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1 CALIFORNIA GAMBLING CONTROL COMMISSION
2 SPECIFIC LANGUAGE OF PROPOSED REGULATIONS
3 AB 120 HEARINGS UPDATE
4 CGCC-GCA-2021-06-R
5

6 Title 4. Business Regulations.
7 Division 18. California Gambling Control Commission.
8

9 CHAPTER 1. GENERAL PROVISIONS

10
11 ARTICLE 1. DEFINITIONS AND GENERAL PROVISIONS.
12

13 § 12002. General Definitions.

14 Unless otherwise specified, the definitions in Business and Professions Code section
15 19805, supplemented by the definitions found in Chapter 10 of Title 9 of Part 1 of the
16 Penal Code (commencing with section 330), govern the construction of this division. As
17 used in this division:

18 ...

19 (g) "Bureau report" means ~~a final determination, as defined in Business and~~
20 ~~Professions Code section 19869 as "final action by the department," by the Chief of the~~
21 ~~Bureau regarding his or her recommendation to the Commission on any application. the~~
22 ~~filing by the Chief of the Bureau of his or her written reasons, as provided in Business~~
23 ~~and Professions Code section 19868, subdivision (b), regarding his or her~~
24 ~~recommendation of denial or approval with restrictions or conditions, or the notification~~
25 ~~to the Commission that the Bureau is recommending approval or will not be issuing a~~
26 ~~recommendation of denial or approval with restrictions or conditions.~~

27 ...

28 Note: Authority cited: Sections 19811, 19823, 19824, 19840, 19841, 19853 and 19854, Business
29 and Professions Code. Reference: Sections 19800, 19805, 19811, 19816, 19853 and 19984,
30 Business and Professions Code.
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§ 12006. Service of Notices, Orders, and Communications.

...

(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 ([Rev. 09/21](#) ~~New 05/20~~) received under subparagraph (E) of paragraph (2) of subsection (c) of Section 12052 or at an earlier point from the Commission staff.

...

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

§ 12012. *Ex Parte* Communication.

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

...

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

...

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

...

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

...

(2) The Commission has elected to hold an evidentiary hearing under paragraph (42) of subsection (a) of Section 12054 until any decision is final pursuant to Section 12066; or,

...

Additions shown in [blue underline](#); deletions shown in ~~red-strikeout~~.

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1 Note: Authority cited: Sections 19811, 19823, 19824, 19840, 19841 and 19872, Business and
2 Professions Code; and Sections 11400.20, 11410.40, 11415.10 and 11415.20, Government Code.
3 Reference: Sections 19821, 19822, 19825, 19868, 19870, 19871, 19872 and 19930, Business and
4 Professions Code; and Sections 11425.10, 11430.10, 11430.20, 11430.30, 11430.50 and 11430.60,
5 Government Code.
6

7 § 12015. Withdrawal of Applications.

8 (a) A request by an applicant, or his, her, or its designated agent on the applicant's
9 behalf, to withdraw a submitted application may only be made prior to a Commission
10 decision becoming final pursuant to Section 12066, subsection (b) ~~the Bureau report~~
11 ~~being submitted to the Commission~~. The request must be made in writing to the Bureau.
12 Upon receipt of the request to withdraw, Bureau staff will send written confirmation of
13 receipt to the applicant. The Bureau will stay any investigation of the applicant being
14 conducted under Business and Professions Code section 19868. The Executive Director
15 will, upon receipt of any information or documentation provided by the Bureau pursuant
16 to Business and Professions Code section 19869, place the request before the
17 Commission for consideration at a regularly scheduled meeting pursuant to Section
18 12054.

19 ...

20 (d) If a request for withdrawal is granted with prejudice, the applicant will ~~not~~ be
21 ineligible to submit or renew its application for ~~apply again for~~ licensure or approval until
22 after the expiration of one year from the date the request for withdrawal is granted.

23 ...

24 Note: Authority cited: Sections 19801, 19811, 19823, 19824, 19840, 19841, 19869, 19893 and
25 19951, Business and Professions Code. Reference: Sections 19859, 19867, 19869, 19880, 19881,
26 19890, 19891, 19912, 19951 and 19984, Business and Professions Code.
27

28 § 12035. Issuance of Interim Renewal Licenses.

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

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

3 ...

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

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

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

14 ...

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

20 ...

21 Note: Authority cited: Sections 19811, 19823, 19824, 19840, 19841, 19893 and 19951, Business
22 and Professions Code. Reference: Sections 19859, 19867, 19869, 19876, 19880, 19881, 19890,
23 19891 and 19951, Business and Professions Code.

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ARTICLE 2. PROCEDURES FOR HEARINGS AND MEETINGS ON APPLICATIONS.

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

...

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

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

...

~~(C) Any individual making an oral statement may be required to be placed under oath.~~

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

...

(E) That a Notice of Defense, CGCC-CH1-03 (Rev. 09/21 ~~New 05/20~~), which is attached in Appendix A to this chapter, will be included unless already provided by Commission staff or the Bureau.

...

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

§ 12054. Consideration at ~~Regular~~ a Commission Meeting.

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

(1) ...

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1 (2) Issue a license, work permit, finding of suitability, or other approval with
2 conditions, restrictions, or limitations, and for a renewal application, issue an interim
3 renewal license pursuant to Section 12035.

4 (3) Deny an application for a license, work permit, finding of suitability, or other
5 approval, and for a renewal application, issue an interim renewal license pursuant to
6 Section 12035.

7 ~~(4)~~ Elect to hold or retract an evidentiary hearing in accordance with Section 12056
8 and, for a renewal application, issue an interim renewal license pursuant to Section
9 12035. The Commission will identify those issues for which it requires additional
10 information or consideration related to the applicant's suitability.

11 ~~(5)~~ ...

12 ~~(6)~~ ...

13 ~~(7)~~ Approve or deny a request for withdrawal pursuant to Section 12015.

14 ~~(8)~~ Make a finding of abandonment pursuant to subsection (c) of Section 12017.

15 ~~(9)~~ ...

16 ~~(10)~~ ...

17 ~~(11)~~ ...

18 ...

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

23 **§ 12056. Evidentiary Hearings.**

24 (a) If the Commission elects to hold an evidentiary hearing, or an applicant has
25 elected to request an evidentiary hearing following a Commission approval with
26 conditions, restrictions, or limitations pursuant to paragraph (2) of subsection (a) of
27 Section 12054 or a denial pursuant to paragraph (3) of subsection (a) of Section 12054,
28 the hearing will be conducted as a GCA hearing under Section 12060, unless the
29 Executive Director or the Commission determines the hearing should be conducted as an
30 APA hearing under Section 12058. The evidence will be presented by the complainant,
31 which is selected by the Executive Director or the Commission, and may be either the

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1 Bureau or an advocate of the Commission. If an advocate of the Commission is selected,
2 the determination will include a list of employees of the Commission who will be
3 designated as an advocate of the Commission.

4 ...

5 (d) Where an application has been referred to a GCA hearing or an APA hearing, the
6 Commission retains the authority to retract the referral, pursuant to paragraph (4~~2~~) of
7 subsection (a) of Section 12054, and refer the application to a GCA hearing or APA
8 hearing pursuant to subsection (a) of Section 12056, or hear the matter at a Section 12054
9 meeting.

10 ...

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

14

15 § 12057. Default Decisions and Uncontested Applications.

16 (a) When an applicant fails to submit a completed Notice of Defense, CGCC-CH1-03
17 (Rev. 09/21 New 05/20) according to the timelines on the form, affirmatively waives his,
18 her, or its right to an evidentiary hearing, or ~~he, she, or it~~ fails to appear at an evidentiary
19 hearing, the Commission will, based on the interests of justice and judicial economy:

20 ...

21 (3)When an applicant fails to appear at an evidentiary hearing, reschedule any GCA
22 hearing on the applicant's application; ~~or~~;

23 (4) Act on the application as identified in subsection (a) of Section 12054-or,

24 (5) Finalize the decision pursuant to paragraph (4) of subsection (b) of Section
25 12066.

26 ...

27 Note: Authority cited: Sections 19811, 19823, 19824, 19840 and 19841, Business and Professions
28 Code. Reference: Sections 19816, 19823, 19824, 19824.5, 19825, 19856, 19868, 19870, 19871
29 and 19876, Business and Professions Code; and Section 11512, Government Code.

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§ 12060. GCA Hearings.

...

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

...

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

§ 12066. Final Decisions; Judicial Review.

(a) A withdrawal or abandonment decision is final:

...

(2) Upon approval by the Commission pursuant to paragraph (7~~5~~) of subsection (a) of Section 12054 or the making of a finding of abandonment pursuant to paragraph (8~~6~~) of subsection (a) of Section 12054.

(b) A Commission decision is final

...

(4) If the Commission approved an application with conditions, restrictions, or limitations pursuant to paragraph (2) of subsection (a) of Section 12054 or denied an application pursuant to paragraph (3) of subsection (a) of Section 12054, then either, upon the Commission's receipt of a Notice of Defense, CGCC-CH1-03 (Rev. 09/21) that indicates the waiving of the right to an evidentiary hearing or after 30 calendar days has passed immediately following the approval with conditions, restrictions, or limitations, or the denial.

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

Additions shown in blue underline; deletions shown in ~~red-strikeout~~.

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1 Note: Authority cited: Sections 19811, 19823, 19824, 19840 and 19841, Business and Professions
2 Code. Reference: Sections 19823, 19824, 19825, 19870, 19871 and 19876, Business and
3 Professions Code; and Section 11521, Government Code.
4

5 CHAPTER 2. LICENSES AND WORK PERMITS

7 ARTICLE 4. INTERIM OWNER CATEGORY LICENSE

8 § 12134. General Provisions.

9 ...
10

11 (c) If, during the term of an interim owner category license, the Bureau determines
12 that the holder of that license may be disqualified for any of the reasons set forth in
13 Business and Professions Code section 19859, or may have violated one or more of the
14 conditions under which the interim owner category license was issued, the Bureau must
15 notify the Commission and the holder of the interim license. The matter will be set for
16 Commission consideration at a ~~non-evidentiary hearing~~ Commission meeting, which may
17 be no sooner than 45 calendar days after the Bureau's notice. The Bureau will present the
18 information related to its notice at the ~~non-evidentiary hearing~~ Commission meeting. The
19 interim license holder may address the Commission by way of an oral or written
20 statement, or both, at the Commission meeting. The Commission may act to cancel the
21 interim owner category license.

22 ...

23 Note: Authority cited: Sections 19811, 19823, 19824, 19825, 19826, 19840, 19841, 19853, 19870
24 and 19984, Business and Professions Code. Reference: Sections 19816, 19824, 19841(s), 19850,
25 19851, 19855, 19857, 19859, 19869, 19870(b) and 19984, Business and Professions Code.
26

27
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Appendix A

Notice of Defense

CGCC-CH1-03 (New 05/2009/21)

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State of California
California Gambling Control Commission
 2399 Gateway Oaks Drive, Suite 220
 Sacramento, CA 95833-4231
 (916) 263-0700; Fax: (916) 263-0452
 www.cgcc.ca.gov

In the Matter of:

CGCC No.

If your application was approved with conditions, restrictions, or limitations pursuant to California Code of Regulations (CCR), Title 4, Section 12054(a)(2) or denied pursuant to CCR, Title 4, Section 12054(a)(3), failure to submit this Notice of Defense to the California Gambling Control Commission (Commission) and the Bureau of Gambling Control (Bureau) will result in that decision becoming final. The Notice of Defense must be received by the Commission within 30 calendar days of the Commission meeting where the application was approved with conditions, restrictions, or limitations or was denied.

If your application was referred to an evidentiary hearing at a Commission meeting pursuant to CCR Section 12056(a) or by the Executive Director pursuant to CCR, Title 4, Section 12060(a), ~~failure to submit this Notice of Defense to the California Gambling Control Commission (Commission) and the Bureau of Gambling Control (Bureau)~~ may result in a default decision being issued by the Commission. The Notice of Defense must be received by the Commission and Bureau within ~~30~~21 calendar days of service by the Commission or Bureau.

SECTION 1: HEARING REQUEST	
PLEASE ANSWER THE FOLLOWING:	
<input type="checkbox"/>	I REQUEST AN EVIDENTIARY HEARING WHERE THE COMMISSION WILL CONSIDER THE MERITS OF MY APPLICATION, THE BUREAU REPORT, AND ANY RECOMMENDATION OF THE BUREAU.

SECTION 2: HEARING WAIVER	
PLEASE ONLY ANSWER THE FOLLOWING IF A HEARING IS NOT REQUESTED UNDER SECTION 1 ABOVE AND IF APPLICABLE:	
1	<input type="checkbox"/> I ACKNOWLEDGE AND ACCEPT THAT THE CONDITIONS, LIMITATIONS AND RESTRICTIONS ATTACHED TO THE NOTICE WILL BE PLACED ON MY LICENSE, REGISTRATION, FINDING OF SUITABILITY OR OTHER APPROVAL, AND I WAIVE MY RIGHT TO AN EVIDENTIARY HEARING. (SEE BOX 2)
	<input type="checkbox"/> I WAIVE MY RIGHT TO AN EVIDENTIARY HEARING. (SEE BOX 2)
2	<p>THE WAIVER OF MY RIGHT TO AN EVIDENTIARY HEARING INCLUDES A WAIVER OF THE FOLLOWING ASSOCIATED RIGHTS:</p> <ul style="list-style-type: none"> THE RIGHT TO BE HEARD AT THE HEARING THE RIGHT TO A COPY OF THE HEARING'S GOVERNING PROCEDURE THE RIGHT TO DISCOVERY THE RIGHT TO PRESENT ORAL EVIDENCE THE RIGHT TO PRESENT AND EXAMINE WITNESSES THE RIGHT TO INTRODUCE RELEVANT EXHIBITS THE RIGHT TO CROSS-EXAMINE OPPOSING WITNESSES THE RIGHT TO IMPEACH WITNESSES THE RIGHT TO OFFER REBUTTAL EVIDENCE THE RIGHT TO CHALLENGE EVIDENCE USED AGAINST ME THE RIGHT TO REQUEST RECONSIDERATION FOLLOWING THE DECISION'S ISSUANCE THE RIGHT TO PETITION FOR REVIEW OF THE DECISION UNDER SECTION 1085 OF THE CODE OF CIVIL PROCEDURE <p>THE WAIVER OF AN EVIDENTIARY HEARING MAY RESULT IN A DEFAULT DECISION BEING ISSUED BY THE COMMISSION BASED UPON THE BUREAU REPORT, ANY SUPPLEMENTAL REPORTS BY THE BUREAU AND ANY OTHER DOCUMENTS OR TESTIMONY ALREADY PROVIDED OR WHICH MAY BE PROVIDED TO THE COMMISSION, OR THAT THE HEARING MAY CONTINUE TO OCCUR ON THE ORIGINALLY NOTICED DATE WITHOUT APPLICANT PARTICIPATION.</p>

Additions shown in blue underline; deletions shown in ~~red-strikeout~~.

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SECTION 3: LANGUAGE PREFERENCE

PLEASE ANSWER ONE OF THE FOLLOWING **[IF YOU REQUIRE ASSISTANCE, PLEASE CONTACT THE COMMISSION AT (916) 263-0700]**:

<input type="checkbox"/>	I UNDERSTAND ENGLISH AND HAVE READ AND UNDERSTAND THIS FORM.	
<input type="checkbox"/>	I DO NOT UNDERSTAND ENGLISH AND HAVE HAD AN INTERPRETER READ AND EXPLAIN THIS FORM TO ME.	
<input type="checkbox"/>	I WILL REQUIRE AN INTERPRETER AT THE HEARING.	INTERPRETER LANGUAGE:

SECTION 4: REPRESENTED BY AN ATTORNEY

PLEASE ONLY ANSWER THE FOLLOWING IF YOU ARE REPRESENTED BY AN ATTORNEY:

<input type="checkbox"/>	I AM REPRESENTED BY AN ATTORNEY, WHOSE NAME, ADDRESS, TELEPHONE NUMBER, AND EMAIL ADDRESS APPEAR BELOW:	
NAME:		
MAILING ADDRESS:		
CITY, STATE AND ZIP CODE:		
TELEPHONE NUMBER:		
EMAIL ADDRESS:		
<input type="checkbox"/>	MY ATTORNEY REQUESTS THAT ALL NOTICES OR WRITTEN COMMUNICATIONS FOR PURPOSES OF THE EVIDENTIARY HEARING BE PROVIDED VIA EMAIL, INSTEAD OF VIA MAIL.	

SECTION 5: SELF-REPRESENTED (WITH OR WITHOUT LAY REPRESENTATION)

PLEASE ANSWER THE FOLLOWING IF YOU ARE NOT REPRESENTED BY AN ATTORNEY OR IF YOU HAVE THE ASSISTANCE OF A LAY REPRESENTATIVE:

<input type="checkbox"/>	I AM NOT REPRESENTED BY AN ATTORNEY. IF AND WHEN AN ATTORNEY IS RETAINED, IMMEDIATE NOTIFICATION OF THE ATTORNEY'S NAME, ADDRESS, TELEPHONE NUMBER, AND EMAIL ADDRESS WILL BE PROVIDED TO THE COMMISSION AND THE BUREAU SO THAT THE ATTORNEY WILL BE ON THE RECORD TO RECEIVE LEGAL NOTICES, PLEADINGS, AND OTHER PAPERS. MY ADDRESS, TELEPHONE NUMBER, AND EMAIL ADDRESS APPEAR BELOW:	
MAILING ADDRESS:		
CITY, STATE AND ZIP CODE:		
TELEPHONE NUMBER:		
EMAIL ADDRESS:		
<input type="checkbox"/>	I REQUEST THAT ALL NOTICES OR WRITTEN COMMUNICATIONS FOR PURPOSES OF THE EVIDENTIARY HEARING BE PROVIDED TO ME VIA EMAIL, INSTEAD OF VIA MAIL.	
<input type="checkbox"/>	I WILL HAVE THE ASSISTANCE OF A LAY REPRESENTATIVE DURING THE HEARING.	

SECTION 6: SIGNATURE

PLEASE FILL OUT THE FOLLOWING. FOR CAPACITY PLEASE LIST THE RELATIONSHIP TO THE APPLICANT (I.E. OWNER, OFFICER, DIRECTOR, MANAGING MEMBER, GENERAL PARTNER, ETC. WRITE N/A IF INDIVIDUAL SIGNING ON OWN BEHALF. LAY REPRESENTATIVES MAY NOT COMPLETE THIS SECTION ON BEHALF OF THE APPLICANT).

PRINTED NAME	SIGNATURE	CAPACITY	DATE (MM/DD/YYYY)

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