

**TITLE 4.**  
**CALIFORNIA GAMBLING CONTROL COMMISSION**  
**NOTICE OF PROPOSED REGULATORY ACTION**  
**Advertising**  
**CGCC-GCA-2025-02-R**

**NOTICE IS HEREBY GIVEN** that the California Gambling Control Commission (Commission) is proposing to take the action described in the Informative Digest after consideration of all relevant public comments, objections, and recommendations received concerning the proposed action. Comments, objections, and recommendations may be submitted as follows:

**WRITTEN COMMENT PERIOD**

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Commission at any time during the 45-day public comment period, which closes on **September 15, 2025**. Written comments relevant to the proposed regulatory action may be sent by mail, facsimile, or e-mail, directed to one of the individuals designated in this notice as a contact person. To be eligible for the Commission's consideration, all written comments must be **received at its office no later than September 15, 2025. Comments sent to persons and/or addresses other than those specified under Contact Persons, or received after the date and time specified above, will be included in the record of this proposed regulatory action, but will not be summarized or responded to regardless of the manner of transmission.**

**PUBLIC HEARING**

The Commission has not scheduled a public hearing on this matter. Any interested person, or his or her authorized representative, may request a hearing pursuant to Government Code section 11346.8. A request for a hearing should be directed to the person(s) listed under Contact Persons no later than 15 days prior to the close of the written comment period.

**ADOPTION OF PROPOSED ACTION**

After the close of the public comment period, the Commission, upon its own motion or at the instance of any interested party, may thereafter formally adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit oral or written testimony related to this proposal or who have requested notification of any changes to the proposal.

**AUTHORITY AND REFERENCE**

Pursuant to the authority vested by Sections 19811, 19824, 19826, 19840, 19841, 19856, 19857, 19859, 19920, 19930, 19931 and 19984 of the Business and Professions Code; and to implement,

interpret or make specific Sections 17500, 17508, 19801, 19841, 19920, 19943.5 and 19984 of the Business and Professions Code, Section 330 of the Penal Code, and Sections 4369.2 and 4369.4 of the Welfare and Institutions Code; the Commission is proposing to adopt the following changes to Chapters 1 and 7 of Division 18 of Title 4 of the California Code of Regulations (CCR):

## INFORMATIVE DIGEST AND POLICY STATEMENT

### Introduction:

The Commission is proposing regulations that would implement the Commission’s mandate under the Gambling Control Act (Act)<sup>1</sup> to ensure the integrity of gambling in California with respect to advertising activities. Specifically, these regulations would implement Business and Professions (B&P) Code section 19841, subdivision (f), which requires the Commission to provide for the disapproval of deceptive advertising by licensed gambling establishments (also known as “cardrooms”), as determined by the Department of Justice, Bureau of Gambling Control (Bureau).<sup>2</sup> Notably, the statute specifies that an advertisement is presumptively deceptive if it appeals to children or adolescents, or offers gambling as a means of becoming wealthy.

To date, the Commission has found numerous examples of existing and prior advertisements that do not contain a required responsible gambling message and/or information and referral services for problem gamblers, pursuant to Title 4, CCR, Section 12461. Further, the existing regulations do not specify how the information must be presented, which has resulted in some advertisements delivering the information in an unclear and inconspicuous manner. This has the result of nullifying the regulatory requirement by making it difficult, if not impossible, for the public to review and understand the required information.

Additionally, the Commission is aware that, as a current industry practice, many gambling establishments provide charitable support to local youth and community functions, such as youth sports teams, toy drives, and holiday tree lighting ceremonies. This includes placing a cardroom’s name and/or logo on the children’s uniforms, team banners, event programs and pamphlets, etc. While these sponsorships are well-intended and benefit local communities, regulations containing criteria for the Bureau to consider are needed to ensure these sponsorships are done in a manner that does not make gambling appeal to impressionable youth.

Further, some advertisements reviewed by the Commission contain untrue or misleading statements using the terms “Nevada” or “Vegas” in reference to the types of games or gaming activities offered at a cardroom. Other advertisements include a name different from the actual Bureau-approved game or portray prohibited games such as “21,” which has historically been known by a variety of other names, including “Blackjack.”<sup>3</sup> These types of statements within

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<sup>1</sup> Business and Professions Code, Division 8, Chapter 4, section 19800 et seq.

<sup>2</sup> In the Act, “department” refers to the Department of Justice. While the Act assigns certain powers and authority to the department, in actual practice the responsibility for fulfilling the obligations imposed upon the department has been delegated by the Attorney General to the Bureau of Gambling Control, pursuant to Business and Professions Code section 19810.

<sup>3</sup> The California Constitution and Penal Code section 330 prohibit the play of specifically enumerated games, among them “any game of . . . *twenty-one* . . . .” Twenty-one is, and historically has been, known by a variety of names. At

advertisements can mislead the public into thinking that a cardroom offers banking or percentage card games (banked games),<sup>4</sup> which are exclusively limited to being operated by federally recognized Indian tribes on Indian lands in California,<sup>5</sup> and for casinos of the type operating in Nevada and New Jersey.

Currently, there is no regulatory framework established to provide for the disapproval of an advertisement that is determined by the Bureau to be deceptive to the public. Additionally, the Bureau has no specific criteria or procedures to utilize in making consistent determinations for purposes of enforcement, which this regulatory proposal seeks to establish. Furthermore, current regulations (Section 12461) lack specific guidance and requirements for owner category licensees in creating and disseminating advertisements.

Existing Laws:

**Title 15, United States Code, Section 55**, defines “false advertisement” to mean advertising which is materially misleading, taking into account not only representations made or suggested by a statement, word, design, device, sound, or any combination thereof, but also the extent to which the advertisement fails to reveal material facts relating to consequences from using the item featured in the advertisement.

**California Constitution, Article IV, Section 19, subdivision (e)**, prohibits the operation of casinos of the type (offering banking or percentage games) currently operating in Nevada and New Jersey.

**B&P Code section 17500** makes it a crime to engage in false or deceptive advertising about the nature of a product or service.

**B&P Code section 17508** makes it “unlawful for any person doing business in California and advertising to consumers in California to make any false or misleading advertising claim, including claims that: (1) purport to be based on factual, objective, or clinical evidence, (2) compare the product’s effectiveness or safety to that of other brands or products, or (3) purport to be based on any fact.”

**B&P Code section 19801**, in part, provides the following findings and declarations of the Legislature:

- **Subdivision (a)**. State law prohibits commercially operated lotteries, banked or percentage games, and gambling machines, and strictly regulates parimutuel wagering on horse racing. To the extent that state law categorically prohibits certain forms of gambling and prohibits gambling devices, nothing herein shall be construed, in any manner, to reflect a legislative intent to relax those prohibitions.

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the time that twenty-one was added to the list of games prohibited by Penal Code section 330, a number of variations of twenty-one had been recognized. (*Scarne, Scarne’s New Complete Guide to Gambling (Simon & Schuster (1974), p. 350, hereafter “Scarne.”*). Additionally, the game of “blackjack” has been referred to interchangeably with the game of “twenty-one” for decades in general parlance, in other jurisdictions, numerous California and federal judicial decisions, and under the federal Indian Gaming Regulatory Act.

<sup>4</sup> See Business and Professions Code section 19805(c) and Penal Code section 330.11 for additional information.

<sup>5</sup> Pursuant to Class III Tribal-state gaming compacts and Secretarial Procedures, in accordance with federal law.

- **Subdivision (c).** Gambling can become addictive and is not an activity to be promoted or legitimized as entertainment for children and families.
- **Subdivision (d).** Unregulated gambling enterprises are inimical to the public health, safety, welfare, and good order. Accordingly, no person in this state has a right to operate a gambling enterprise except as may be expressly permitted by the laws of this state and by the ordinances of local governmental bodies.
- **Subdivision (f).** It is not the purpose of the Act to expand opportunities for gambling, or to create any right to operate a gambling enterprise in this state or to have a financial interest in any gambling enterprise. Rather, it is the purpose of the Act to regulate businesses that offer otherwise lawful forms of gambling games.
- **Subdivision (g).** Public trust that permissible gambling will not endanger public health, safety, or welfare requires that comprehensive measures be enacted to ensure that gambling is free from criminal and corruptive elements, that it is conducted honestly and competitively, and that it is conducted in suitable locations.
- **Subdivision (h).** Public trust and confidence can only be maintained by strict and comprehensive regulation of all persons, locations, practices, associations, and activities related to the operation of lawful gambling establishments and the manufacture and distribution of permissible gambling equipment.

**B&P Code section 19805, subdivision (c),** specifies that a “banking game” or “banked game” does not include a controlled game if the published rules of the game feature a player-dealer position and provide that this position must be continuously and systematically rotated amongst each of the participants during the play of the game, ensure that the player-dealer is able to win or lose only a fixed and limited wager during the play of the game, and preclude the house, another entity, a player, or an observer from maintaining or operating as a bank during the course of the game. The section is not intended to mandate acceptance of the deal by every player if the Bureau finds that the rules of the game render the maintenance of or operation of a bank impossible by other means. Further, this section specifies that cardrooms are prohibited from occupying the player-dealer position.

**B&P Code section 19811, subdivision (b),** charges the Commission with jurisdiction, including jurisdiction over operation and concentration, and supervision over gambling establishments in this state and over all persons or things having to do with the operations of gambling establishments.

**B&P Code section 19824,** provides the Commission shall have all powers necessary and proper to enable it fully and effectually to carry out the policies and purposes of the Act, including, without limitation, the power to do the following:

- **Subdivision (b).** For any cause deemed reasonable by the Commission, deny any application for a license, permit, or approval provided for in the Act or regulations

adopted pursuant to the Act, limit, condition, or restrict any license, permit, or approval, or impose any fine upon any person licensed or approved. The Commission may condition, restrict, discipline, or take action against the license of an individual owner endorsed on the license certificate of the gambling enterprise whether or not the Commission takes action against the license of the gambling enterprise.

- **Subdivision (d).** Take actions deemed to be reasonable to ensure that no ineligible, unqualified, disqualified, or unsuitable persons are associated with controlled gambling activities.
- **Subdivision (g).** Institute a civil action in any superior court against any person subject to the Act to restrain a violation thereof. An action brought against a person pursuant to this section does not preclude a criminal action or administrative proceeding against that person by the Attorney General or any district attorney or city attorney.

**B&P Code section 19826** provides, in part, the Department shall perform all investigatory functions required by the Act and shall have the following responsibilities:

- **Subdivision (b).** To monitor the conduct of all licensees and other persons having a material involvement, directly or indirectly, with a gambling operation or its holding company, for the purpose of ensuring that licenses are not issued or held by ineligible, unqualified, disqualified, or unsuitable persons, or persons whose operations are conducted in a manner that is inimical to the public health, safety, or welfare.
- **Subdivision (c).** To investigate suspected violations of the Act or laws of this state relating to gambling, including any activity prohibited by Chapter 9 (commencing with Section 319) or Chapter 10 (commencing with Section 330) of Title 9 of Part 1 of the Penal Code.
- **Subdivision (d).** To investigate complaints that are lodged against licensees, or other persons associated with a gambling operation, by members of the public.
- **Subdivision (e).** To initiate, where appropriate, disciplinary actions as provided in the Act. In connection with any disciplinary action, the department may seek restriction, limitation, suspension, or revocation of any license or approval, or the imposition of any fine upon any person licensed or approved.
- **Subdivision (g).** Approve the play of any controlled game, including placing restrictions and limitations on how a controlled game may be played. The Department shall make available to the public the rules of play and the collection rates of each gaming activity approved for play at each gambling establishment on the Attorney General's Website.

**B&P Code section 19840** provides the Commission may adopt regulations for the administration and enforcement of the Act.

**B&P Code section 19841** requires the Commission to adopt various regulations, including the following:

- **Subdivision (f)** regulations to provide for the disapproval of advertising by licensed gambling establishments that is determined by the Bureau to be deceptive to the public. Advertisements that appeal to children or adolescents or that offer gambling as a means of becoming wealthy are presumptively deceptive. Additionally, this statute requires that the proposed advertising regulations be “consistent with” the advertising regulations adopted by the California Horse Racing Board (CHRB) and the Lottery Commission (Lottery).
- **Subdivision (o)** regulations that restrict, limit, or otherwise regulate any activity that is related to the conduct of controlled gambling.

**B&P Code section 19856:**

- **Subdivision (a).** The Commission may issue a state license to any person it determines to be qualified, taking into consideration the need to protect the health, safety, and general welfare of California residents, as well as the state's declared policy on gambling. The applicant bears the burden of proving their qualifications for licensure.
- **Subdivision (b).** In submitting a license application, the applicant is requesting an evaluation of their general character, integrity, and capability to engage in, participate in, or be associated with controlled gambling.
- **Subdivision (c).** When evaluating any license application, the Commission is required to assess whether granting the license would be contrary to public health, safety, or welfare, and whether doing so would compromise public confidence that the associated gambling operations are free from criminal or dishonest influences and are conducted with integrity.

**B&P Code section 19857** establishes that a gambling license may not be issued unless the Commission is fully satisfied, based on all submitted information and documentation, that the applicant is all of the following:

- **Subdivision (a).** A person of good character, honesty, and integrity.
- **Subdivision (b).** A person whose prior activities, criminal record, if any, reputation, habits, and associations do not pose a threat to the public interest of this state, or to the effective regulation and control of controlled gambling, or create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities in the conduct of controlled gambling.
- **Subdivision (c).** A person that is in all otherwise qualified for licensure in accordance with the provisions of the Act.

**B&P Code section 19859, subdivision (a)**, requires the Commission to deny a license to any applicant who is disqualified for, among other reasons, failure of the applicant to clearly establish eligibility and qualification in accordance with the Act.

**B&P Code section 19920** states that it is the policy of the State of California to require that all cardrooms in this state be operated in a manner suitable to protect the public health, safety, and general welfare of the residents of the state. Responsibility for the employment and maintenance of suitable methods of operation rests with the owner licensee, and willful or persistent use or toleration of methods of operation deemed unsuitable by the Commission or by local government shall constitute grounds for license revocation or other disciplinary action.

**B&P Code section 19930**, in part, requires the Bureau to make appropriate investigations for determining violations of the Act or any regulations adopted thereunder. If, pursuant to any investigation, the Bureau determines that a license should be suspended or revoked, the Bureau shall file an accusation with the Commission in accordance with Chapter 5 of Part 1 of Division 3 of Title 2 of the Government Code. In addition to any action that the Commission may take against a license, the Commission may also require the payment of fines or penalties.

**B&P Code section 19931** authorizes the Bureau to issue emergency orders against an owner category licensee that the Bureau deems reasonably necessary for the immediate preservation of the public peace, health, safety, or general welfare. The emergency order must clearly state the reasons for its issuance, including a detailed explanation of the facts that justify the emergency action.

**B&P Code section 19941** prohibits individuals under 21 from gambling, wagering, collecting winnings, loitering in gambling areas, presenting false identification, or being employed in a gambling establishment (with limited exceptions). An underage individual who violates any of these prohibitions is guilty of a misdemeanor. Further, a licensee or employee in a gambling establishment who knowingly violates specified prohibitions or knowingly permits such violations is guilty of a misdemeanor. Licensees who rely in good faith on valid government-issued ID are protected from liability under this statute.

**B&P Code section 19943.5** provides that if a gambling enterprise conducts play of a controlled game that has been approved by the Bureau pursuant to Section 19826, and the controlled game is subsequently found to be unlawful, so long as the game was played in the manner approved, the approval by the Bureau shall be an absolute defense to any criminal, administrative, or civil action that may be brought, provided that the game is played during the time for which it was approved by the Bureau and the gambling enterprise ceases play upon notice that the game has been found unlawful. In any enforcement action, the gambling enterprise shall have the burden of proving the department approved the controlled game and that the game was played in the manner approved.

**B&P Code section 19984**, notwithstanding any other law, permits a licensed gambling enterprise to enter a contract with a TPPPS to provide proposition player services at a gambling establishment, subject to the following conditions (in part):

- **Subdivision (a).** Any agreement or arrangement between a gambling enterprise and a TPPPS must receive prior approval from the Department. Further, the gambling enterprise or the house is prohibited from holding any direct or indirect financial interest in the funds wagered, lost, or won in connection with such services.
- **Subdivision (b).** The Commission must establish reasonable criteria for, and require the licensure and registration of any person or entity providing proposition player services under this section, including owners, supervisors, and players. The Commission is authorized to impose any licensing requirements, disclosures, approvals, conditions, or limitations it deems necessary to maintain the integrity of controlled gambling in this state.

**Penal Code section 330** prohibits gambling establishments from offering certain types of games including any banking or percentage games. Specifically, this provision provides that every person who deals, plays, or carries on, opens, or causes to be opened, or who conducts, either as owner or employee, whether for hire or not, any game of faro, monte, roulette, lansquenet, rouge et noire, rondo, tan, fan-tan, seven-and-a-half, twenty-one, hokey-pokey, or any banking or percentage game played with cards, dice, or any device, for money, checks, credit, or other representative of value, and every person who plays or bets at or against any of those prohibited games, is guilty of a misdemeanor, and shall be punishable by a fine not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000), or by imprisonment in the county jail not exceeding six months, or by both the fine and imprisonment

**Penal Code section 330.11** provides that a “banking game” or “banked game” does not include a controlled game if the published rules of the game feature a player-dealer position and provide that this position must be continuously and systematically rotated amongst each of the participants during the play of the game, ensure that the player-dealer is able to win or lose only a fixed and limited wager during the play of the game, and preclude the house, another entity, a player, or an observer from maintaining or operating as a bank during the course of the game. The section is not intended to mandate acceptance of the deal by every player if the Bureau finds that the rules of the game render the maintenance of or operation of a bank impossible by other means. Further, this section specifies that cardrooms are prohibited from occupying the player-dealer position.

**Welfare and Institutions Code section 4369.2** mandates the State Department of Public Health, Office of Problem Gambling, develop a gambling disorder prevention program including crisis management via a toll-free referral service, public awareness campaigns, and research programs on gambling disorders. Further, the provision requires the development of specialized training for healthcare professionals and educators, law enforcement, nonprofit organizations, and gambling industry personnel in identifying and referring individuals at risk for gambling disorders and obtaining knowledge of referral and treatment services.

**Welfare and Institutions Code section 4369.4** requires the Commission in its role as a state agency that regulates gambling, to coordinate with the Department of Public Health’s Office of Problem Gambling to ensure that the Commission’s programs take into account, as much as practicable, gambling disorders.

Existing Regulations:

**Title 4, CCR, Section 12006** contains requirements and procedures for notices and other written communications made pursuant to this section and specifies that the service thereof is effective upon mailing or transmission.

**Title 4, CCR, Section 12461** requires the posting problem gambling information and referral services on websites and advertisements operated by or on behalf of any cardroom business licensee or TPPPS business licensee. Additionally, this section contains exceptions for digital materials and promotional items with size and space limitations.

**Title 4, CCR, Section 12550**, in part, provides that the purpose of this chapter (Chapter 10) is to establish disciplinary procedures and guidelines applicable to the holder of any license, registration, permit, finding of suitability, or approval issued by the Commission. Additionally, this section specifies that nothing in this chapter precludes the Bureau, in its discretion, from issuing warning notices, notices to cure, advisory letters regarding violations or possible violations of law, or from withdrawing such upon further investigation.

**Title 11, CCR, Section 2072, subsection (e)** requires that each licensed gambling establishment submit a biannual report to the Bureau which includes, among other things, copies or transcripts of all advertisements within the prior six months used to promote a gaming activity offered at a gambling establishment.

**Regulations of the California Horse Racing Board and the Lottery Commission**

B&P Code section 19841(f) requires that the Commission's advertising regulations be "consistent with" (not identical to) the advertising regulations adopted by CHRB and the Lottery. While the Lottery has not adopted any advertising regulations, CHRB has several regulations related to advertising. However, many of CHRB's advertising regulations are inapplicable to advertising a controlled game or gaming activity, such as the requirements prohibiting the use of symbols or markings on uniforms and prohibiting the use of a stable name registration for advertising purposes (Title 4, CCR, Div. 4, Art. 12).

*California Horse Racing Board*

The proposed regulations are consistent with those regulations adopted by CHRB that are also relevant to advertising a controlled game or gaming activity, specifically in the following areas:

- **Underage Gambling.** Both CHRB and the Commission prohibit and discourage gambling by persons under 21. For example, CHRB regulations in Title 4, CCR, Division 4, Section 2066(d), require that all advertisements "contain a statement that persons under 21 are not allowed access to the minisatellite wagering site." Similarly, the proposed language in Section 12097(c)(2) provides that advertisements must include a "statement that participants must be 21 or older to gamble."
- **Problem Gambling.** The Commission's proposed regulations are consistent with the regulations adopted by the CHRB in that they both require advertisements to contain contact information for problem gambling support. CHRB regulations in Title 4, CCR,

Division 4, Sections 2066(d), 2071(h), and 2072(h), require that all advertisements must “contain contact information for a recognized problem-gambling support organization.” Similarly, the proposed language in Section 12097(c)(3) requires that all advertisements include a responsible gambling message and a reference to one of the referral services for problem gamblers approved by the Office of Problem Gambling.<sup>6</sup>

#### *Lottery Commission*

Presently, there are no regulations by the Lottery that relate to the Commission’s proposed regulations that provide for the disapproval of deceptive advertising. Most of the Lottery’s advertising requirements are located within statute and not regulation. For example, Government Code section 8880.24 requires the Lottery to comply with both the letter and spirit of the laws governing false and misleading advertising, including B&P Code section 17500 et seq.

Notably, California Lottery Regulations section 7.5.7 requires retailers to post “Play Responsibly” signage and other related point-of-sale materials at play centers, including maintaining and making available to players, responsible gaming awareness brochures and related publications supplied by the Lottery. This requirement is similar in nature to the Commission’s existing and proposed regulations in Sections 12097 and 12461.

#### *Commission’s Proposed Advertising Regulations*

While B&P Code section 19841(f) provides that the Commission’s regulations “shall be consistent with the advertising regulations adopted by the California Horse Racing Board and the Lottery Commission,” it would be inappropriate for the Commission to adopt identical requirements that do not account for the unique environment of California’s controlled gaming industry. As such, the Commission’s advertising regulations have been appropriately developed to meet the consistency standard in statute while maintaining alignment and compatibility with the directives of the Act.

#### Effect of Regulatory Action:

The proposed action implements the Commission’s mandate in B&P Code section 19841(f) by establishing a regulatory framework for the disapproval of advertising by licensed gambling establishments that has been determined by the Bureau to be deceptive to the public. Specifically, this proposal provides updates and additional specificity to existing problem gambling information requirements<sup>7</sup>, and adds new definitions, requirements, and specified criteria for the Bureau’s consideration in determining the disapproval of deceptive advertising by or for any owner category licensee<sup>8</sup>. The proposed action also establishes standards and guidance for owner category licensees concerning the content (including safe harbors and prohibited statements), dissemination, and control of gambling-related advertisements. Additionally, the regulations establish procedures for the Bureau to notify an owner category licensee of its disapproval and for owner category licensees to rebut the Bureau’s determination of a deceptive

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<sup>6</sup> Under the California Department of Public Health, the Office of Problem Gambling provides health education and training services to aid in the identification of problem gambling behaviors and provides prevention and treatment resources to mitigate the effects of problem gambling.

<sup>7</sup> Located in Title 4, CCR, Section 12461

<sup>8</sup> “Owner category licensee” means a cardroom owner type license or TPPPS owner type license. (Title 4, CCR, Section 12002, subsection (aj))

advertisement. The regulations also refer to existing disciplinary actions that may be exercised because of an owner category licensee's failure to correct a deceptive advertisement.

Anticipated Benefits of the Regulation:

The proposed action will have the benefit of fulfilling the Commission's statutory mandate in B&P Code section 19841(f), safeguarding the health, safety, and general welfare of the public from deceptive advertising practices, maintaining the integrity of the cardroom industry and enhancing public trust in controlled gaming. By updating and providing additional specificity to the existing problem gambling information requirements, the proposed regulations will enhance awareness and prevention of problem gambling. They will also better inform those affected by gambling disorders about the available, no-cost, confidential resources for getting help. Additionally, the proposed action is anticipated to dissuade and reduce deceptive cardroom advertising that inappropriately targets or appeals to persons under the age of 21, entices participation in gambling as a means of becoming wealthy, makes false or misleading claims, or refers to games prohibited by Penal Code section 330. Lastly, the regulations address deceptive cardroom advertisements that depict, illustrate, portray, or refer to banking and percentage card games—the style of gaming that is exclusively limited to being operated by federally recognized Indian tribes on Indian lands in California and by casinos of the type operating in Nevada and New Jersey. The proposed requirements are anticipated to reduce these types of misleading cardroom advertising practices, which will in turn, improve public trust and protection in the controlled gaming industry.

**SPECIFIC PROPOSAL:**

This proposed action will make changes within Title 4, CCR, Division 18 as follows:

CHAPTER 1. GENERAL PROVISIONS.

ARTICLE 1. DEFINITIONS AND GENERAL PROCEDURES.

**Amend Section 12002. General Definitions.**

This section provides general definitions for this division. Non-substantive changes have been applied throughout to renumber the existing definitions accordingly.

**Subsection (b)** adds the definition of “advertise” or “advertising” to mean the publication, dissemination, or causing the publication or dissemination of an “advertisement.” This definition provides for use of the verb forms of “advertisement” throughout the regulations.

**Subsection (c)** adds the definition of “advertisement,” as used throughout the proposed regulations. The definition includes the following components of what constitutes an advertisement:

- “Any written or verbal statement, illustration, or depiction...” This language targets a broad range of instances in which a gambling activity is portrayed through written or spoken words, images, or graphics.

- “...that is disseminated to the public...” This language provides that the requirements do not apply to advertisements under development or in draft form, which have not yet been released to the public.
- “...which is calculated to induce participation in a controlled game or gaming activity at one or more gambling establishments...” This language adds further specificity to the definition to target only advertising intended to solicit, encourage, or promote participation in controlled gambling.
- “..., including, without limitation, any written, printed, graphic, or other material, billboard, sign, or other outdoor display, periodical literature, publication, or in a radio or television broadcast, social media business page, or in any other media.” This language specifies the various forms of media by which an advertisement may be disseminated or displayed to the public.
- **Paragraph (1)** specifies what does not fall under the definition of an advertisement. Specifically, the advertising requirements do not apply to the following:
  - **Subparagraph (A):** “The solicitation of activities, events, or services that do not relate to the conduct of or participation in a controlled game or gaming activity and may otherwise be provided on the licensed premises including, but not limited to, restaurant dining, concerts, trade shows, business conferences, and non-gambling related promotions and contests.” For the purposes of this provision, the term “licensed premises” has the same meaning as “gambling establishment” pursuant to the definition provided in B&P Code section 19805, subdivision (o). These terms are used to describe one or more rooms where any controlled gambling or activity directly related thereto occurs (as specified). The express language provides that advertisements used to solicit non-gambling related activities at a gambling establishment (e.g. restaurant dining, concerts, trade shows, etc.) are not subject to the same regulatory restrictions and requirements as those that fall under the definition of an advertisement.
  - **Subparagraph (B):** “Use of the name, nickname, alias, or any other name by which the gambling establishment is commonly known, including its logo or trademark, exclusive of any other content.” This language provides that the sole display or use of a gambling establishment’s name(s), logo, or trademark is not considered an advertisement, as defined for the purpose of the regulations. This exemption allows a cardroom to use its name and logo exclusive of any other content, such as when sponsoring youth events or sports leagues.
  - **Subparagraph (C):** “Any editorial or other reading material, such as a news release, in any periodical, publication, or newspaper for the publication of which no money or valuable consideration is paid or promised, directly or indirectly, by any owner category licensee, and which is not written by or at the direction of the owner category licensee.” This language broadly exempts reading materials about a gambling establishment written independently and without direction or

compensation from an owner category licensee (e.g., news articles, business listings, information identifying charitable contributions, etc.).

- **Subparagraph (D):** *“The distribution of informational material that is not targeted at persons under 21 years of age for purposes of recognizing a donation, gift, or charitable contribution. The information provided may include the name, logo, and trademark of a gambling establishment and may be provided in informational material including, but not limited to, a program pamphlet or informational handout for an event, a posting on a charitable organization’s website, etc.”* This provision exempts materials that may recognize a gambling establishment for its donation, gift, or charitable contribution when the material does not target persons under 21 years of age.
- **Subparagraph (E):** *“Any job postings for employment opportunities.”* This provision clarifies that job postings for employment would not be subject to the requirements for advertisements. Notably, individuals between the ages of 18 and 21 are legally allowed to work within a gambling establishment under specified conditions.
- **Subparagraph (F):** *“Any notices or postings otherwise required by the Act, this Division, or Title 11, Division 3 of the California Code of Regulations, such as posted game rules.”* This provision clarifies that the advertising regulations do not apply to existing notice and posting requirements within the Act and other Commission and Bureau regulations to prevent conflicts with other requirements.
- **Paragraph (2)** clarifies that anything meeting the definition of an advertisement that is included with or attached to the items exempted under paragraph (c)(1) above, must comply with the requirements for advertisements in Article 5.

#### ARTICLE 5: ADVERTISING

##### **Adopt Section 12095. General Requirements.**

Section 12095 provides new general advertising requirements and responsibilities for all owner category licensees.

**Subsection (a)** applies the requirements within this article to all owner category licensees and specifies that the requirements are mandatory.

**Subsection (b)** specifies that any act, omission, or failure to comply with this article by an advertising agent, representative, contractor, or any other person retained by the owner category licensee, will be deemed an act, omission, or failure of the owner category licensee. This provision is consistent with the Commission’s authority and holds the owner category licensee responsible for advertising done through a contracted third-party providing advertising and marketing services.

**Subsection (c)** clarifies that it is not the intention of these regulations to imply or create a private cause of action based on any actions of the Bureau or Commission regarding a licensee's creation of and/or failure to timely correct an advertisement that is determined by the Bureau to be deceptive to the public. This provision is intended to protect owner category licensees from being litigated by competitors due to any violations of this article.

**Adopt Section 12096. Specific TPPPS Business Requirements.**

Section 12096 provides new specific advertising requirements and responsibilities for all TPPPS business licensees.

**Subsection (a)** contains requirements exclusive to a TPPPS business licensee, as discussed below:

- **Paragraph (1)** specifies a TPPPS business licensee will not create, purchase, place, or disseminate any advertisement for a cardroom business licensee unless the advertising costs and scope of services to be performed by the TPPPS are included in the TPPPS contract.<sup>9</sup> This requirement is consistent with current regulations, which require that all financial arrangements between the cardroom business licensee and TPPPS business licensee, including advertising, must be disclosed in the TPPPS contract. This provision is not intended to conflict with the requirements of B&P Code 19984(a).<sup>10</sup>
- **Paragraph (2)** requires the TPPPS business licensee to provide the cardroom business licensee with copies or transcripts of all advertisements used to promote a gaming activity that the TPPPS business licensee has, or has caused to be, created, purchased, placed, or disseminated for the cardroom business licensee. Further, the phrase “or has caused to be” makes the requirement applicable to advertising conducted through the services of a third-party advertising company. This provision is consistent with existing Bureau regulations in Title 11, CCR, Section 2072, subdivision (e), which requires each licensed gambling establishment to submit a biannual report to the Bureau that includes copies or transcripts of all advertisements used to promote a gaming activity in the prior six months.

**Adopt Section 12097. Advertising Content and Dissemination.**

This section establishes content and dissemination requirements for gambling advertisements. This section also provides specified criteria for the Bureau to cite in justifying its determination to disapprove an advertisement that is deceptive to the public consistent with the requirements and authority provided by the Act, including but not limited to B&P Code section 19841(f).

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<sup>9</sup> Title 4, CCR, Section 12002(ar) specifies that the term, “TPPPS contract” means a written contract, the terms of which have been reviewed and approved by the Bureau, between a cardroom business licensee and a TPPPS business licensee acting as an independent contractor for the provision of third-party proposition player services in the gambling establishment.

<sup>10</sup> Business and Professions Code section 19984(a). Any agreement, contract, or arrangement between a gambling enterprise and a third-party provider of proposition player services shall be approved in advance by the department, and in no event shall a gambling enterprise or the house have any interest, whether direct or indirect, in funds wagered, lost, or won.

**Subsection (a)** provides general criteria applicable to presenting the required information in a clear and conspicuous manner in all advertisements and ensures that the required information is legible and readable or audible and intelligible.

**Subsection (b)** specifies that the information required by paragraph (c)(2) of this section (a statement that participants must be 21 or older to gamble) and Section 12461(b)(1) (a responsible gambling message) must be presented in the same language as all the languages used in the advertisement.

**Subsection (c)** sets forth the following specific content requirements for all advertisements:

- **Paragraph (1)** requires that all advertisements include the name, nickname, alias, or any other name by which the gambling establishment is commonly known.
- **Paragraph (2)** requires that advertisements include a statement that participants must be 21 or older to gamble, which aligns with the existing requirements of B&P Code section 19941.
- **Paragraph (3)** requires advertisements include the information located in Section 12461(b)(1) and (3), which provides advertisements must contain a responsible gambling message and reference one of the information and referral services approved by the Office of Problem Gambling (or its successor).
- **Paragraph (4)** provides three approved ways to reference games within an advertisement. The game(s) advertised must be referred to in accordance with one of the three clauses discussed below.
  - **Subparagraphs (A) and (B)** contain requirements for referencing a Bureau-approved game or group of games within advertisements. These provisions require that when an advertisement references a game, either the name of the Bureau-approved game or group of games or the Bureau-approved alternative name for the game or group of games must be included. Subparagraph (B) allows for the potential use of alternative game names in the future, pending a policy and approval process that needs to be established by the Bureau before alternative game names could be allowed.
  - **Subparagraph (C)** contains requirements that are triggered when an advertisement identifies a game or group of games by a name other than a Bureau-approved name required by subparagraphs (A) and (B). In these instances, the advertisement must state one of the following safe harbors:

**Clause 1.** “*California game*” or “*California games*”. The term “California game” is defined by Commission regulation<sup>11</sup> and means a controlled game that features a player-dealer position, as described in Penal Code section

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<sup>11</sup> Title 4, CCR, Section 12002(h)

330.11. Cardrooms are statutorily prohibited from offering house-banked games, such as those offered at Class III Tribal gaming casinos and casinos operating in Nevada and New Jersey. Instead, cardrooms are limited to offering controlled games, such as poker, and California games.

**Clause 2.** *“This cardroom does not offer banked games”*. The difference between the term “banked game” and a systematically rotating player-dealer game is specified in B&P Code section 19805(c) and Penal Code section 330.11. Cardrooms are statutorily prohibited from operating banked games.

**Clause 3.** *Any other safe harbor statement(s) published by the Bureau at its discretion.* B&P Code section 19841(f) charges the Bureau with determining deceptive advertisements. This provision will provide cardrooms additional options for advertising the name of a game or group of games, should the Bureau decide to publish any safe harbor statements in the future.

- **Paragraph (5)** provides cardrooms with two options for referencing gaming activities within an advertisement in alignment with the requirements of the Act and Bureau regulations. Bureau regulation provides that a “gaming activity” is any activity or event including, but not limited to jackpots, bonuses, promotions, tournaments, drawing tickets, etc., which is appended to or relies upon a controlled game or games.<sup>12</sup> B&P Code section 19826(g) requires the Bureau to make the rules of play and the collection rates of each Bureau-approved game and gaming activity available to the public on the Attorney General’s website. Additionally, existing Bureau regulation deems it to be an unsuitable method of operation for a cardroom to fail to place in a conspicuous location, or make readily available to patrons, a printed list of the rules of play for each gaming activity offered at the cardroom.<sup>13</sup> The gaming activity advertised must be referred to in accordance with one of the two subparagraphs discussed below:
  - **Subparagraph (A)** requires the use of the Bureau-approved gaming activity name. The approved gaming activity name can be used by the public to obtain the approved gaming activity rules from the Bureau’s website or the gambling establishment.
  - **Subparagraph (B)** provides that any gaming activity name may be used if the Bureau-approved identification number is provided with it. The identification number can be used by the public to obtain the approved gaming activity rules from the Bureau’s website or the gambling establishment.

**Subsection (d)** contains specific exemptions for certain types of advertisements that are currently located in Section 12461(c)(1) and (2), which are proposed to be relocated and amended as follows :

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<sup>12</sup> Title 11, CCR, Section 2010(f)

<sup>13</sup> Title 11, CCR, Section 2070(f)

- **Paragraph (1)** contains express language that provides the requirements of paragraphs (c)(2) through (5) do not apply to any small tangible items upon which the information would be impracticable to print, display, or present, including, but not limited to: apparel, hats, pens, key chains, dishware, drinking glasses, coffee mugs, etc.
- **Paragraph (2)** provides the requirements of paragraphs (2) and (3) of subsection (c) do not apply to any digital material where the inclusion would be impracticable due to limited characters or spaces if the advertisement includes a link to a website that complies with Section 12461(b).

**Subsection (e)** states that an advertisement must not be deceptive to the public and establishes criteria the Bureau must consider in determining whether an advertisement is deceptive, while still maintaining the Bureau’s discretion to make its determination. This subsection also provides owner category licensees a set of guidelines to utilize in the creation of an advertisement.

- **Paragraph (1)** provides that in determining whether an advertisement is deceptive, the Bureau must consider if the advertisement depicts gambling as a means to become wealthy or resolve a financial burden. This requirement is consistent with B&P Code section 19841, subdivision (f), which states that an advertisement that offers gambling as a means to become wealthy is presumptively deceptive.
- **Paragraph (2)** provides that in determining whether an advertisement is deceptive, the Bureau must consider if the advertisement specifically targets or appeals to children or adolescents or encourages persons under 21 years of age to engage in controlled gambling. Additionally, the following subparagraphs go on to provide specific examples of advertisements that target or appeal to children or adolescents or encourage underage gambling. Specifically:
  - **Subparagraph (A)** provides if the advertisement uses depictions, images, appearances, or voice-over services of anyone less than 21 years of age.<sup>14</sup>
  - **Subparagraph (B)** provides if the advertisement uses objects such as toys, inflatables, movie characters, cartoon characters, or any other display, depiction, or image designed in a manner to appeal to minors or anyone under 21 years of age.<sup>15</sup>
  - **Subparagraph (C)** provides if the advertisement is disseminated on the premises of any day care center, youth center, preschool, or kindergarten through 12<sup>th</sup> grade school or related function thereof, or at any function that is being primarily held for persons under 21 years old. Notably, related exemptions are specified under the definition of an “advertisement” in Section 12002(c)(1).

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<sup>14</sup> This provision was adapted from the Distilled Spirits Council of the United States – 2023 Code of Responsible Practices for Beverage Alcohol Advertising and Marketing. <https://www.distilledspirits.org/code-of-responsible-practices/>.

<sup>15</sup> This provision was adapted from the United States Federal Trade Commission v R.J. Reynolds Tobacco, Docket No. 9285, 1997. <https://www.ftc.gov/sites/default/files/documents/cases/1997/05/d9285cmp.pdf>

- **Paragraph (3)** provides that in determining whether an advertisement is deceptive, the Bureau must consider if the advertisement uses the terms “Nevada” or “Vegas” to describe any of the games, group of games, or gaming activities offered at the cardroom. Additionally, this paragraph exempts the use of these terms in an advertisement if the terms are used to draw a distinction between the term and the games or gaming activities offered at the cardroom. The criteria of this paragraph align with existing law and provide a distinction between the games offered at cardrooms versus class III tribal gaming casinos and casinos of the type in Nevada and New Jersey.
- **Paragraph (4)**, in alignment with B&P Code section 17508, provides that in determining whether an advertisement is deceptive, the Bureau must consider if the advertisement makes any false or misleading claims. This provision maintains the Bureau’s discretion over the disapproval of deceptive advertisements and avoids creating any implication of civil liabilities resulting from a violation of the statute.

**Paragraph (5)** provides that in determining whether an advertisement is deceptive, the Bureau must consider if the advertisement depicts, illustrates, portrays, or references a game, group of games, or gaming activity that is not currently approved by the Bureau for the cardroom advertised. This provision is consistent with existing Penal Code prohibitions on banking and percentage games, the Bureau’s authority for approving games and gaming activities for each cardroom, and the Bureau’s discretion for determining whether an advertisement is deceptive. Additionally, this provision is consistent with an existing safe harbor in B&P Code section 19943.5, which protects licensees from any administrative actions concerning the advertising of a controlled game that was approved by the Bureau at the time of the advertisement, but is subsequently found to be unlawful.

**Adopt Section 12098. Age Confirmation in Advertising.**

This section establishes minimum age notification and affirmation requirements for advertising involving direct communication or dialogue and for placing potential customers on a mailing list. This section is consistent with the requirements of B&P Code sections 19801, 19841(f), 19941.

**Subsection (a)** requires the owner category licensee to use age affirmation, self-attestation, or other reasonable means to establish a good-faith belief that the recipient is 21 years of age or older prior to any advertising involving direct communication or dialogue directed at a particular individual. The provision also specifies that direct communication or dialogue may occur through any form of communication initiated by or for the owner category licensee and provides a nonexclusive list of examples of different forms of communication (in-person, telephone, physical mail, or electronic). Further, language is included to exempt digital advertising that utilizes age filtering for advertising to persons 21 years of age or older from the requirement.

**Subsection (b)** exempts age verification if the owner category licensee can verify it has already had the intended recipient verify they are at least 21 years of age via a method of age verification or self-attestation and the communication is sent only to the intended recipient. This allows for continued contact with individuals who have already been verified to meet the age requirement.

**Subsection (c)** requires that before any individual is allowed to join a mailing list, subscribe to content, or otherwise agree to receive direct communications from an owner category licensee, the licensee must either verify that the person is 21 years of age or older through age affirmation or self-attestation, or must provide a notice making it clear that recipients must be at least 21 years old.

**Adopt Section 12099. Disapproval of Advertising.**

This section establishes procedures for the Bureau's disapproval of deceptive advertisements and provides a process for owner category licensees to rebut the Bureau's disapproval. Additionally, this section references potential disciplinary and enforcement actions due to a violation. This section does not expand nor diminish the Commission or Bureau's existing authority and is consistent with the Commission's existing disciplinary procedures, timelines, and requirements for addressing other violations.

**Subsection (a)** provides the Bureau may issue a notice of disapproval to the owner category licensee, pursuant to Section 12006, if it determines an advertisement does not comply with this article (Article 5). Notably, Section 12006 contains requirements and procedures for issuing notices, orders and communications, and specifies that the notice is effective upon mailing or transmission. This subsection establishes a formal notification and warning process with clearly defined timelines. The information required to be included in the notice of disapproval also provides the owner category licensee with a corrective action plan that contains clear and specific guidance on what must be corrected.

This section requires that at minimum, the following information must be included in the notice of disapproval:

- **Paragraph (1)** – a legal citation of the violation (pursuant to the requirements of this article);
- **Paragraph (2)** – a description of each non-compliant part of the advertisement that does not comply with this article;
- **Paragraph (3)** – a deadline that provides at least 30 calendar days from the date of service (as specified in Section 12006) to comply with the notice of disapproval; and,
- **Paragraph (4)** – an explanation of the owner category licensee's right to submit written support to rebut the notice of disapproval, consistent with subsection (b).

**Subsection (b)** provides procedures, timelines, and requirements related to rebutting the Bureau's notice of disapproval.

- **Paragraph (1)** authorizes the owner category licensee to submit written support to rebut the Bureau's notice of disapproval within 14 calendar days following the Bureau's issuance of the notice of disapproval specified in subsection (a). This provision provides owner category licensees the opportunity to confer with the Bureau, request changes to

the notice of disapproval, and to provide additional information for the Bureau's reconsideration.

- **Paragraph (2)** provides that if the Bureau receives the owner category licensee's written support in accordance with the requirements of paragraph (1), the notice of disapproval will be stayed until the Bureau issues its final determination, as indicated in subsection (c).

**Subsection (c)** requires that within 30 calendar days of receiving the owner category licensee's written support in accordance with paragraph (b), the Bureau must consider the information provided and respond to the owner category licensee with the Bureau's final determination, pursuant to the requirements of Section 12006.

Additionally, this provision specifies that the Bureau's final determination must include a response consistent with one of the following:

- **Paragraph (1).** The Bureau's final determination to uphold or amend the notice of disapproval in subsection (a). Additionally, if responding in accordance with this paragraph, the Bureau must provide the owner category licensee with an updated deadline of at least 30 calendar days to comply with the Bureau's final determination; or,
- **Paragraph (2).** The Bureau's final determination to vacate the notice of disapproval, in which no corrective action is required by the licensee.

**Subsection (d)** addresses noncompliance by providing owner category licensees a general and informative reference to the Bureau's discipline and enforcement authority without creating a duplicative process. This section provides that the Bureau may take additional disciplinary action it deems appropriate if either a notice of disapproval or a final determination is issued in compliance with the requirements of this section and the owner category licensee fails to correct the noncompliant advertisement by the deadline specified by the Bureau.

**Subsection (e)** specifies the following must be included in the Bureau's report to the Commission for consideration during an owner category licensee's initial or renewal license application and may be considered a factor in determining suitability for licensure:

- Any failure to comply with a notice of disapproval;
- Any failure to comply with the Bureau's final determination;
- Instances of repeated violations of this article; and,
- Any subsequent actions by the owner category licensee and/or Bureau.

The provision further specifies that the above items may be considered a factor in determining the suitability for licensure of an applicant.

**Subsection (f)** provides a clarifying reference to the Bureau’s existing authority for conducting investigations and filing disciplinary actions under Chapter 10 of this division and/or under B&P Code sections 19930 and 19931.

CHAPTER 7. CONDITIONS OF OPERATION FOR GAMBLING ESTABLISHMENTS.  
ARTICLE 9. PROGRAM FOR RESPONSIBLE GAMBLING.

**Amend Section 12461. Posting Referral Information.**

This section contains requirements for posting problem gambling information and referral services on websites and advertisements operated by or on behalf of any cardroom business licensee or TPPPS business licensee. Additionally, this section contains exceptions for digital materials and promotional items with size and space limitations.

**Subsection (b)** requires a responsible gambling message and a hyperlink to the Office of Problem Gambling to be displayed on websites operated by or on behalf of any owner category licensee.

In this subsection, “on behalf of” is being replaced with “under the control of.” Further, this section is being amended to add social media landing pages to the types of advertising media required to contain problem gambling information. Additional amendments require the information to be displayed in a clear and conspicuous manner and presented in all languages used in the advertisement, as specified in subsections (a) and (b) of Section 12097.

Further, the information required by this subsection has been divided into three paragraphs. Additional information and referral services that are currently available for problem gamblers have been added to new paragraph (3), which provide the public with more direct and readily accessible ways to get immediate help with a gambling addiction problem, rather than having to navigate to the Office of Problem Gambling website to search for the same information.

**Subsection (c)** contains advertising content requirements for disclosing the problem gambling information and referral services provided in this section, which applies to advertisements distributed by television, radio, outdoor display, flyer, mail, or provided digitally. Paragraphs (1) and (2) of this section contain exemptions to those disclosure requirements for digital materials with limited characters or space and small tangible promotional items. This section is being repealed due to the amendments proposed to subsection (b) and the more specific and extensive advertising content requirements being added in Section 12097. The requirements and exemptions that were previously in this section have been modified, clarified, and expanded upon.

**CONSISTENCY OR COMPATIBILITY WITH EXISTING STATE REGULATIONS:**

The Commission has evaluated this regulatory action and determined that the proposed regulations are neither inconsistent nor incompatible with any other existing state regulations.

**COMPARABLE FEDERAL LAW:**

There are no existing federal regulations or statutes comparable to the proposed regulations.

## **FISCAL AND ECONOMIC IMPACT ESTIMATES**

### **FISCAL IMPACT ON PUBLIC AGENCIES INCLUDING COSTS OR SAVINGS TO STATE AGENCIES OR COSTS/SAVINGS IN FEDERAL FUNDING TO THE STATE:**

The Commission estimates that the proposed action will not have a significant fiscal impact on the Commission outside of its normal course of business.

The Bureau estimates the regulations will result in a total initial and ongoing workload increase of 2,132 hours annually (1,144 hours to enforcement staff + 988 hours to compliance staff). While this increase in workload is estimated to amount to an annual initial and ongoing cost of \$109,192.00, the Bureau anticipates utilizing existing resources/personnel to absorb the increase and does not foresee the need for additional staffing. Notably, the Bureau's legal team anticipates unquantifiable but potentially minor increases in workload to review disapproval notices. The Bureau anticipates utilizing existing resources/personnel to absorb the workload increase. Additionally, the Division of Civil Law (Licensing Section) and the Public Rights Division (Native American & Tribal Affairs Section) may be impacted by litigation arising out of the proposed regulations, if enacted as currently drafted.

There are no costs or savings in Federal funding to the State.

### **NON-DISCRETIONARY COST OR SAVINGS IMPOSED UPON LOCAL AGENCIES:**

None.

### **MANDATE IMPOSED ON ANY LOCAL AGENCY OR SCHOOL DISTRICT FOR WHICH PART 7 (COMMENCING WITH SECTION 17500) OF DIVISION 4 OF THE GOVERNMENT CODE REQUIRES REIMBURSEMENT:**

None.

### **COST TO ANY LOCAL AGENCY OR SCHOOL DISTRICT FOR WHICH PART 7 (COMMENCING WITH SECTION 17500) OF DIVISION 4 OF THE GOVERNMENT CODE REQUIRES REIMBURSEMENT:**

None.

### **EFFECT ON HOUSING COSTS:**

None.

### **IMPACT ON BUSINESS:**

The Commission has determined that the proposed regulatory action will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. This determination is based on the following facts or evidence/documents/testimony:

The proposed action only applies to advertising in which the cardroom industry voluntarily engages. Further, the proposed action does not require owner category licensees to participate in cardroom advertising, nor does it preclude cardroom advertising in general. The regulations provide advertising standards in alignment with existing statutory and regulatory requirements and criteria that the Bureau must consider in determining whether an advertisement is deceptive

to the public. The regulations will provide a layer of guidance and accountability for owner category licensees in the responsible development and dissemination of advertisements calculated to induce participation in controlled gambling and provide a process for the disapproval of advertisements determined by the Bureau to be deceptive to the public. Further, the regulations provide additional clarity and specificity to existing requirements for including problem gambling information and referral services on advertisements, websites, and social media platforms, to ensure this information is presented in a clear and conspicuous manner. Because the California cardroom industry does not cross state lines, the proposed action is not anticipated to affect the ability of cardrooms to compete with businesses in other states.

#### Small versus Typical Business Determination

For purposes of estimating the costs to implement the regulations to typical businesses and small businesses, the Commission utilized the federal Small Business Administration (SBA) category for casinos. As those categories are defined, a three-year average annual gross revenue of no more than \$34 million was used as the threshold for identifying small cardroom businesses, as specified in the North American Industry Classification System (NAICS) Code section 713210 and referenced by the SBA in Section 121.201 of Title 13, Part 121 of the Electronic Code of Federal Regulations. This revenue threshold was used in conjunction with the Commission's three-year average annual gross revenue data to determine the regulation's impact on small and typical cardroom businesses.

In reviewing the results of the survey, the estimated direct costs to cardrooms that would result from implementing the regulations are primarily associated with the cardroom business licensee's review and revision of existing and new advertisements to ensure compliance, including cardroom websites and social media business pages and posts. Additionally, there are estimated direct costs associated with review and updates to patron mailing list procedures and materials associated with age affirmation, self-attestation or other reasonable means to verify or substantiate a good-faith belief that the intended recipient is 21 years of age or older. Further, estimated direct costs have been reported regarding the process for rebutting a Bureau's notice of disapproval for advertisements determined by the Bureau to be deceptive to the public.

**TPPPS Businesses** – The Commission estimates the regulation will have no significant cost impact to TPPPS businesses (0% share in total costs to the industry). Meaning, cardroom businesses are expected to share 100% of the total industry costs. As previously mentioned, no survey responses were received from TPPPS businesses, which is likely due to the negligible impact the regulations could have on a TPPPS business. Most TPPPS businesses have very little to no involvement in cardroom advertising other than making payments to the cardroom to share in the reasonable costs of cardroom advertising, which must be specified in the TPPPS contract and is subject to the Bureau's approval. The proposed regulation only provides additional clarity and specificity to existing requirements and practices.

**Cardroom Businesses** – According to the Commission's latest three-year average annual gross revenue data used to calculate the 2025 annual fee amounts for each cardroom business licensee, there are a total of 80 cardroom business licensees with an active license status statewide. However, as of March 13, 2025, only 55 of those cardrooms are operational and have the potential to be impacted by the proposed regulation. The remaining 25 cardrooms with an active

license are currently not operational and thus, are not expected to be impacted by the regulation because there is no benefit or reason for them to disseminate gambling advertisements. While it is possible for some of the non-operational cardrooms to re-open in the future, this occurs seldomly and requires a process involving inspections and compliance checks, making it difficult to quantify. As such, we estimate any potential additional future cost impacts that would result from an increase in the number of operational cardrooms on an annual basis to be negligible.

The initial and ongoing costs to cardrooms are based on the actual adjusted costs reported by the 17 cardrooms that participated in the survey, broken down by those that are small businesses versus typical businesses. This came to a total annual initial cost of \$3,787,942.70 and a total annual ongoing cost of \$1,168,802.70 for all cardrooms that participated in the survey. The survey results were extrapolated to apply to the remaining 37 cardrooms that did not participate in the survey. This provided a total annual initial cost estimate of \$6,260,692.70 and a total annual ongoing cost estimate of \$2,280,175.20 for all cardrooms that did not participate in the survey.

**Total Statewide Costs** – Cardrooms are estimated to share 100% of the total industry costs to comply with the regulations. As such, the Commission estimates the regulations will result in a total annual statewide dollar cost to cardrooms of:

- \$10,048,635.40 in the first year (\$3,787,942.70 in total reported costs + \$6,260,692.70 in total costs based on the average costs reported); and,
- \$3,448,977.90 in each subsequent year (\$1,168,802.70 in reported costs + \$2,280,175.20 based on the average costs reported).

**Cost per Small Business (Cardroom)** – The estimated average annual cost per small cardroom business is:

- \$117,750.00 in the first year (initial)
- \$52,922.50 in each subsequent year (ongoing)

**Cost per Typical Business (Cardroom)** – The estimated average annual cost per typical cardroom business is:

- \$474,988.54 in the first year (initial)
- \$106,746.54 in each subsequent year (ongoing)

#### **SMALL BUSINESS IMPACT**

The Commission has concluded that the proposed regulation will impact small cardroom businesses. As noted above, the Commission anticipates the regulation would result in an average annual cost per small cardroom business of \$117,750.00 in the first year, and \$52,922.50 in each subsequent year. Further, the Commission has concluded that the proposed regulation

will not impact small TPPPS businesses. Please see the “Impact on Business” section above for additional details.

**COST IMPACTS ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS**

The Commission anticipates the regulation would result in an average annual cost per typical cardroom business of \$474,988.54 in the first year, and \$106,746.54 in each subsequent year. The proposed regulation will have no cost impact on typical TPPPS businesses. The Commission is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. Please see the “Impact on Business” section above for additional details.

**IMPACT ON JOBS/NEW BUSINESSES:**

The Commission has determined that this regulatory proposal will not have a significant impact on the creation of new jobs or businesses, the elimination of jobs or existing businesses, or the expansion of businesses in California.

The basis for this determination is that advertising is an act that is voluntarily engaged in by the cardroom industry and this proposed action does not require nor preclude the industry from advertising. Rather, the proposed action provides additional specificity to existing regulatory and statutory requirements for gambling advertisements, consistent with the Commission’s general authority under the Act and its mandate in B&P Code section 19841(f). Further, the proposed action establishes standards and safe harbors for the cardroom industry to follow concerning advertising content and dissemination, provides criteria the Bureau must consider while maintaining the Bureau’s discretion and authority for determining whether an advertisement is deceptive, and provides an administrative disapproval and rebuttal process for advertisements that have been determined by the Bureau to be deceptive to the public. The regulations have been written to reduce false and misleading claims made in deceptive cardroom advertisements and do not encroach on the industry’s constitutionally protected forms of commercial speech.

**BENEFITS OF THE REGULATION TO THE HEALTH AND WELFARE OF CALIFORNIA RESIDENTS:**

It has been determined that the proposed action will protect the health, safety, and general welfare of California residents by dissuading and reducing the dissemination of gambling advertisements that are determined by the Bureau to be deceptive to the public. This includes advertisements that inappropriately appeal to persons under the age of 21, entice gambling as a means of becoming wealthy, make false or misleading claims, or refer to games prohibited by Penal Code section 330. Additionally, the proposed action provides updates to existing advertising disclosure requirements concerning the posting of information and referral services for problem gamblers, as approved by the Office of Problem Gambling.

**BENEFITS OF THE REGULATION TO WORKER SAFETY:**

It has been determined that the proposed action will not affect worker safety because it does not pertain to working conditions or worker safety issues.

**BENEFITS OF THE REGULATION TO STATE’S ENVIRONMENT:**

It has been determined that the proposed action will not affect the State’s environment because it has nothing to do with environmental issues.

### **CONSIDERATION OF ALTERNATIVES**

The Commission must determine that no reasonable alternative considered by the Commission or that has otherwise been identified and brought to the attention of the Commission would be:

- More effective in carrying out the purpose for which the action is proposed;
- As effective and less burdensome to affected private persons than the proposed action; or,
- More cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

### **INITIAL STATEMENT OF REASONS, INFORMATION AND TEXT OF PROPOSAL**

The Commission has prepared an Initial Statement of Reasons and the exact language for the proposed action and has available all the information upon which the proposal is based. Copies of the language and of the Initial Statement of Reasons, and all the information upon which the proposal is based, may be obtained upon request from the Commission at 2399 Gateway Oaks Drive, Suite 220, Sacramento, CA 95833-4231.

### **AVAILABILITY AND LOCATION OF THE RULEMAKING FILE AND THE FINAL STATEMENT OF REASONS**

All the information upon which the proposed action is based is contained in the Rulemaking File that will be available for public inspection and copying at the Commission's office throughout the rulemaking process. Arrangements for inspection and/or copying may be made by contacting the primary contact person named below.

You may obtain a copy of the Final Statement of Reasons, once it has been prepared, by making a written request to one of the contact persons named below or by accessing the Commission's Website listed below.

### **CONTACT PERSONS**

All comments and inquiries concerning the substance of the proposed action should be directed to the following **primary** contact person:

Alex Hunter, Legislative and Regulatory Specialist  
Legislative and Regulatory Affairs Division  
California Gambling Control Commission  
2399 Gateway Oaks Drive, Suite 220, Sacramento, CA 95833-4231  
Telephone: (916) 263-1301  
Fax: (916) 263-0499  
E-mail: [ahunter@cgcc.ca.gov](mailto:ahunter@cgcc.ca.gov)

Requests for a copy of the Initial Statement of Reasons, proposed text of the regulation, modified text of the regulation, if any, or other technical information upon which the proposed action is based should be directed to the following **backup** contact person:

Joshua Rosenstein, Legislative and Regulatory Specialist  
Legislative and Regulatory Affairs Division  
California Gambling Control Commission  
2399 Gateway Oaks Drive, Suite 220, Sacramento, CA 95833-4231  
Telephone: (916) 274-5823  
Fax: (916) 263-0499  
Email: [jrosenstein@cgcc.ca.gov](mailto:jrosenstein@cgcc.ca.gov)

**WEBSITE ACCESS**

Materials regarding this proposed action are also available on the Commission's Website at [www.cgcc.ca.gov](http://www.cgcc.ca.gov).