

Rules and Regulations
Title 58. Recreation
Part VII. Gaming Control Board

Subpart

- A. General Provisions.....Sections 401a, 403a, 405a, 407a
- B. Licensing, Permitting, Certification and Registration.....Sections 421a, 423a, 425a, 427a, 429a, 431a, 433a, 435a, 436a, 437a, 438a, 439a, 440a
- C. Slot Machine Licensing.....Section 441a, 443a
- D. Recordkeeping.....Section 451a
- E. Slot Machines and Associated Equipment.....Sections 461a, 463a, 465a, 466a, 467a
- F. Fees.....Section 471a
- G. Minority and Women’s Business Enterprises.....Section 481a
- H. Practice and Procedure.....Sections 491a, 493a, 494a, 495a, 497a, 499a
- I. Compulsive and Problem Gambling.....Sections 501a and 503a
- J. Exclusion of Persons.....Sections 511a and 513a

THE TEMPORARY REGULATIONS ADOPTED BY THE BOARD EXPIRED JULY 5, 2007.

THIS DOCUMENT CONTAINS THE CHAPTERS OF PERMANENT REGULATIONS AND AMENDMENTS THERE TO THAT HAVE COMPLETED REVIEW UNDER THE REGULATORY REVIEW ACT AS OF OCTOBER 8, 2011

Title. 58. Recreation

Part VII. Gaming Control Board

Subpart A. GENERAL PROVISIONS

CHAPTER 401. (Reserved)

§§ 401.1 – 401.5. (Reserved).

CHAPTER 401a. PRELIMINARY PROVISIONS

Sec.

[401a.1. Purpose.](#)

[401a.2. Construction.](#)

[401a.3. Definitions.](#)

[401a.4. Jurisdiction.](#)

[401a.5. Adjudicatory function of the Board; ex parte communications.](#)

CHAPTER 403. (Reserved)

§§ 403.1 – 403.7. (Reserved).

CHAPTER 403a. BOARD OPERATIONS AND ORGANIZATION

Sec.

[403a.1. Definitions.](#)

[403a.2. Participation at meetings and voting.](#)

[403a.3. Meetings.](#)

[403a.4. Board office hours.](#)

[403a.5. Public communication.](#)

[403a.6. Delegation of powers.](#)

[403a.7. Temporary emergency orders.](#)

[403a.8. Licensed entity representative meetings.](#)

CHAPTER 405. (Reserved)

§§ 405.1 – 405.7. (Reserved).

CHAPTER 405a. BUREAU OF INVESTIGATIONS AND ENFORCEMENT

Sec.

[405a.1. General duties and powers.](#)

[405a.2. Information.](#)

[405a.3. Office of Enforcement Counsel.](#)

[405a.4. Conduct.](#)

[405a.5. Investigatory subpoena.](#)
[405a.6. Enforcement action.](#)

CHAPTER 407. (Reserved)

§§ 407.1 – 407.3. (Reserved).

CHAPTER 407a. PUBLIC ACCESS TO BOARD FILES

Sec.

[407a.1. Case files.](#)
[407a.2. Minutes of public meeting and annual report.](#)
[407a.3. Confidential information.](#)

Subpart B. LICENSING, PERMITTING, CERTIFICATION AND REGISTRATION

CHAPTER 421. (Reserved)

§§ 421.1 – 421.5. (Reserved).

CHAPTER 421a. GENERAL PROVISIONS

Sec.

[421a.1. General requirements.](#)
[421a.2. Disqualification criteria.](#)
[421a.3. Investigations; supplementary information.](#)
[421a.4. Presuitability determination.](#)
[421a.5. Undue concentration of economic opportunities and control.](#)
[421a.6. Advertising.](#)

CHAPTER 423. (Reserved)

§§ 423.1 – 423.8. (Reserved).

CHAPTER 423a. APPLICATIONS

Sec.

[423a.1. General requirements.](#)
[423a.2. Preliminary submission review.](#)
[423a.3. Application processing.](#)
[423a.4. Deficient applications.](#)
[423a.5. Application withdrawal.](#)
[423a.6. License, permit, registration and certification issuance and statement of conditions.](#)
[423a.7. Restriction on application after denial or revocation.](#)

CHAPTER 425. (Reserved)

§ 425.1. (Reserved).

CHAPTER 425a. LICENSED ENTITY REPRESENTATIVES

Sec.

425a.1. Registration.

CHAPTER 427. (Reserved)

§§ 427.1 – 427.5. (Reserved).

CHAPTER 427a. MANUFACTURERS

Sec.

427a.1. Manufacturer general requirements.

427a.2. Manufacturer license applications and standards.

427a.3. Manufacturer license term and renewal.

427a.4. Alternative manufacturer licensing standards.

427a.5. Responsibilities of a manufacturer.

CHAPTER 429. (Reserved)

§§ 429.1 – 429.7. (Reserved).

CHAPTER 429a. MANUFACTURER DESIGNEES

Sec.

429a.1. Manufacturer designee general requirements.

429a.2. Manufacturer designee license applications and standards.

429a.3. Additional manufacturer designee licenses.

429a.4. Manufacturer designee license term and renewal.

429a.5. Responsibilities of a manufacturer designee.

429a.6. Manufacturer designee as agent.

429a.7. Manufacturer designee agreements.

CHAPTER 431. (Reserved)

§§ 431.1 – 431.5. (Reserved).

CHAPTER 431a. SUPPLIER LICENSES

Sec.

431a.1. Supplier general requirements.

431a.2. Supplier license applications and standards.

- [431a.3. Supplier license term and renewal.](#)
- [431a.4. Responsibilities of a supplier.](#)
- [431a.5. Supplier log books.](#)

CHAPTER 433. (Reserved)

§§ 433.101 – 433.109. (Reserved).

CHAPTER 433a. PRINCIPAL LICENSES

Sec.

- [433a.1. Definitions.](#)
- [433a.2. Officers and directors of licensees.](#)
- [433a.3. Interests in licensees held by individuals.](#)
- [433a.4. Interests in licensees held by entities.](#)
- [433a.5. Institutional investors.](#)
- [433a.6. Lenders and underwriters.](#)
- [433a.7. Trusts.](#)
- [433a.8. Principal applications.](#)
- [433a.9. Principal license term and renewal.](#)

CHAPTER 435. (Reserved)

§§ 435.1 – 435.10. (Reserved).

CHAPTER 435a. EMPLOYEES

Sec.

- [435a.1. General provisions.](#)
- [435a.2. Key employee license.](#)
- [435a.3. Occupation permit.](#)
- [435a.4. Key employee license and occupation permit term and renewal.](#)
- [435a.5. Nongaming employee registration.](#)
- [435a.6. Board credentials.](#)
- [435a.7. Emergency credentials.](#)
- [435a.8. Temporary credentials for principals and key employees.](#)
- [435a.9. Temporary credentials for nongaming employees.](#)
- [435a.9a. Gaming service provider employee temporary access credentials.](#)
- [435a.10. Loss or destruction of credentials.](#)

CHAPTER 436. (Reserved)

§§ 436.1. – 436.7. (Reserved).

CHAPTER 436a. HORSEMEN'S ORGANIZATIONS

Sec.

[436a.1. Definitions.](#)

[436a.2. Horsemen's organization registration.](#)

[436a.3. Permitting of officers, directors, representatives and fiduciaries.](#)

[436a.4. Responsibilities of horsemen's organizations, officers, directors, representatives and fiduciaries.](#)

[436a.5. Fiduciaries.](#)

[436a.6. Health and pension benefit plans.](#)

CHAPTER 437. (Reserved)

§§ 437.1 – 437.13. (Reserved).

CHAPTER 437a. GAMING SERVICE PROVIDER CERTIFICATION AND REGISTRATION

Sec.

[437a.1. General gaming service provider requirements.](#)

[437a.2. Gaming service provider registration applications.](#)

[437a.3. Gaming service provider certification applications.](#)

[437a.4. Qualification of individuals and entities.](#)

[437a.5. Construction subcontractors.](#)

[437a.6. Registration and certification term and renewal.](#)

[437a.7. Registered and certified gaming service provider responsibilities.](#)

[437a.8. Authorized gaming service providers list; prohibited gaming service providers.](#)

[437a.9. Permission to conduct business prior to certification or registration.](#)

[437a.10. Emergency gaming service provider.](#)

[437a.11. Slot machine applicants' and licensees' duty to investigate.](#)

CHAPTER 438. (Reserved)

§§ 438.1 – 438.4. (Reserved).

CHAPTER 438a. LABOR ORGANIZATIONS

Sec.

[438a.1. Definitions.](#)

[438a.2. Labor organization notification.](#)

[438a.3. Registration of labor organization officers, agents and management employees.](#)

CHAPTER 439. (Reserved)

§§ 439.1 – 439.11. (Reserved).

CHAPTER 439a. GAMING JUNKET ENTERPRISES

Sec.

[439a.1. Definitions.](#)

[439a.2. Gaming junket enterprise general requirements; participation in a gaming junket.](#)

[439a.3. Gaming junket enterprise license applications.](#)

[439a.4. \(Reserved\).](#)

[439a.4a. Individual and entity applications.](#)

[439a.5. Gaming junket representative general requirements.](#)

[439a.6. \(Reserved\).](#)

[439a.6a. Gaming junket enterprise license and occupation permit term and renewal.](#)

[439a.7. Gaming junket schedules.](#)

[439a.8. Gaming junket arrival reports.](#)

[439a.9. Gaming junket final reports.](#)

[439a.10. Monthly gaming junket reports.](#)

[439a.11. Purchase of patron lists.](#)

[439a.12. Gaming junket enterprise and representative prohibitions.](#)

CHAPTER 440. (Reserved)

§§ 440.1 – 440.4. (Reserved).

CHAPTER 440a. MANAGEMENT COMPANIES

Sec.

[440a.1. General requirements.](#)

[440a.2. Applications.](#)

[440a.3. Management company license term and renewal.](#)

[440a.4. Management company responsibilities.](#)

[440a.5. Management contracts.](#)

Subpart C. SLOT MACHINE LICENSING

CHAPTER 441. (Reserved)

§§ 441.1 – 441.23. (Reserved).

CHAPTER 441a. SLOT MACHINE LICENSES

Sec.

[441a.1. Definitions.](#)

[441a.2. Slot machine application restrictions and deadlines.](#)

[441a.3. Slot machine license application.](#)

[441a.4. Alternative Category 1 licensing standards.](#)

[441a.5. License fee payment bond or letter of credit requirements.](#)

[441a.6. Public input.](#)

[441a.7. Licensing hearings for slot machine licenses.](#)

- [441a.8. Divestiture.](#)
- [441a.9. Approval of a slot machine license.](#)
- [441a.10. Notification of anticipated or actual changes in principals or key employees.](#)
- [441a.11. Notification of new financial sources.](#)
- [441a.12. Maintaining agreements; filing of agreements.](#)
- [441a.13. Board review of agreements and records of agreements.](#)
- [441a.14. Master purchasing and disbursement report.](#)
- [441a.15. Slot machine license issuance bond requirement.](#)
- [441a.16. Slot machine license term and renewal.](#)
- [441a.17. Change in ownership or control of slot machine license and multiple slot machine license prohibition.](#)
- [441a.18. Employee status report.](#)
- [441a.19. Notice of employee misconduct and offenses and employee resignations.](#)
- [441a.20. Slot machine license agreements.](#)
- [441a.21. Management contracts.](#)
- [441a.22. Category 1 slot machine licensees.](#)
- [441a.23. Category 3 slot machine licensees.](#)

CHAPTER 443a. TRUSTEESHIP

- [443a.1. Definitions.](#)
- [443a.2. Appointment of trustees.](#)
- [443a.3. Qualifications of trustees.](#)
- [443a.4. Bonding of trustees.](#)
- [443a.5. Effect of the trusteeship on slot machine and principal licensees.](#)
- [443a.6. Powers and duties of trustees.](#)
- [443a.7. Compensation of trustees and payment of costs associated with the trusteeship.](#)
- [443a.8. Required reports of trustees.](#)
- [443a.9. Review of actions of the trustees.](#)
- [443a.10. Disposition of net earnings during the period of trusteeship.](#)
- [443a.11. Payments following a bulk sale.](#)
- [443a.12. Discontinuation of trusteeship.](#)

Subpart D. RECORDKEEPING

CHAPTER 451. (Reserved)

§ 451.1. (Reserved).

CHAPTER 451a. RECORDKEEPING REQUIREMENTS

Sec.

[451a.1. Recordkeeping generally.](#)

Subpart E. SLOT MACHINES AND ASSOCIATED EQUIPEMENT

CHAPTER 461. (Reserved)

§§ 461.1 -- § 461.26. (Reserved).

CHAPTER 461a. SLOT MACHINE TESTING AND CONTROL

Sec.

[461a.1. Definitions.](#)

[461a.2. Protocol requirements.](#)

[461a.3. Testing and approval generally.](#)

[461a.4. Submission for testing and approval.](#)

[461a.5. Slot machine conversions.](#)

[461a.6. Revocations and additional conditions.](#)

[461a.7. Slot machine minimum design standards.](#)

[461a.8. Gaming vouchers.](#)

[461a.9. Coupons.](#)

[461a.10. Automated gaming voucher and coupon redemption machines.](#)

[461a.11. \(Reserved\).](#)

[461a.12. Progressive slot machines.](#)

[461a.13. Wide area progressive systems.](#)

[461a.14. Slot monitoring systems.](#)

[461a.15. Casino management systems.](#)

[461a.16. Player tracking systems.](#)

[461a.17. External bonusing systems.](#)

[461a.18. Cashless funds transfer systems.](#)

[461a.19. Remote system access.](#)

[461a.20. Server supported slot systems.](#)

[461a.21. Server based slot systems.](#)

[461a.22. Automated jackpot payout machines.](#)

[461a.23. Slot machines and associated equipment utilizing alterable storage media.](#)

[461a.24. Waivers.](#)

[461a.25. Disputes.](#)

[461a.26. Testing and software installation on the live gaming floor.](#)

[461a.27. RAM clear.](#)

CHAPTER 463. (Reserved)

§§ 463.1 – 463.6. (Reserved).

CHAPTER 463a. POSSESSION OF SLOT MACHINES

Sec.

[463a.1. Possession of slot machines generally.](#)

[463a.2. Transportation of slot machines into, within and out of this Commonwealth.](#)

- [463a.3. Slot machine location.](#)
- [463a.4. Connection to the central control computer system.](#)
- [463a.5. Slot machine master lists.](#)
- [463a.6. Notice to central control computer system.](#)
- [463a.7. Off premises storage of slot machines.](#)

CHAPTER 465. (Reserved)

§§ 465.1 – 465.31. (Reserved).

CHAPTER 465a. ACCOUNTING AND INTERNAL CONTROLS

Sec.

- [465a.1. Accounting records.](#)
- [465a.2. Internal control systems and audit protocols.](#)
- [465a.3. Forms, records and documents.](#)
- [465a.4. Standard financial and statistical reports.](#)
- [465a.5. Annual audit; other reports; suspicious activity and currency transaction reporting.](#)
- [465a.6. Retention, storage and destruction of books, records and documents.](#)
- [465a.7. Complimentary services or items.](#)
- [465a.8. Licensed facility.](#)
- [465a.9. Surveillance system; surveillance department control; surveillance department restrictions.](#)
- [465a.10. Surveillance system recording formats.](#)
- [465a.11. Slot machine licensee's organization.](#)
- [465a.12. Access badges and temporary access credentials.](#)
- [465a.13. Possession of weapons within a licensed facility.](#)
- [465a.14. Security department minimum staffing.](#)
- [465a.15. Cashier's cage.](#)
- [465a.16. Accounting controls for the cashiers' cage.](#)
- [465a.17. Bill validators and slot cash storage boxes.](#)
- [465a.18. Transportation of slot cash storage boxes to and from bill validators; storage.](#)
- [465a.19. Acceptance of tips or gratuities from patrons.](#)
- [465a.20. Personal check cashing.](#)
- [465a.21. Wire transfers.](#)
- [465a.22. Cash equivalents.](#)
- [465a.23. Customer deposits.](#)
- [465a.24. Count room characteristics.](#)
- [465a.25. Counting and recording of slot storage boxes.](#)
- [465a.26. Jackpot and credit meter payouts.](#)
- [465a.27. Annuity jackpot.](#)
- [465a.28. Merchandise jackpots.](#)
- [465a.29. Automated teller machines.](#)
- [465a.30. Waiver of requirements.](#)
- [465a.31. Gaming day.](#)
- [465a.32. Signature.](#)

[465a.33. Access to areas containing central control computer equipment.](#)

[465a.34. Automated gaming voucher and coupon redemption machine accounting controls.](#)

CHAPTER 466. (Reserved)

§ 466.1. (Reserved).

CHAPTER 466a. SLOT COMPUTER SYSTEMS

Sec.

[466a.1. Slot computer systems generally.](#)

[466a.2. Waiver of requirements.](#)

CHAPTER 467. (Reserved)

§ 467.1 – 467.2. (Reserved).

CHAPTER 467a. COMMENCEMENT OF SLOT OPERATIONS

Sec.

[467a.1. Gaming floor plan.](#)

[467a.2. Commencement of slot operations generally.](#)

Subpart F. FEES

CHAPTER 471. (Reserved)

§§ 471.1 -- § 471.3. (Reserved).

CHAPTER 471a. FILING FEES

Sec.

[471a.1. Fees generally.](#)

[471a.2. Schedules of fees.](#)

[471a.3. Adjustment of fees.](#)

Subpart G. MINORITY AND WOMEN'S BUSINESS ENTERPRISES

CHAPTER 481. (Reserved)

§§ 481.1 -- 481.5. (Reserved).

CHAPTER 481a. DIVERSITY

Sec.

[481a.1. Statement of purpose, policy and applicability.](#)
[481a.2. Definitions.](#)
[481a.3. Diversity participation.](#)
[481a.4. Establishment of diversity plan required.](#)
[481a.5. Report of participation.](#)
[481a.6. Diversity audits.](#)

Subpart H. PRACTICE AND PROCEDURE

CHAPTER 491. (Reserved)

§§ 491.1 – 491.3. (Reserved).

CHAPTER 491a. GENERAL RULES OF PRACTICE

Sec.

[491a.1. Generally.](#)
[491a.2. Definitions.](#)
[491a.3. Office of the Clerk.](#)
[491a.4. Filing generally.](#)
[491a.5. Service by the Board.](#)
[491a.6. \(Reserved\).](#)
[491a.7. Presiding officers.](#)
[491a.8. Hearings generally.](#)
[491a.9. Prehearing and other conferences.](#)
[491a.10. Presentation and effect of stipulations.](#)

CHAPTER 492. (Reserved)

§§ 492.1 – 492.8. (Reserved).

CHAPTER 493. (Reserved)

§§ 493.1 – 493.14. (Reserved).

CHAPTER 493a. PLEADINGS

Sec.

[493a.1. Generally.](#)
[493a.2. Complaints.](#)
[493a.3. Satisfaction of complaints.](#)
[493a.4. Petitions generally.](#)
[493a.5. Answers to complaints, petitions, motions and other filings requiring a response.](#)
[493a.6. Consolidation.](#)
[493a.7. Amendments and withdrawal of pleadings.](#)
[493a.8. Motions generally.](#)

[493a.9. Preliminary motions.](#)
[493a.10. Motions for summary judgment and judgment on the pleadings.](#)
[493a.10a. Motion to protect confidential information.](#)
[493a.11. Discovery.](#)
[493a.12. Intervention.](#)
[493a.13. Consent Agreement.](#)

CHAPTER 494. (Reserved)

§§ 494.1 – 494.11. (Reserved).

CHAPTER 494a. HEARING PROCEDURE

Sec.

[494a.1. Generally.](#)
[494a.2. Oral hearings.](#)
[494a.3. Documentary hearings.](#)
[494a.4. Report or report and recommendation of the presiding officer.](#)
[494a.5. Review.](#)
[494a.6. Reopening of record.](#)
[494a.7. Exceptions.](#)
[494a.8. Rehearing or reconsideration.](#)
[494a.9. Briefs and oral arguments.](#)
[494a.10. Reports of compliance.](#)
[494a.11. Appeals.](#)

CHAPTER 495. (Reserved)

§§ 495.1 – 495.7. (Reserved).

CHAPTER 495a. DOCUMENTARY FILINGS

Sec.

[495a.1. Form of documentary filings generally.](#)
[495a.2. Form of documents.](#)
[495a.3. Single pleading covering more than one matter.](#)
[495a.4. Execution of documents.](#)
[495a.5. Verification.](#)
[495a.6. Number of copies.](#)

CHAPTER 497. (Reserved)

§§ 497.1 – 497.5. (Reserved).

CHAPTER 497a. TIME

Sec.

[497a.1. Date of filing.](#)

[497a.2. Computation of time.](#)

[497a.3. Issuance of Board orders.](#)

[497a.4. Effective dates of Board orders.](#)

[497a.5. Extensions of time and continuances.](#)

CHAPTER 499. (Reserved)

§§ 499.1 – 499.7. (Reserved).

CHAPTER 499a. REPRESENTATION BEFORE THE BOARD

Sec.

[499a.1. Appearance in person.](#)

[499a.2. Appearance by attorney.](#)

[499a.3. Other representation prohibited at hearings.](#)

[499a.4. Notice of appearance or withdrawal.](#)

[499a.5. Form of notice of appearance.](#)

[499a.6. Contemptuous conduct.](#)

[499a.7. Suspension and disbarment.](#)

Subpart I. COMPULSIVE AND PROBLEM GAMBLING

CHAPTER 501. (Reserved)

§§ 501.1 – 501.8. (Reserved).

CHAPTER 501a. COMPULSIVE AND PROBLEM GAMBLING REQUIREMENTS

Sec.

[501a.1. Definitions.](#)

[501a.2. Compulsive and problem gambling plan.](#)

[501a.3. Employee training program.](#)

[501a.4. Reports.](#)

[501a.5. Signage requirements.](#)

[501a.6. Check cashing.](#)

CHAPTER 503. (Reserved)

§§ 503.1 – 503.6. (Reserved).

CHAPTER 503a. SELF-EXCLUSION

Sec.

[503a.1. Definitions.](#)
[503a.2. Request for self-exclusion.](#)
[503a.3. Self-exclusion list.](#)
[503a.4. Duties of slot machine licensees.](#)
[503a.5. Removal from self-exclusion list.](#)
[503a.6. Exceptions to the prohibition from being on the gaming floor for individuals on the self-exclusion list.](#)

Subpart J. EXCLUSION OF PERSONS

CHAPTER 511. (Reserved)

§§ 511.1 – 511.9. (Reserved).

CHAPTER 511a. PERSONS REQUIRED TO BE EXCLUDED

Sec.

[511a.1. Definitions.](#)
[511a.2. Maintenance and distribution of the exclusion list.](#)
[511a.3. Criteria for exclusion.](#)
[511a.4. Duties of the Bureau.](#)
[511a.5. Placement on the exclusion list.](#)
[511a.6. Demand for hearing on the placement of a person on the exclusion list.](#)
[511a.7. Board review.](#)
[511a.8. Duties of slot machine licensees.](#)
[511a.9. Petition to remove name from the exclusion list.](#)

CHAPTER 513. (Reserved)

§§ 513.1 – 513.5. (Reserved).

CHAPTER 513a. UNDERAGE GAMING

Sec.

[513a.1. Definitions.](#)
[513a.2. Exclusion requirements.](#)
[513a.3. Responsibilities of licensees, permittees, registrants and certificationholders.](#)
[513a.4. Signage requirements.](#)
[513a.5. Enforcement.](#)

Annex A

TITLE 58. RECREATION

PART VII. GAMING CONTROL BOARD

Subpart A. GENERAL PROVISIONS

CHAPTER 401. (Reserved)

§§ 401.1 – 401.5. (Reserved).

CHAPTER 401a. PRELIMINARY PROVISIONS

Sec.

401a.1. Purpose.

401a.2. Construction.

401a.3. Definitions.

401a.4. Jurisdiction.

401a.5. Adjudicatory function of the Board; ex parte communications.

§ 401a.1. Purpose.

The purpose of this part is to facilitate the implementation of the act.

§ 401a.2. Construction.

(a) This part shall be liberally construed to secure the just, speedy and efficient determination of every action, proceeding or issue presented to which it is applicable. The Board at any stage of an action, proceeding or issue presented may disregard an error or defect of procedure which does not affect the substantive rights of the participants.

(b) Subsection (a) supersedes 1 Pa. Code § 31.2 (relating to liberal construction).

§ 401a.3. Definitions.

The following words and terms, when used in this part, have the following meanings, unless the context clearly indicates otherwise:

Act--The Pennsylvania Race Horse Development and Gaming Act (4 Pa.C.S. §§ 1101--1904).

Affiliate, affiliate of or person affiliated with--A person that directly or indirectly, through one or more intermediaries, controls, is controlled by or is under common control with a specified person.

Applicant--A person, who on his own behalf or on behalf of another, is applying for permission to engage in an act or activity which is regulated under the act or this part. In cases in which the applicant is a person other than an individual, the Board will determine the associated persons whose qualifications are necessary as a precondition to the licensing of the applicant.

Application--A written request for permission to engage in an act or activity which is regulated under the act or this part.

Approved, approval or approve--The date that an application to the Board is granted regardless of the pendency of administrative or judicial appeals or other legal action challenging the decision of the Board.

Arrest--Detaining, holding, or taking into custody by police or other law enforcement authorities to answer for an alleged commission of an offense.

Associated equipment--Equipment or mechanical, electromechanical or electronic contrivance, component or machine used in connection with gaming, including the following:

- (i) Linking devices which connect to progressive slot machines or slot machines.
- (ii) Replacement parts needed to conduct slot machine gaming.
- (iii) Equipment which affects the proper reporting of gross revenue.
- (iv) Computerized systems for controlling and monitoring slot machines, including, the central control computer and devices for weighing or counting money.

BIE or Bureau--The Bureau of Investigations and Enforcement of the Board.

Background investigation--A security, criminal, credit and suitability investigation of a person as provided for in the act. The investigation must include the status of taxes owed to the United States and to the Commonwealth and its political subdivisions.

Backside area--

- (i) Those areas of the racetrack facility that are not generally accessible to the public and which include facilities commonly referred to as barns, track kitchens, recreation halls, backside employee quarters and training tracks, and roadways providing access thereto.
- (ii) The term does not include those areas of the racetrack facility which are generally accessible to the public, including the various buildings commonly referred to as the grandstand or the racing surfaces, paddock enclosures and walking rings.

Board--The Pennsylvania Gaming Control Board.

Central control computer--A central site computer controlled by the Department and accessible by the Board to which all slot machines communicate for the purpose of auditing capacity, real-time information retrieval of the details of a financial event that occurs in the operation of a slot machine, including, coin in, coin out, ticket in, ticket out, jackpots, machine door openings and power failure, and remote machine activation and disabling of slot machines.

Certified gaming service provider--A gaming service provider that holds a gaming service provider certification.

Charge--An indictment, complaint, information, summons or other notice of an alleged commission of an offense.

Clerk--The Clerk to the Board's Office of Hearings and Appeals.

Collateral agreement--Any contract between a management company or its affiliates, intermediaries, subsidiaries or holding companies and a slot machine licensee or its affiliates, intermediaries, subsidiaries or holding companies that is related either directly or indirectly to a management contract or to any rights, duties or obligations created between a management company and a slot machine licensee.

Commission or Commissions--The State Horse Racing Commission or the State Harness Racing Commission, or both, as the context may require.

Compensation--A thing of value, money or a financial benefit conferred on or received by a person in return for services rendered, or to be rendered, whether by that person or another.

Complimentary service--

(i) Any lodging, service or item which is provided directly or indirectly to an individual at no cost or at a reduced cost which is not generally available to the public.

(ii) The term includes a lodging provided to a person at a reduced price due to the anticipated or actual gaming activities of that person. Group rates, including convention and government rates, shall be deemed generally available to the public.

Conduct of gaming--The licensed placement and operation of games of chance under the act or this part and approved by the Board at a licensed facility.

Confidential information--Materials that are not generally available to the public.

Controlling interest--

(i) For a publicly traded domestic or foreign corporation, a controlling interest is an interest in a legal entity, applicant or licensee if a person's sole voting rights under state law or

corporate articles or bylaws entitle the person to elect or appoint one or more of the members of the board of directors or other governing board or the ownership or beneficial holding of 5% or more of the securities of the publicly traded corporation, partnership, limited liability company or other form of publicly traded legal entity, unless this presumption of control or ability to elect is rebutted by clear and convincing evidence.

(ii) For a privately held domestic or foreign corporation, partnership, limited liability company or other form of privately held legal entity, a controlling interest is the holding of any securities in the legal entity, unless this presumption of control is rebutted by clear and convincing evidence.

(iii) A person who owns or beneficially holds less than 5% of the securities of a privately held domestic or foreign corporation, partnership, limited liability company or other form of privately held legal entity shall be deemed as having rebutted the presumption of control by clear and convincing evidence.

Conviction--

(i) A finding of guilt or a plea of guilty or nolo contendere, whether or not a judgment of sentence has been imposed as determined by the law of the jurisdiction in which the prosecution was held.

(ii) The term does not include a conviction that has been expunged or overturned or for which an individual has been pardoned or an order of Accelerated Rehabilitative Disposition has been entered.

*Corporation--*A publicly traded corporation.

*Credential--*A form of identification approved and issued by the Board.

*Department--*The Department of Revenue of the Commonwealth.

Ex parte communication--

(i) Any off-the-record communication engaged in or received by a member or presiding officer of the Board regarding the merits of or any fact in issue relating to a pending matter before the Board or presiding officer or which may reasonably be expected to come before the Board or presiding officer in a contested on-the-record proceeding.

(ii) The term does not include the following:

(A) Off-the-record communications by or between a member or presiding officer of the Board, the Department, the Pennsylvania State Police, the Attorney General or other law enforcement official prior to the beginning of the proceeding solely for the purpose of seeking clarification or correction to evidentiary materials intended for use in the proceedings.

(B) Communications between the Board or a member and the Office of Chief Counsel.

Federal tax identification number--The Social Security number of an individual or the Employer Identification Number of a business entity, fiduciary or other person.

Final order--One of the following:

(i) An action by the Board which approves, issues, renews, revokes, suspends, conditions, denies issuance or renewal of a license, permit, certification or registration.

(ii) An action by the Board which affects personal or property rights, privileges, immunities, duties, liabilities or obligations and disposes of all claims by or against parties before the Board.

(iii) An action by the Board which is designated by the Board as final.

Financial backer--An investor, mortgagee, bondholder, note holder or other source of equity or capital provided to an applicant or licensed entity.

Formal record--The pleadings in a matter or proceeding, a notice or Board order initiating the matter or proceeding, and if a hearing is held: the transcript of a hearing, exhibits received in evidence, offers of proof, motions, stipulations, subpoenas, proofs of service, determinations made by the Board thereon, and certifications to the Board.

Gaming area or gaming floor--Any portion of a licensed facility where slot machines have been installed for use or play.

Gaming employee--

(i) An employee of a slot machine licensee, including:

(A) Cashiers.

(B) Change personnel.

(C) Count room personnel.

(D) Slot attendants.

(E) Dealers or croupiers.

(F) Machine mechanics, computer machine technicians or table

game device technicians.

(G) Security personnel.

(H) Surveillance personnel.

(I) Personnel with SLOTS Link security administrator access and responsibilities.

(J) Hosts or other individuals authorized to extend complimentary services, including employees performing functions similar to those performed by a gaming junket representative.

(K) Promotional play supervisors, credit supervisors, pit supervisors, cashier supervisors, shift supervisors, table game managers and assistant managers and other supervisors and managers, except for those specifically identified in this part as key employees.

(L) Boxpersons.

(M) Floorpersons.

(N) Personnel authorized to issue promotional play.

(O) Personnel authorized to issue credit.

(ii) Employees of a licensed supplier, manufacturer or manufacturer designee whose duties are directly involved with the repair, service or distribution of slot machines and associated equipment sold or provided to a licensed facility within this Commonwealth.

(iii) Employees of a registered or certified gaming service provider, licensed manufacturer or manufacturer designee whose duties require the employee's presence on the gaming floor or in a restricted area of a licensed facility.

(iv) Gaming junket representatives.

(v) Other employees or individuals who the Board determines, after a review of the work being performed, require a permit for the protection of the integrity of gaming.

Gaming service provider--

(i) A person that provides goods or services to a slot machine licensee or applicant, but is not required to be licensed as a manufacturer, manufacturer designee, supplier, management company or gaming junket enterprise.

(ii) The term includes:

(A) Suppliers of alcoholic beverages (if not otherwise regulated by the Pennsylvania Liquor Control Board), food and nonalcoholic beverages.

- (B) Refuse handlers.
- (C) Vending machine providers and service personnel.
- (D) Linen and uniform suppliers.
- (E) Janitorial and maintenance companies, not relating to the repair of slot machines or associated equipment.
- (F) Tenant businesses or franchises located within licensed facilities.
- (G) Providers of transportation services.
- (H) Companies, subcontractors and professionals involved in the construction of a facility for a slot machine licensee or applicant.
- (I) Lessors of real property or goods.
- (J) Other entities which the Board will determine based on detailed analyses by the Board of gaming service provider contracts.

Gaming service provider certification--A certification issued by the Board authorizing a gaming service provider to provide goods or services to a slot machine licensee or applicant.

Gaming service provider registration--A registration issued by the Board authorizing a gaming service provider to provide goods or services to a slot machine licensee or applicant.

Gross terminal revenue--The total of cash or cash equivalent wagers received by a slot machine minus the total of:

- (i) Cash or cash equivalents paid out to patrons as a result of playing a slot machine which are paid to patrons either manually or paid out by the slot machine.
- (ii) Cash paid to purchase annuities to fund prizes payable to patrons over a period of time as a result of playing a slot machine.
- (iii) Any personal property distributed to a patron as the result of playing a slot machine. This does not include travel expenses, food, refreshments, lodging or services.
- (iv) The term does not include counterfeit money or tokens, coins or currency of other countries which are received in slot machines (except to the extent that they are readily convertible to United States currency), cash taken in fraudulent acts perpetrated against a slot machine licensee for which the licensee is not reimbursed or cash received as entry fees for contests or tournaments in which the patrons compete for prizes.

Holding company--A person, other than an individual, which, directly or indirectly, owns, has the power or right to control or to vote 20% or more of the outstanding voting securities of a corporation or other form of business organization. A holding company indirectly has, holds or owns any such power, right or security if it does so through an interest in a subsidiary or successive subsidiaries.

IRS--The Internal Revenue Service of the United States.

Independent contractor--A person who performs professional, scientific, technical, advisory or consulting services to the Board for a fee, honorarium or similar compensation pursuant to a contract.

Institutional investor--A retirement fund administered by a public agency for the exclusive benefit of Federal, State or local public employees, investment company registered under the Investment Company Act of 1940 (15 U.S.C.A. §§ 80a-1--80a-64), collective investment trust organized by banks under Part Nine of the Rules of the Comptroller of the Currency, closed end investment trust, chartered or licensed life insurance company or property and casualty insurance company, banking and other chartered or licensed lending institution, investment advisor registered under the Investment Advisors Act of 1940 (15 U.S.C.A. §§ 80b-1--80b-21), and other persons registered in any foreign jurisdiction and regulated pursuant to a statute of any foreign jurisdiction that the Board determines to be substantially similar to either or both of the aforementioned statutes.

Intermediary--A person, other than an individual, which is:

(i) A holding company with respect to a corporation or other form of business organization, which holds or applies for a license under the act or this part.

(ii) A subsidiary with respect to a holding company.

Issued, issuance or issue--The date when a determination by the Board approving an application becomes final, binding and nonappealable and is not subject to a pending legal challenge.

Key employee--An individual who is:

(i) Employed in a director or department head capacity and who is empowered to make discretionary decisions that regulate slot machine or table game operations in this Commonwealth, including the general manager and assistant manager of the licensed facility, director of slot operations, director of table games operations, director of cage operations, director of credit operations, director of surveillance, director of marketing, director of management information systems, director of security, director of human resources, comptroller and any employee who is not otherwise designated as a gaming employee and who supervises the operations of these departments or to whom these department directors or department heads report.

(ii) Employed by a slot machine licensee, manufacturer licensee, or supplier licensee, whose duties affect or require contact with slot machines, slot monitoring systems, casino management systems, player tracking systems and wide-area progressive systems for use or play in this Commonwealth, whether or not the individual is assigned to gaming operations in this Commonwealth.

(iii) A sales representative seeking to sell slot machines and associated equipment for use in this Commonwealth on behalf of a licensed manufacturer, manufacturer designee or supplier.

(iv) Employed in other positions which the Board will determine based on detailed analyses of the employee's duties or the job descriptions.

License fee--The amount of money required to be paid for the issuance or renewal of any type of license required by the act or as established by the Board.

Licensed entity--A slot machine licensee, manufacturer licensee, supplier licensee or other person licensed by the Board under this part.

Licensed entity representative--A person acting on behalf of or representing the interest of an applicant, licensee, permittee or registrant, including an attorney, agent or lobbyist regarding any matter which may reasonably be expected to come before the Board.

Licensed facility--

(i) The physical land-based location at which a licensed gaming entity is authorized to place and operate slot machines including the gaming floor, all restricted areas servicing slot operations, and food, beverage and retail outlets and other areas serving the gaming floor which are located either on or directly accessible from and adjacent to the gaming floor or the restricted areas servicing slot operations.

(ii) The term does not encompass areas or amenities exclusive to pari-mutuel activities, hotel activities including hotel rooms, catering or room service operations serving a hotel, convention, meeting and multipurpose facilities, retail facilities, food and beverage outlets and other amenities and activities not located on or adjacent to the gaming floor, or related to slot machine gaming operations.

Licensed gaming entity--A person that holds a slot machine license.

Licensed racetrack or racetrack--

(i) The physical facility and grounds where a person has obtained a license from either the State Horse Racing Commission or the State Harness Racing Commission to conduct live thoroughbred or harness race meetings respectively with pari-mutuel wagering.

(ii) The term "racetrack" or "its racetrack" means the physical land-based location at which live horse racing is conducted even if not owned by the person.

Licensed racing entity--A legal entity that has obtained a license to conduct live thoroughbred or harness horse race meetings respectively with pari-mutuel wagering from either the State Horse Racing Commission or the State Harness Racing Commission under the Race Horse Industry Reform Act.

Management company--A person or legal entity which, through a Board-approved management contract with a slot machine licensee, is responsible for the management of all or part of the operation of a licensed facility.

Management contract--A contract, subcontract or collateral agreement between a management company and a slot machine licensee if the contract provides for the management of all or part of a licensed facility.

Manufacturer--A person who manufactures, builds, rebuilds, fabricates, assembles, produces, programs, designs or otherwise makes modifications to slot machines or associated equipment for use or play of slot machines in this Commonwealth for gaming purposes.

Manufacturer designee--A person who is designated by a licensed manufacturer pursuant to an agreement to supply or repair the licensed manufacturer's slot machines or associated equipment.

Manufacturer designee license--A license issued by the Board authorizing a manufacturer designee to supply or repair slot machines or associated equipment of a licensed manufacturer for use in this Commonwealth for gaming purposes.

Manufacturer designee licensee--A manufacturer designee that obtains a manufacturer designee license.

Manufacturer license--A license issued by the Board authorizing a manufacturer to manufacture or produce slot machines or associated equipment for use in this Commonwealth for gaming purposes.

Manufacturer licensee--A person that holds a manufacturer license.

Manufacturer's serial number--The unique number permanently assigned to a slot machine by a manufacturer for identification and control purposes.

Member--An individual appointed to and sworn in as a member of the Board in accordance with section 1201(b) of the act (relating to Pennsylvania Gaming Control Board established).

Municipality--A city, borough, incorporated town or township.

Net terminal revenue--The net amount of the gross terminal revenue less the tax and assessments imposed by sections 1402, 1403, 1405 and 1407 of the act.

Nongaming employee--An employee of a slot machine licensee or certified gaming service provider who is not included within the definition of "principal", "key employee" or "gaming employee," and:

(i) Whose job duties require the employee to be:

(A) On the gaming floor but do not require the employee to touch or have contact with slot machines or associated equipment other than exterior cleaning.

(B) In a restricted area and the employee:

(I) Is under the constant supervision of an employee of the slot machine licensee who is licensed or permitted and has appropriate access clearance to be in the restricted area.

(II) Is not required to touch or have contact with slot machines or associated equipment other than exterior cleaning.

(ii) Who the Board determines, after a review of the work being performed, requires registration for the protection of the integrity of gaming.

Nonprimary location--A facility in which pari-mutuel wagering is conducted by a licensed racing entity other than the racetrack where live racing is conducted.

Occupation permit--A permit issued by the Board authorizing an individual to be employed or work as a gaming employee.

Offense--Felonies, crimes, high misdemeanors, misdemeanors, disorderly persons offenses, petty disorderly offenses, driving while intoxicated/impaired, motor vehicle offenses and violations of probation or any other court order.

On-the-record proceeding--A matter that comes before the Board or a presiding officer by way of application, complaint, petition, exception, appeal of staff decision, consent agreement or other motion relating to a licensing, disciplinary or other proceeding for which a formal record is maintained and upon which the Board bases its order and adjudication.

Pending matter or contested on the record proceeding--

(i) A matter including the discretionary issuance, approval, renewal, conditioning, revocation, suspension or denial of any license, permit, certification or registration or any petitions or motions that would require Board consideration.

(ii) The term does not include a policy or administrative matter.

Permit fee--The amount of money required to be paid for issuance or renewal of any type of permit required by the Board.

Permittee--A holder of a permit issued under this part.

Person--A natural person, corporation, foundation, organization, business trust, estate, limited liability company, licensed corporation, trust, partnership, limited liability partnership, association or other form of legal business entity.

Presiding officer --

(i) A member of the Board, or other person designated by the Board to conduct a proceeding.

(ii) This definition supersedes 1 Pa. Code § 31.3 (relating to the definitions).

Principal--Includes the following:

(i) An officer.

(ii) Director.

(iii) Person who directly holds a beneficial interest in or ownership of the securities of an applicant or licensee.

(iv) Person who has a controlling interest in an applicant or licensee, or has the ability to elect a majority of the Board of directors of a licensee or to otherwise control a licensee.

(v) Lender or other licensed financial institution of an applicant or licensee, other than a bank or lending institution which makes a loan or holds a mortgage or lien acquired in the ordinary course of business.

(vi) Underwriter of an applicant or licensee.

(vii) Other persons or employees of an applicant, slot machine licensee, manufacturer licensee or supplier licensee deemed to be a principal by the Board.

Publicly traded corporation--A person other than an individual which:

(i) Has a class or series of securities registered under the Securities Exchange Act of 1934 (15 U.S.C.A. §§ 78a--78nn).

(ii) Is a registered management company under the Investment Company Act of 1940.

(iii) Is subject to the reporting obligations imposed by section 15(d) of the Securities Exchange Act of 1934 (15 U.S.C.A. § 78o(d)) by reason of having filed a registration statement which has become effective under the Securities Act of 1933 (15 U.S.C.A. §§ 77a--77aa).

Race Horse Industry Reform Act--4 P. S. §§ 325.101--325.402.

Registered gaming service provider--A gaming service provider that is registered with the Board.

Restricted area--An area where access is limited and is specifically designated by the Board as restricted, including:

- (i) The cashiers' cage.
- (ii) The soft count room.
- (iii) The surveillance monitoring room.
- (iv) The slot machine storage and repair rooms.
- (v) The progressive controller room.
- (vi) The central control computer room.
- (vii) The information technology department.

(viii) Any additional area that the slot machine licensee designates as restricted in its Board-approved internal controls.

Revenue- or tourism-enhanced location--A location within this Commonwealth determined by the Board, which will maximize net revenue to the Commonwealth or enhance year-round recreational tourism within this Commonwealth, in comparison to other proposed facilities and is otherwise consistent with the act and its declared public policy purposes.

SEC--The Securities and Exchange Commission of the United States.

Secretary--Secretary to the Board.

Securities--As defined in the Pennsylvania Securities Act of 1972 (70 P. S. §§ 1-101--1-703).

Slot machine--

(i) A mechanical or electrical contrivance, terminal, machine or other device approved by the Board which, upon insertion of a coin, bill, token, gaming voucher, coupon or

similar object therein or upon payment of any consideration, including the use of electronic payment system except a credit card or debit card, is available to play or operate, the play or operation of which, whether by reason of skill or application of the element of chance, or both, may deliver or entitle the person playing or operating the contrivance, terminal, machine or other device to receive cash, billets, tokens, gaming vouchers or electronic credits to be exchanged for cash or to receive merchandise or anything of value, whether the payoff is made automatically from the machine or manually. A slot machine:

(A) May utilize spinning reels or video displays, or both.

(B) May or may not dispense coins, vouchers or tokens to winning patrons.

(C) May use an electronic credit system for receiving wagers and making payouts.

(ii) The term includes associated equipment necessary to conduct the operation of the contrivance, terminal, machine or other device.

Slot machine license--A license issued by the Board authorizing a person to place and operate slot machines under the act.

Slot machine licensee--A person that holds a slot machine license.

SLOTS Link--An electronic application system developed by the Board.

Staff--An employee or an independent expert, including but not limited to, attorneys, accountants, investment bankers, architects, engineers, scientific and technical consultants and licensed financial brokers retained by the Board.

State gaming receipts--Revenues and receipts required by the act to be paid into the State Gaming Fund, the Pennsylvania Race Horse Development Fund and the Pennsylvania Gaming Economic Development and Tourism Fund, and all rights, existing on July 5, 2004, or coming into existence after July 5, 2004, to receive any of those revenues and receipts.

State Treasurer--The State Treasurer of the Commonwealth.

Statement of Investigation--An order of the Board in response to a petition for an order regarding inquiry and investigation of a purchase of an eligible applicant or licensee which specifies the particular criterion satisfied by the purchaser, provides for the continuing obligation of the purchaser to provide information to the Board, is applicable only as to the purchase of a specific eligible applicant or licensee, and provides an expiration date not to exceed 6 months from the date of issuance unless otherwise extended by the Board.

Subsidiary--A person other than an individual. The term includes:

(i) A corporation, any significant part of whose outstanding equity securities are owned, subject to a power or right of control, or held with power to vote, by a holding company or an intermediary company.

(ii) A significant interest in a person, other than an individual, which is owned, subject to a power or right of control, or held with power to vote, by a holding company or an intermediary company.

(iii) A person deemed to be a subsidiary by the Board.

Supplier--A person that sells, leases, offers or otherwise provides, distributes or services slot machines or associated equipment for use or play of slot machines in this Commonwealth at a licensed gaming facility.

Supplier license--A license issued by the Board authorizing a supplier to provide products or services related to slot machines or associated equipment to licensed gaming entities.

Supplier licensee--A person that holds a supplier license.

Trade secret--A private formula, pattern, device, cost study or compilation of information which is used in a business and which, if disclosed could negate an advantage over competitors who do not know or use it.

Underwriter--As defined in the Pennsylvania Securities Act of 1972.

§ 401a.4. Jurisdiction.

(a) The Board will have exclusive jurisdiction over all matters within the scope of its powers under the act.

(b) Nothing contained in this part shall be construed to limit the powers and duties of the Board as provided in the act.

§ 401a.5. Adjudicatory function of the Board; ex parte communications.

(a) The Board or a presiding officer acts in an adjudicatory capacity when considering any matter presented for a decision by the Board or presiding officer in relation to an on-the-record proceeding. To ensure the integrity and impartiality of the Board or presiding officer acting in an adjudicatory capacity, there will be no commingling of the adjudicatory functions of the Board or presiding officer and the investigatory or prosecutorial functions of the Bureau or Office of Enforcement Counsel.

(b) When acting in an adjudicatory capacity regarding the facts at issue or merits of a matter pending before the Board or presiding officer, or which may reasonably be expected to come before the Board or presiding officer in a contested on-the-record proceeding, a member or presiding officer of the Board or an attorney from the Office of Chief Counsel who is advising

the Board on the matter may not engage in an ex parte communication with any person including the Bureau or the Office of Enforcement Counsel.

(c) An ex parte communication received or engaged in by a member or presiding officer of the Board will be recorded in a log which will be available for public inspection at the Board's office during normal business hours and will be posted on the Board's web site. The log must include:

- (1) The name of the individual documenting the ex parte communication.
- (2) The date and time of the ex parte communication.
- (3) The names of all individuals involved in the ex parte communication.
- (4) The subject discussed.

(d) In addition to documenting an ex parte communication in accordance with subsection (c), notification of the substance of the communication and an opportunity to respond will be provided to all parties to the hearing or other proceeding that is the subject of the ex parte communication.

(e) A member or presiding officer of the Board may be required to recuse himself if substantial reasonable doubt exists as to the individual's ability to act objectively, independently or impartially in a hearing or proceeding as follows:

(1) A member or presiding officer of the Board who engaged in or received an ex parte communication will recuse himself from any hearing or other proceeding related to the ex parte communication if the context and substance of the ex parte communication creates substantial reasonable doubt as to the individual's ability to act objectively, independently or impartially.

(2) A member or presiding officer of the Board who engaged in or received an ex parte communication who elects not to recuse himself from a hearing or other proceeding will state his reasons for not recusing himself on the record prior to the commencement of the hearing or proceeding.

(3) A member or presiding officer of the Board who has identified any other reason which creates substantial reasonable doubt as to the individual's ability to act objectively, independently or impartially will recuse himself from any hearing or other proceeding related thereto.

(4) If a legislative appointee recuses himself from any hearing or other proceeding under this section, any qualified majority vote required under this part will consist of all of the remaining legislative appointees and at least two gubernatorial appointees.

(5) Failure of a presiding officer, for whom substantial reasonable doubt as to the individual's ability to act objectively, independently or impartially exists, to recuse himself from a hearing or other proceeding when required under paragraph (1) shall be grounds for appeal to the Board.

(6) Failure of a member, for whom substantial reasonable doubt as to the individual's ability to act objectively, independently or impartially exists, to recuse himself from a hearing or other proceeding when required shall be grounds for appeal to a court of competent jurisdiction if the Board action being appealed could not have occurred without the participation of the member.

(f) Nothing in this subsection will preclude a member of the Board from consulting with other members individually if the consultation complies with 65 Pa.C.S. §§ 701—716 (relating to Sunshine Act) or with employees or independent contractors whose functions are to assist the Board in carrying out its adjudicative functions.

CHAPTER 403. (Reserved)

§§ 403.1--403.7. (Reserved).

CHAPTER 403a. BOARD OPERATIONS AND ORGANIZATION

Sec.

403a.1. Definitions.

403a.2. Participation at meetings and voting.

403a.3. Meetings.

403a.4. Board office hours.

403a.5. Public communication.

403a.6. Delegation of powers.

403a.7. Temporary emergency orders.

403a.8. Licensed entity representative meetings.

§ 403a.1. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

Financial interest--

(i) An ownership, property, leasehold or other beneficial interest in an entity.

(ii) The term does not include an interest which is held or deemed to be held in any of the following:

(A) Securities that are held in a pension plan, profit-sharing plan, individual retirement account, tax sheltered annuity, a plan established pursuant to section 457 of the Internal Revenue Code of 1986 (26 U.S.C.A. § 457), or any successor provision, deferred compensation plan whether qualified or not qualified under the Internal Revenue Code of 1986, or any successor provision, or other retirement plan that:

(I) Is not self-directed by the individual.

(II) Is advised by an independent investment adviser who has sole authority to make investment decisions with respect to contributions made by the individual to these plans.

(B) A tuition account plan organized and operated under section 529 of the Internal Revenue Code of 1986 (26 U.S.C.A. § 529) that is not self-directed by the individual.

(C) A mutual fund where the interest owned by the mutual fund in a licensed entity does not constitute a controlling interest as defined in this part.

Ownership interest--Owning or holding or being deemed to hold, debt or equity securities or other ownership interest or profit interest.

§ 403a.2. Participation at meetings and voting.

(a) *Qualified majority vote.* An action by the Board, except as set forth in subsections (b) and (c), including the approval, issuance, denial or conditioning of a license or the making of an order or the ratification of a permissible act done or order made by one or more of the members of the Board will require a qualified majority vote consisting of at least one gubernatorial appointee and the four legislative appointees.

(b) *Majority vote.* An action by the Board to suspend, revoke, not renew, void or require forfeiture of a license, permit, certification or registration previously issued by the Board, to impose an administrative fine or penalty or to issue cease and desist will require a majority vote of all the Board members.

(c) *Participation.* A member may not participate in a hearing, proceeding or other matter in which the member, or the immediate family thereof, has a financial interest in the subject matter of the hearing or proceeding or other interest that could be substantially affected by the outcome of the hearing or proceeding, without first fully disclosing the nature of the interest to the Board and other persons participating in the hearing or proceeding. For purposes of the subsection, the term "immediate family" means spouse, parent, brother, sister or child.

(d) *Disqualifying interest.* If a Board member has a disqualifying interest in a voting matter, the member shall disclose the nature of the disqualifying interest, disqualify himself and abstain from voting in a proceeding in which his objectivity, impartiality, integrity or independence of judgment may be reasonably questioned, including instances where he knows that he possesses a substantial financial interest in the subject matter of the proceeding or an interest that could be substantially affected by the outcome of the proceeding. If it is a legislative appointee member that has disqualified himself, the qualified majority will consist of the remaining three legislative appointees and at least two gubernatorial appointees.

(e) *Member abstention.* When a member has disqualified himself, the member's abstention from voting will apply only to the singular voting matter that led to the disqualification and not apply to other matters under consideration by the Board for which the member is otherwise qualified.

§ 403a.3. Meetings.

(a) *Public sessions.* The proceedings of all public sessions will be conducted in accordance with 65 Pa.C.S. Chapter 7 (relating to the Sunshine Act).

(b) *Regularly scheduled meetings.* The Board will meet once a month, and on other dates as the Board determines.

(c) *Participation by means of telephone or video teleconference.* A Board member may participate in a meeting by means of telephone or video teleconference when it is impractical for the Board member to attend the meeting in person.

(d) *Record of proceedings.* The Board will keep a record of all proceedings held at public meetings of the Board. A verbatim transcript of those proceedings will be prepared by and will be the property of the Board. The verbatim transcript will be available for inspection at the Board's office during normal business hours.

§ 403a.4. Board office hours.

Board offices will be open from 8:30 a.m. to 5 p.m. on business days except Saturdays, Sundays, legal holidays and Commonwealth office closures declared by the Governor, unless otherwise directed by the Board.

§ 403a.5. Public communication.

Requests for information regarding the Board may be directed to:

Office of Communications
Pennsylvania Gaming Control Board
P. O. Box 69060
Harrisburg, PA 17106-9060

§ 403a.6. Delegation of powers.

(a) The Board may, consistent with the act and this part, delegate its authority to perform any of its functions to a Board member or member of the Board's staff.

(b) A delegation of Board authority will be effected by promulgation of a regulation or the adoption of an order or a resolution at a public meeting of the Board. The regulation, order or resolution will specify:

(1) The specific authority delegated.

(2) The Board member or Board staff members to whom the authority is delegated.

(3) Limitations or conditions imposed on the authority delegated.

(c) Delegations of authority made under this section will remain in effect indefinitely unless otherwise specified in the implementing regulation, order or resolution.

(d) A delegation of authority adopted by the Board may be modified or rescinded by the Board through promulgation of a regulation or the adoption of a subsequent order or resolution at a public meeting of the Board.

(e) Notwithstanding any other provision of this section, a matter that has been delegated to the Board staff may alternatively be presented to and determined by the Board on its own motion, at the discretion of the Chairperson or at the request of the Board staff.

§ 403a.7. Temporary emergency orders.

(a) Upon request of the Office of Enforcement Counsel in accordance with subsection (d), a temporary emergency order may be issued by, or on behalf of, the Executive Director of the Board. A temporary emergency order may be issued without a hearing and without advanced notice and will notify the person to whom the temporary emergency order is issued that he may request a hearing to be held by the Executive Director within 72 hours of the request being filed with the Board.

(b) A temporary emergency order may be issued to suspend a license, certification, permit or registration or to direct that a person refrain from engaging in, or cease and desist engaging in, specific conduct.

(c) A temporary emergency order may be issued if there is insufficient time to provide notice and hearing prior to the issuance of the order; the order is necessary to preserve the public health, welfare, or safety or the integrity of gaming in the Commonwealth; and determination of one of the following has occurred:

(1) A person holding a license, certification, permit or registration issued by the Board has been charged with or convicted of a felony, a criminal gaming offense, or crime of dishonesty or false statement or other offense that would make the person ineligible or unsuitable to hold a license, permit, certification or registration.

(2) A licensee has failed to pay required assessments or to satisfy its tax obligations under the act.

(3) The action is necessary to prevent or cure a violation of any provision of the act, this part or other Federal or State laws or regulations.

(d) If the Office of Enforcement Counsel determines that circumstances exist which require that immediate action be taken on behalf of the Board, it may submit a request for a temporary emergency order. The request will include:

(1) The circumstances upon which the determination to request the order was made.

(2) The grounds upon which the order is being requested.

(3) The specific relief sought in the order.

(e) A temporary emergency order will be issued in writing and filed, together with the request for a temporary emergency order required by subsection (d), with the Clerk no later than the close of the next business day following its issuance.

(f) A temporary emergency order will specify that the person subject to the temporary emergency order may request an informal hearing before the Executive Director within 72 hours of filing the request with the Clerk.

(g) The Bureau will cause the temporary emergency order and the request for a temporary emergency order required by subsection (d) to be served upon the person named in the temporary emergency order. Service required by this subsection will be made as expeditiously as practicable following the issuance of the order and the request. Service will be made in the manner prescribed by § 491a.5 (relating to service by the Board).

(h) Within 72 hours of the filing a request for an informal hearing with the Board, an informal hearing before the Executive Director or a designee will be held at the Board headquarters.

(i) The Executive Director or a designee may sign subpoenas to secure the attendance of witnesses and the production of documents.

(j) The procedure for the informal hearing will be as follows:

(1) The Executive Director or a designee will call the hearing to order and present the request for a temporary emergency order filed by the Office of Enforcement Counsel under subsection (d).

(2) The person named in the temporary emergency order may respond by submitting evidence and witnesses supporting the position that the temporary emergency order should be dissolved or modified.

(3) The Executive Director or a designee may require that witnesses testify under oath. All relevant evidence is admissible. The Executive Director or a designee may question witnesses.

(4) The licensee may make a concluding argument as to why the temporary emergency order should be dissolved or modified.

(5) Upon receiving all evidence presented by the person named in the order and hearing the person's final argument, the Executive Director or a designee will render a decision as to whether or not the temporary emergency order will continue, be modified or dissolved within 72 hours. Service of the decision will be made in the manner prescribed by § 491a.5. Unless the Executive Director dissolves the temporary emergency order, the matter will be scheduled for a hearing before the Board as provided in subsection (k).

(k) Once a temporary emergency order has been issued under this section, unless it has been subsequently dissolved by the Executive Director, the temporary emergency order will be presented to the Board at its next meeting or within 10 business days, whichever is longer at which time the Board may do one of the following:

(1) Conduct a hearing to determine the validity of the issuance of the order.

(2) Refer the matter to the Office of Hearings and Appeals under § 491a.8 (relating to hearings generally) and direct that a hearing be conducted by a presiding officer and a report submitted to the Board.

(1) In all hearings relating to the disposition of a temporary emergency order, whether the hearing is conducted by the Board or by a presiding officer, the following procedure will occur:

(1) The temporary emergency order, the request for the temporary order and any modifications to the temporary order will be made a part of the evidentiary record of the proceeding.

(2) The Office of Enforcement Counsel will present evidence to the Board or the presiding officer in support of the temporary emergency order.

(3) The person named in the order shall have the burden of rebutting the evidence presented by the Office of Enforcement Counsel.

(m) If the hearing is conducted by the Board, the Board may take one of the following actions upon conclusion of oral arguments and evidentiary presentations:

(1) If the Board finds that the un rebutted facts and circumstances presented are sufficient to support the issuance of the temporary emergency order, that dissolution of the temporary emergency order would pose an immediate threat to the public health, safety or welfare, or the public's interest in the effective regulation of gaming demands the action, it may adopt a resolution ratifying or modifying the temporary emergency order. This order may be appealed under § 494a.11 (relating to appeals).

(2) If the Board finds that there is insufficient cause to continue the temporary emergency order, it may adopt a resolution dissolving the emergency order and the privileges of the person named in the order will be reinstated.

(3) If the Board finds that further hearing is necessary, it may refer the matter to the Office of Hearings and Appeals for additional presentation of evidence and testimony of witnesses. If the matter is referred to the Office of Hearings and Appeals, the temporary emergency order will remain in effect, with or without modification as the Board deems appropriate.

(n) If the Board adopts a resolution, the resolution may establish the length of term for the order by establishing an expiration date, dependent on the completion of specified remedial actions or dependent on the filing of, or final resolution of, a complaint alleging the person violated a provision of the act or this part. If the expiration date is dependent upon specific remedial actions, the Board will provide a detailed description of the remedies in the resolution and will establish procedures whereby the person can demonstrate that it has complied with the required remedies.

(o) Any resolution adopted is a final order of the Board for purposes of appeal.

(p) Resolutions ratifying or dissolving temporary emergency orders adopted by the Board under this section will have no effect upon the power and duty of the Office of Enforcement Counsel to initiate, in its sole discretion, proceedings for violations of the act or this part or upon the outcome of any proceeding so initiated.

(q) Copies of the Board's final order will be served on the person named in the order by certified or overnight express mail, postage prepaid; or by personal delivery in accordance with § 491a.5.

(r) If the Board refers the matter to the Office of Hearings and Appeals, the hearing will be subject to the following requirements:

(1) The Chairperson will designate a presiding officer to direct the hearing and rule on evidentiary matters.

(2) The hearing before the presiding officer will occur no more than 10 business days after the Board refers the matter to the Office of Hearings and Appeals, unless a delay is requested by the person named in the temporary emergency order.

(3) Within 10 days following the conclusion of hearing, the presiding officer will forward a recommendation for action on the temporary emergency order to the Board. A copy of the recommendation will be served on the person named in the temporary order by certified or overnight express mail or by personal delivery in accordance with § 491a.5.

§ 403a.8. Licensed entity representative meetings.

(a) If a Board member conducts a meeting with a licensed entity representative under section 1201.1(c)(7) of the act (relating to code of conduct), the Board member will record the following in the log:

(1) The names of individuals with whom the Board member met.

(2) The date and time of the meeting.

(b) The Board member will include a memorandum of the content of the discussion in the log.

(c) The log will be available for public inspection.

CHAPTER 405. (Reserved)

§§ 405.1--405.7. (Reserved).

CHAPTER 405a. BUREAU OF INVESTIGATIONS AND ENFORCEMENT

Sec.

405a.1. General duties and powers.

405a.2. Information.

405a.3. Office of Enforcement Counsel.

405a.4. Conduct.

405a.5. Investigatory subpoena.

405a.6. Enforcement action.

§ 405a.1. General duties and powers.

(a) Except for administrative purposes, the Bureau is a distinct entity, independent of the Board, the Office of Chief Counsel and the Office of Hearings and Appeals.

(b) The Bureau has the powers and duties set forth in section 1517 of the act (relating to enforcement) including:

(1) The investigation and review of applicants seeking a license, permit, certification or registration.

(2) The investigation of licensees, permittees, registrants, certified gaming service providers and other persons for potential violations of the act, including potential violations referred to the Bureau by the Board or other persons.

(3) The monitoring of slot machine operations to ensure compliance with the act, this part and the integrity of gaming, including internal controls, exclusion list enforcement, underage gaming and drinking, individual complaints, information systems, integrity and security issues.

(4) The inspection and examination of all premises where slot machine operations are conducted, gaming devices or equipment are manufactured, sold, distributed or serviced or where records of these activities are prepared or maintained as provided in section 1517(e) of the act. Inspections may include the review and reproduction of any document or record.

(5) The conduct of audits of slot machine operations as necessary to ensure compliance with the act and this part. An audit may include, but is not limited to, reviews, examinations and inspections of:

(i) Accounting, administrative and financial records and procedures utilized by the licensed entity.

(ii) Internal control procedures and management control procedures.

(iii) Security and surveillance departments.

(iv) Corrective action taken by the licensee to resolve reported deficiencies.

(v) Reports issued by an independent certified public accountant or independently registered public accounting firm pertaining to the adequacy of the licensee's system of internal controls over financial reporting.

(vi) The licensee's responses, if any, to the reports noted in paragraph (v).

(vii) Other matters required by the Board or the Bureau.

(6) The referral of possible criminal violations under the act to the Pennsylvania State Police.

(7) Be a criminal justice agency under 18 Pa.C.S. Chapter 91 (relating to criminal history record information).

(c) The Bureau will determine the scope of a background investigation, which may not be directed or limited by the Executive Director or Chief Counsel of the Board.

§ 405a.2. Information.

(a) An applicant for or holder of a license, permit, certification or registration shall provide all information, data and documents requested by the Bureau under section 1517(a) of the act (relating to enforcement). The Bureau may also request the execution of a release which would enable the Bureau and the Board to receive information pursuant to a request for information under the Freedom of Information Act (5 U.S.C. § 552).

(b) The Director of the Bureau, the Chief Enforcement Counsel, and their designees, will have the power and authority to administer oaths and affirmations for the purpose of obtaining voluntary sworn statements with regard to any matter or thing which may properly fall within the jurisdiction of the Board. Any person so designated will have the power and authority to obtain by subpoena the sworn statement of a person deemed to have information relevant to an investigation that the Board is authorized to conduct. Designation pursuant to this section will be made in writing, filed with the Clerk, and remain in effect until revoked.

(c) A State or local law enforcement agency, including the Pennsylvania State Police and the Office of Attorney General, the Department or other executive agency may provide information, data and documents requested by the Bureau relating to an applicant for or holder of a license, permit, certification or registration.

(d) The Bureau may, upon request, provide pertinent information relating to an applicant for or holder of a license, permit, certification or registration to law enforcement agencies, including the Federal Bureau of Investigation or other domestic or foreign agencies or jurisdictions.

(e) Information under this section may be provided or received by electronic distribution.

§ 405a.3. Office of Enforcement Counsel.

(a) The Office of Enforcement Counsel within the Bureau has the following powers and duties:

(1) Advise the Bureau on all matters, including the granting of licenses, permits, certifications or registrations, the conduct of background investigations, audits and inspections and the investigation of potential violations of the act or this part.

(2) Make recommendations and objections relating to the issuance of licenses, permits, certifications and registrations.

(3) Initiate, in its sole discretion, proceedings for violations of the act or this part by filing a complaint or other pleading with the Board seeking civil fines or penalties, the imposition of conditions on a license, permit, certification or registration, or the suspension or revocation of a license, permit, certification or registration.

(4) Act as the prosecutor in enforcement actions under the act.

(5) Seek a settlement that may include fines, penalties or other actions subject to approval by the Board.

(6) Appear at administrative hearings and other proceedings before the Board.

(7) Petition the Board for the appointment of a trustee under section 1332 of the act (relating to appointment of trustee).

(8) Review all information discovered during an investigation relating to an applicant's suitability and eligibility for a license, permit, certification or registration and, in accordance with law, independently determine the content and scope of that information to be included in the final background investigation report.

(9) Prepare a final background investigation report for inclusion in the applicant's suitability report to the Board relating to an applicant's suitability and eligibility for a license, permit, certification or registration.

(b) The Chief Enforcement Counsel will report to the Executive Director of the Board on administrative matters.

(c) The Chief Enforcement Counsel may be removed by the Board only for good cause shown.

§ 405a.4. Conduct.

(a) As provided in section 1202.1(c.1) of the act (relating to code of conduct), an attorney representing the Bureau or Office of Enforcement Counsel, or an employee involved in the hearing process, may not engage in an ex parte communication with a member or presiding officer of the Board, the Chief Counsel or an attorney from the Office of Chief Counsel who is advising the Board in relation to that matter.

(b) A member or presiding officer of the Board, the Chief Counsel or an attorney from the Office of Chief Counsel who advises the Board may not direct, restrict or influence any employee of the Board or Bureau with respect to the conduct and scope of an enforcement proceeding or hearing with which the employee is involved.

(c) If it becomes necessary for the Chief Counsel or an attorney from the Office of Chief Counsel or a Board member to become involved on behalf of the Board in any enforcement

proceeding, the Chief Counsel or the attorney from the Office of Chief Counsel or the Board member involved shall be prohibited from participating in the adjudication of that matter.

(d) The Bureau may not disclose any portion of a background investigation report to a member of the Board, the Chief Counsel or an attorney from the Office of Chief Counsel who is advising the Board, prior to the Office of Enforcement Counsel's submission to the Board of the final background investigation report relating to an applicant's suitability and eligibility for a license, permit, certification or registration.

§ 405a.5. Investigatory subpoena.

(a) The Chief Enforcement Counsel is authorized to require the attendance and testimony of witnesses and the production of books, accounts, papers, records, documents, files, computer files and photographs in original or electronic format necessary for all action within the authority of the Bureau under the act or this part.

(b) The Chief Enforcement Counsel or his representative may issue subpoenas.

(c) In case of disobedience of any subpoena or the contumacy of any witness appearing before the Chief Enforcement Counsel or a representative, the Chief Enforcement Counsel or a representative may invoke the aid of Commonwealth Court or any court of record of this Commonwealth to require the person subpoenaed to obey the subpoena or to give evidence or to produce books, accounts, papers, records, documents, files, computer files and photographs in original or electronic format relative to the matter in question.

(d) The issuance of a subpoena under this section will not be required to secure the cooperation of a person who is an applicant for, or the holder of, a license, permit, certification or registration issued by the Board, or to secure the voluntary cooperation of any person.

§ 405a.6. Enforcement action.

(a) Upon a determination by the Office of Enforcement Counsel that sufficient facts exist to support enforcement action against a person holding a license, permit, certification or registration issued by the Board, the Office of Enforcement Counsel will initiate a complaint in accordance with § 493a.2 (relating to complaints), including a proposed order for an enforcement action and serve the complaint in accordance with § 491a.5 (relating to service by the Board).

(b) The complaint for an enforcement action will include a statement of the facts, the statute, regulation or statement of conditions that the person is being charged with violating and the remedy sought. The proposed order will be accompanied by a certificate of service demonstrating the date of service.

(c) Within 20 days from the date of service of complaint for an enforcement action, the person may file a notice of defense in accordance with § 493a.5 (relating to answers to complaints, petitions, motions and other filings requiring a response) and serve a copy of the

notice of defense on the Office of Enforcement Counsel. Failure to file a notice of defense for an enforcement action complaint within 20 days will be deemed:

(1) A waiver by the person of any right to an administrative hearing before the Board.

(2) An admission by the person of all matters and facts alleged in the proposed order for enforcement action.

(3) Consent by the person to the entry of a final order by the Board disposing of the enforcement matter.

(d) Upon the person's failure to request a hearing within the prescribed 20 days, the Office of Enforcement Counsel will present the proposed enforcement order to the Board. The Board may, by resolution, adopt the proposed enforcement order.

(e) The Clerk will send a copy of the Board's final order to the person by first class mail.

CHAPTER 407. (Reserved)

§§ 407.1--407.3. (Reserved).

CHAPTER 407a. PUBLIC ACCESS TO BOARD FILES

Sec.

407a.1. Case files.

407a.2. Minutes of public meeting and annual report.

407a.3. Confidential information.

§ 407a.1. Case files.

(a) *Formal records.* The Board will maintain a nonconfidential file and a confidential file for all formal records.

(b) *Access.* Access to formal records will be governed by the following:

(1) Nonconfidential files will be available for inspection during normal Board business hours.

(2) Upon receipt of a request for access to confidential files, the Board or the Bureau will review the request and provide its determination as to whether the material may be released for inspection within 30 days of the request.

(3) For good cause, the Board may extend the time limits applicable to requests for access to confidential files.

(c) The Board may issue protective orders or establish standards governing the protection of proprietary or confidential documents for a given proceeding or a given type of proceeding. All parties to a proceeding shall submit, classify and mark documents in accordance with the directives of the Board or its designee. In the absence of any protective order or standard, parties shall clearly mark documents that are deemed to be proprietary or confidential. The documents will be treated as marked by the Board.

(d) Any party or member of the public may dispute the designation of a document as submitted by filing a notice of dispute with the Board. The Board will determine the proper classification of documents subject to a notice of dispute as soon as administratively possible.

§ 407a.2. Minutes of public meeting and annual report.

Minutes of the public meeting and annual reports will be available for public inspection upon request to the Secretary during normal Board business hours. Copies will be provided upon request and payment of the cost for copying as the Board may establish through a schedule published in the *Pennsylvania Bulletin*.

§ 407a.3. Confidential information.

(a) Confidential information may include background investigation information, including information provided under section 1310(a) of the act (relating to slot machine license application character requirements), submitted in connection with an application required for the issuance of any license, permit, certification or registration under this part, discovery procedures, or cross-examination or that is provided as a courtesy to a party in a formal proceeding received by the Board or the Department as well as records obtained or developed by the Board or the Department as part of an investigation related to an applicant for or holder of a license, permit, certification or registration containing any of the following:

(1) Personal information, including home addresses, telephone numbers, Social Security numbers, educational records, memberships, medical records, tax returns and declarations, actual or proposed compensation, financial account records, credit-worthiness or financial condition relating to an applicant, licensee or permittee or the immediate family thereof.

(2) Documents and information relating to proprietary information, trade secrets, patents or exclusive licenses, architectural and engineering plans and information relating to competitive marketing materials and strategies which may include customer-identifying information or customer prospects for services subject to competition.

(3) Security information including risk prevention plans, detection and countermeasures, emergency management plans, security and surveillance plans, equipment and usage protocols and theft and fraud prevention plans and countermeasures.

(4) Information with respect to which there is a reasonable possibility that public release or inspection of the information would constitute an unwarranted invasion into personal privacy as determined by the Board.

(5) Records or information that is designated confidential by statute or the Board.

(6) Records of an applicant or licensee not required to be filed with the SEC by issuers that either have securities registered under section 12 of the Securities Exchange Act of 1934 (15 U.S.C.A. § 781) or are required to file reports under section 15(d) of that act (15 U.S.C.A. § 78o(d)).

(7) Records considered nonpublic matters or information by the SEC as provided by 17 CFR 200.80 (relating to commission records information).

(8) Information obtained about an applicant for or holder of a license, permit, certification or registration as a result of a release executed by the individual at the request of the Bureau or the Board.

(b) Confidential information may be released by the Board under the following circumstances:

(1) To State or Federal law enforcement agencies or entities upon approval of the Attorney General or pursuant to a lawful order issued by court of competent jurisdiction.

(2) To the public, in whole or in part, if one of the following occurs:

(i) Upon written request from the applicant or holder of a license, permit, certification or registration, to the extent that the information does not contain otherwise confidential information about another person.

(ii) If the information subsequently becomes a part of the public domain by an action by the applicant or holder of a license, permit, certification or registration.

(3) To a person with the written consent of the applicant or holder of a license, permit, certification or registration.

Subpart B. LICENSING, PERMITTING, CERTIFICATION AND REGISTRATION

CHAPTER 421. (Reserved)

§§ 421.1--421.5. (Reserved).

CHAPTER 421a. GENERAL PROVISIONS

Sec.

- 421a.1. General requirements.
- 421a.2. Disqualification criteria.
- 421a.3. Investigations; supplementary information.
- 421a.4. Presuitability determination.
- 421a.5. Undue concentration of economic opportunities and control.

§ 421a.1. General requirements.

(a) A license, permit, certification or registration issuance, renewal or other approval issued by the Board is a revocable privilege. No person holding a license, permit, certification or registration, renewal, or other approval is deemed to have any property rights related to the license, permit, certification or registration.

(b) By filing an application with the Board, an applicant consents to an investigation of the applicant's general suitability, financial suitability, character, integrity and ability to engage in, or be associated with, gaming activity in this Commonwealth to the extent deemed appropriate by the Board. The investigation may include a background investigation of the applicant, employees of the applicant, all persons having a controlling interest in the applicant and other persons as determined by the Board.

(c) By filing an application for a license, permit, certification or registration issuance, renewal or other approval from the Board, an applicant agrees to:

(1) Abide by the provisions of the act and this part.

(2) Waive liability as to the Board, its members, its employees, the Pennsylvania State Police, the Commonwealth and its instrumentalities for damages resulting from disclosure or publication in any manner, other than a willfully unlawful disclosure or publication of material or information acquired during an investigation of the applicant.

(3) Execute all releases requested by the Board, including releases whereby the applicant consents to the release of information that may be requested by the individual under the Freedom of Information Act (5 U.S.C. § 552) to the Board.

(d) An applicant for or holder of a license, permit, certification or registration may not give or offer to give, compensation or reward or a percentage or share of the money or property played or received through gaming to a public official or public employee in consideration for or in exchange for obtaining a license, permit, certification or registration issued pursuant to this part.

(e) An applicant for or holder of a license, permit, certification or registration shall have a duty to inform the Bureau of an action which the applicant for or holder of a license, permit, certification or registration believes would constitute a violation of the act. A person who so informs the Bureau may not be discriminated against by an applicant for or holder of a license, permit, certification or registration for supplying the information.

(f) An applicant for a license, permit, certification or registration shall have a continuing duty to inform the Board of changes in the information supplied to the Board in or in conjunction with the original or renewal application. An applicant for or holder of a license, permit, certification or registration shall have a continuing duty to inform the Board of a change in circumstances that may render the applicant for or holder of a license, permit, certification or registration ineligible, unqualified or unsuitable to hold a license, permit, certification or registration under the standards and requirements of the act and of this part.

(g) An applicant for a license, permit, certification or registration shall have a continuing duty to promptly provide information requested by the Board relating to its application or regulation and cooperate with the Board in investigations, hearings, and enforcement and disciplinary actions.

(h) An application submitted to the Board constitutes the seeking of a privilege. An applicant shall at all times have the burden of proof. It shall be the applicant's affirmative responsibility to establish the facts supporting its suitability under the act and this part by clear and convincing evidence, including why a license, permit, certification or registration should be issued or renewed by the Board.

(i) A person holding a license, permit, certification or registration issued by the Board who violates a provision of the act or this part may be held jointly or severally liable for the violation.

(j) The Board will maintain lists of applicants for licenses, permits, certifications or registrations under this part as well as a record of the actions taken with respect to each applicant. The lists will be posted on the Board's website (www.pgcb.state.pa.us).

§ 421a.2. Disqualification criteria.

(a) An application for issuance or renewal of a license, permit, certification or registration may be denied, or a license, permit, certification or registration may be suspended or revoked if:

(1) The applicant has failed to prove to the satisfaction of the Board that the applicant or any of the persons required to be qualified, are in fact qualified in accordance with the act and with this part.

(2) The applicant for or holder of a license, permit, certification or registration has violated the act or this part.

(3) The applicant for or holder of a license, permit, certification or registration is disqualified under the criteria in the act.

(4) The applicant for or holder of a license, permit, certification or registration has materially departed from a representation made in the application for licensure or renewal.

