling operations or the provision of third-party proposition player services, as applicable, the Commission and Bureau are~~is~~ notified of the qualifying event within 10 calendar days of that event, and the new owner, or individual in control of the ownership interest, submits a request for an interim owner category license to the Bureau as provided in Section 12136…

Recommended Response: This comment was accepted. This provision provides a three test system: (1) an affiliated licensed person has control; (2) the Commission is notified (within 10 days); and, (3) the Bureau receives an application (within 30 days). This change will ensure that the Bureau understands the status of a cardroom business licensee or TPPPS business license sooner than the submittal of the application.

Q. ADOPT SECTION 12138. CRITERIA.

This section is the fourth part of what was Section 12349, expanded to include TPPPS business licensees.

1. Subsection (a), paragraph (2), [pg. 41, line 22] provides the review timelines for an interim owner category license.

a. **Yolanda Morrow, representing the Bureau**: Ms. Morrow requested that the language be amended to provide clarity that the timeline begins once the Bureau has

determined that the application is complete. Ms. Morrow proposed the following amendment:

> (2) Once the Bureau determines that an application~~request~~ for an interim owner category license is complete, the matter will be set for consideration at a noticed Commission meeting. The Bureau will provide their review to the Commission no later than 40 calendar days after receipt of the complete application~~request~~. Pursuant to the provisions of the Act and this division, the Commission will grant or deny the request for an interim owner category license within 60 calendar days after receipt of the complete application~~request~~. An application~~request~~ for an interim owner category license will be denied by the Commission if the applicant is disqualified for any reason set forth in section 19859 of the Business and Professions Code.

Recommended Response: This comment was considered but was not incorporated. The timelines in this section, when viewed in context with the rest of this section and licensing process, establishes the timeline for review of interim owner category licenses. Section 12138(a)(1) provides that the Bureau must complete a review to determine if an application is complete within 10 calendar days and if not, provide the applicant 10 calendar days to provide the necessary information. If the applicant has not provided the requested information then the request is automatically considered abandoned, requiring the applicant to restart the application process. This means that the Bureau has a minimum of 20 additional calendar days to complete its review, not a review of the entire application for licensure, but its review in the context of the interim owner category license. After the Bureau has complete its interim owner category license review, the Bureau should return to the application to conduct a more thorough review for a temporary owner category license, if requested, and for the final review for the initial owner category license.

R. AMEND SECTION 12348. STATE GAMBLING LICENSES: PRIOR SURRENDER OR ABANDONMENT. (SECTION 12144. CARDROOM BUSINESS LICENSE: PRIOR SURRENDER OR ABANDONMENT.).

This section provides the process through which specified surrendered or expired licenses can apply for reinstatement.

1. Comment made on this section, in general, [pg. 45, line 13].

a. **Yolanda Morrow, representing the Bureau**: Ms. Morrow expressed a concern, that due to the renumbering of this section, it might confuse "the effective date of this section" language.

Recommended Response: This comment was accepted. The section originally became effective January 6, 2011. The following change is proposed:

(a) A cardroom business license that was valid as of December 31, 1999, or that was issued pursuant to an application on file with the department prior to September 1, 2000, and that was surrendered or expired without being renewed prior to January 6, 2011~~the effective date of this section~~, will be eligible for reinstatement in accordance with the following guidelines:

S. AMEND SECTION 12313. FINANCIAL STATEMENTS AND REPORTING REQUIREMENTS.

This section provides for the annual preparation and submittal of financial statements.

1. Subsection (a) [pg. 102, line 19] provides that cardroom business licensees and TPPPS business licensees must prepare annual financial statements covering all financial activities.

a. **Proposed Amendment to Section**: Commission staff would like to propose the following amendment, not in response to a comment, but to ensure that all existing terms are modified to reflect the new definitions.

(a) Each licensee must prepare financial statements covering all financial activities of that cardroom business licensee or TPPPS business licensee, as applicable, for each fiscal year, in accordance with generally accepted accounting principles, unless otherwise provided in this section. If a cardroom owner type licensee~~gambling enterprise (or a person or entity that has an interest, control, or common control with the licensee)~~ owns or operates lodging, food, beverage, or any other non-gambling operation at the gambling establishment, the financial statements must reflect the results of the gambling operation separately from those non-gambling operations.

T. AMEND SECTION 12316. UNCLAIMED OR ABANDONED PROPERTY.

This section provided requirements for unclaimed or abandoned property.

1. Comment made on this section, in general, [pg. 104, line 31].

a. **Alan Titus, representing Artichoke Joe's**: Mr. Titus expressed a concern that this section has caused confusion in the industry. Mr. Titus stated that while unclaimed property law clearly applies to inactive player's banks and might apply to chips left at a time by someone who has an account; it does not apply to chips left by an unknown player. Mr. Titus suggested that this section have a new rule added for such chips; that if an abandoned chip by an unknown owner does not claim the chip within six months, the money should go to the Office of Problem Gambling.

Recommended Response: This comment was considered but was not incorporated. This section has not been noticed for substantive amendment, but only to non-

substantively renumber the provision to account for the proposed adoption and repeal of definitions.

U. AMEND SECTION 12220.23. EXCLUSION. (SECTION 12369. PROHIBITED PLAYER-DEALER PARTICIPATION; EXCLUSION.).

This section provides that a cardroom business licensee is required to notify the Bureau of any unlicensed or unregistered gambling businesses operating within the gambling establishment.

1. Comment made on this section, in general, [pg. 121, line 18].

a. **Alan Titus, representing Artichoke Joe's**: Mr. Titus asks questions related to Section 12005. See comment I.B.1.b.

Recommended Response: See response to comment I.B.1.b.

V. AMEND SECTION 12463. SELF-RESTRICTION PROGRAM.

This section provides the requirements for a cardroom business licensees' Self-Restriction Program.

1. Subsection (a), paragraph (2), [pg. 148, line 28 and pg. 533] provides the Self-Restriction Request form.

a. **Yolanda Morrow, representing the Bureau**: Ms. Morrow suggested that the Self-Restriction Request form be formatted into landscape orientation. Ms. Morrow suggested that the form being of a different orientation than the Self-Exclusion Request form might help the user distinguish between this program and the statewide program.

Recommended Response: This comment was considered but was not incorporated. First, the Self-Restriction Request form provided in this provision is an optional form for a cardroom business licensee to use when creating their Self-Restriction Program. If a cardroom business licensee, in implementing their program, feels that a landscape form is beneficial then they can create such a form. Second, even if the Self-Restriction Request form were to be changed to landscape, as the form is optional, there is nothing to actually make sure that such a change filters down to any onsite program.

W. AMEND SECTION 12566. DISCIPLINARY GUIDELINES FOR CARDROOM OWNER TYPE LICENSES.

This section provides disciplinary guidelines for cardroom owners.

1. Subsection (c), paragraph (5), [pg. 168, line 28] provides that a cardroom business licensee that fails to report the operation of an unregistered gambling business is subject

to the effects of this section if they had been previously disciplined by the Commission for this violation.

a. **Alan Titus, representing Artichoke Joe's**: Mr. Titus repeated the objection to Sections 12005 and 12369, found in comment I.B.1.b. Mr. Titus additionally disagreed with the statement "a cardroom business licensee is ultimately responsible for the activities in their cardroom." Mr. Titus stated that a business is responsible for its policies and procedures and other workplace rules and for the training it provides to its employees, but is never responsible for all activities by the public on the premises. Mr. Titus commented that this statement goes too far.

Recommended Response: For the discussion on Sections 12005 and 12369, see response to comment I.B.1.b.

The GCA often states that cardroom business licenses, and their associated cardroom endorsee licensees, must be free of corruptive elements and regulated to protect the public health, safety, and general welfare. This includes giving the Commission the responsibility to ensure that those individuals who are licensed operate "in a manner that is [not] inimical to the public health, safety, or welfare."[6] To do this the Commission has established a number of requirements to help define what constitutes an appropriate operation. If a licensee does not operate their business in a manner that is not inimical to the public health, safety, or welfare, then the Commission cannot find an applicant suitable. Therefore, in a way the commenter is correct, ultimately it is the Commission's responsibility to ensure that licenses are not issued to individuals who cannot operate in the correct manner, but it is still the responsibility of the licensee to maintain suitable methods of operation.[7]

X. AMEND SECTION 12568. DISCIPLINARY GUIDELINES FOR HOLDERS OF LICENSES, FINDINGS OF SUITABILITY, OR APPROVALS.

a. **Proposed Amendment to Section**: Commission staff would like to propose the following amendment, not in response to a comment, but to ensure that all existing terms are modified to reflect the new definitions.

> (8) As a cardroom owner type licensee, not taken reasonable steps to prevent the crimes listed in subsection (b), paragraphs (5) through and including (7), from occurring at the gambling establishment, when the cardroom owner type licensee knew or should have known that these crimes were being committed,

II. COMMENTS RECEIVED OUTSIDE OF ANY PUBLIC COMMENT PERIOD[8]

[6] Business and Professions Code section 19823(a)(1)
[7] Business and Professions Code section 19920
[8] All page numbers in this section refer to the proposed text dated March 27, 2020 and noticed on June 19, 2020.

The Commission received the following oral comments/objections/recommendations regarding the text of the proposed action at the September 11, 2020 Commission Regulations Hearing. This meeting was noticed for the Commission to deliberate on comments received during the 45-day comment period and was not itself a public meeting to receive comments. However, some of the comments received during the meeting are summarized and responded to, as the Commission has chosen to do so. The following does not reflect a summary of all comments received at the meeting, just those to which the Commission chose to respond:

A. AMEND SECTION 12002. GENERAL DEFINITIONS.

This section provides general definitions for overall use in this division.

1. Subsection (j) [pg. 2, line 10] provides the definition for "cardroom business license". This definition provides a single term for the holder of the license certification. The Act uses two terms to refer to this entity; gambling enterprise and owner licensee [also owner-licensee].

a. **Alan Titus, representing Artichoke Joe's**: Mr. Titus commented that the definition incorrectly refers to the cardroom business license as the holder of the certificate, when it is actually the certificate that is held by the licensee.

Recommended Response: This comment was accepted and the following amendment is proposed:

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

2. Subsection (l) [pg. 2, line 17] provides the definition for "cardroom endorsee license." This definition provides a term to refer to those who are endorsed on a license certificate. While these individuals currently exist and are referenced in both the Act and regulations, there has not previously been a consistent term to refer to them.

a. **Alan Titus, representing Artichoke Joe's**: Mr. Titus commented that the definition incorrectly refers to the cardroom endorsee license as endorsed on the certificate, when it is actually the endorsement of the licensee.

Recommended Response: This comment was accepted and the following amendment is proposed:

(l) "Cardroom endorsee license" means a license issued to any person required to be licensed pursuant to Business and Professions Code sections 19852 or 19853 and is the~~required to be~~ endorsement~~d~~ on the license

certificate pursuant to Business and Professions Code section 19851, subdivision (b).

B. SECTION 12342. INITIAL GAMBLING LICENSE APPLICATIONS; REQUIRED FORMS; PROCESSING TIMES. (SECTION 12112. INITIAL LICENSE APPLICATIONS; REQUIRED FORMS.).

This section provides a single consistent application process for initial licenses.

1. Subsection (b), paragraph (2) [pg. 21, line 10 and pg. 210] provides the supplemental application Individual Owner/Principal: Supplemental Information, CGCC-CH2-07.

a. **Alan Titus, representing Artichoke Joe's**: Mr. Titus commented the instructions in Section 4 of the form incorrectly referred to Penal Code section 1203a when the reference should be 1203.4a.

Recommended Response: This comment was accepted.

2. Subsection (b), paragraph (3) [pg. 21, line and 11 and pg. 225] provides the form Key Employee or TPPPS Supervisor: Supplemental Information, CGCC-CH2-08.

a. **Alan Titus, representing Artichoke Joe's**: Mr. Titus commented the instructions in Section 4 of the form incorrectly referred to Penal Code section 1203a when the reference should be 1203.4a.

Recommended Response: This comment was accepted.

3. Subsection (b), paragraph (5) [pg. 21, line 13 and pg. 246] provides the Commission Work Permit or TPPPS Worker: Supplemental Information, CGCC-CH2-10.

a. **Alan Titus, representing Artichoke Joe's**: Mr. Titus commented the instructions in Section 4 of the form incorrectly referred to Penal Code section 1203a when the reference should be 1203.4a.

Recommended Response: This comment was accepted.