



**NORTH CAROLINA  
STATE LOTTERY COMMISSION**

---

Ripley Rand  
*Chair*

Mark Michalko  
*Executive Director*

**DATE:** November 7, 2023

**AGENCY:** North Carolina State Lottery Commission

**ACTION:** Notice of Proposed Rulemaking

**DEADLINE FOR SUBMITTING COMMENTS:** November 27, 2023

**PUBLIC HEARING:** November 20, 2023, at 9:00 a.m. ET, located at the North Carolina State Lottery Commission Headquarters, 2728 Capital Boulevard, Suite 144, Raleigh, NC 27604.

Please note that Commission staff will conduct the hearing; this is not a regular meeting of the Commission or its committees.

**All web links and forms identified below are accessible at:** <https://nclottery.com/sports-betting>.

**NOTICE OF PROPOSED RULEMAKING:**

The North Carolina State Lottery Commission (Commission) is an independent, self-supporting, and revenue-raising agency of the State of North Carolina. It has been in operation since 2006 and is governed by Chapter 18C of the North Carolina General Statutes. The Commission's primary purpose is to generate funds for educational purposes through operation of the North Carolina Education Lottery. The North Carolina General Assembly expanded the Commission's duties and responsibilities with the passage of Session Law 2023-42 "An Act to Authorize and Regulate Wagering on Professional, College, and Amateur Sports and on Horse Racing in North Carolina, and to Authorize Live Horse Racing in North Carolina." Session Law 2023-42 established the Commission as the state's licensing body and regulator for authorized wagering on sports and horse racing and empowered the Commission to adopt any rules necessary to carry out the provisions of G.S. Chapter 18C.

In order to implement sports and horse race wagering, the Commission will issue multiple notices of rulemaking. The rules adopted by the Commission will be collected and published in the "North Carolina State Lottery Commission's Rules Manual for Sports Wagering and Pari-Mutuel Wagering."

With this notice of proposed rulemaking, the Commission has set a public hearing and issued a request for public comment on the adoption of certain rules to be included in the North Carolina State Lottery Commission Rules Manual for Sports Wagering and Pari-Mutuel Wagering. Among other things, proposed rules noticed here include additional licensing provisions in Chapter 1 concerning reconsideration, conditional licensure, transfer and assignment, and notification requirements. Additionally, Subsections C through I are added to Chapter 1. Generally speaking, these subsections set forth proposed rules concerning the following topics: disciplinary actions and hearings; audit and internal control standards; standards for wagering; responsible gaming; wagering accounts; wagering facilities; and advertising and marketing. Chapter 2, which is specific to sports wagering, is expanded to address standards for sports wagering in Subsection C and technical requirements and oversight in Subsection D.

Be advised that this notice of proposed rulemaking includes proposed changes to items included in the Notice of Proposed Rulemaking that previously issued on October 17, 2023. Be advised that at the time of the initial publication and dissemination of this Notice on November 7, 2023, the full Commission has not formally acted upon or addressed the rulemaking noticed on October 17, 2023.



**NORTH CAROLINA  
STATE LOTTERY COMMISSION**

---

Ripley Rand  
*Chair*

Mark Michalko  
*Executive Director*

Attached to this notice of proposed rulemaking is the draft text for (i) each newly proposed rule, and (2) amendments (e.g., strikethroughs, additions, deletions, re-numbering) to certain previously proposed rules. The rule text from the Notice of Proposed Rulemaking that issued on October 17, 2023 is identified in [blue text](#). The blue rule text has been included to give context to the current proposed rule text, but is not open for public comment. Proposed amendments to the October 17, 2023 version of proposed rules appear in blue text and are identified with strikethroughs and highlights; these proposed amendments are permissible subjects for public comment. The rule text included in this current notice of proposed rulemaking is underlined in black text and is open for public comment. The proposed effective date for the Rules Manual is the date of its adoption or the earliest date allowed by law, whichever is later.

**ABOUT THE RULEMAKING PROCESS:**

The Commission adopted a rulemaking policy in September 2023, to establish a transparent, deliberative rulemaking process for implementing Articles 9 and 10 of the Act. Taking into consideration the evolving nature of authorized gaming and wagering in North Carolina, the Rulemaking Policy and Procedure provides the Commission flexibility to act in a timely manner to serve the public interest, while including provisions that ensure the public and stakeholders have an opportunity to be heard through public comment.

The Commission's Rulemaking Policy and Procedure can be found at [this link](#). This rulemaking is proceeding according to Section 9f of the Policy, "Expedited rulemaking procedure;" however, the Commission's Sports Betting Committee has exercised discretion to allow additional time for public comment during this expedited rulemaking.

If you are interested in receiving future notices of the Commission's rulemaking process via email, please register to the Commission's rulemaking interested persons list by visiting [this link](#).

**PUBLIC HEARING:**

*Where:* The Commission has directed its staff to conduct a public hearing to collect comments and feedback regarding the proposed rules on November 20, 2023. The hearing will begin at 9:00 a.m. at the North Carolina State Lottery Commission Headquarters, 2728 Capital Boulevard, Suite 144, Raleigh, NC 27604. The hearing will adjourn no later than 12:00 p.m., though it may conclude earlier once registered parties present at Commission Headquarters have been provided their opportunity to speak.

*Security:* All those who wish to attend the public hearing may do so by visiting the Commission's Headquarters at the address above. Attendees are subject to the security protocols, which include presentation of a government issued ID. Attendees are encouraged to arrive approximately 15-20 minutes before the public comment hearing to complete the check-in process.

*Register to Speak:* Individuals who wish to make an oral presentation at the public hearing must register to speak at least one business day in advance of the hearing via web portal at [this link](#). Thus, registration must be submitted online by 9:00 a.m. ET on November 19, 2023. Note, however, registration to make an oral presentation does not guarantee the opportunity to speak. The Commission staff may limit the number of registrations and/or speakers due to time constraints.

*Oral Presentations:* All registered speakers should be present at Commission Headquarters and ready to speak by 9:00 a.m. ET on November 20, 2023. Registrants must identify themselves and any organization or entity on whose behalf they intend to speak. Oral presentations at the public hearing will be limited to



**NORTH CAROLINA  
STATE LOTTERY COMMISSION**

---

Ripley Rand  
*Chair*

Mark Michalko  
*Executive Director*

three (3) minutes per speaker. Any deviation from this limit is at the discretion of Commission staff conducting the hearing. The public hearing will be memorialized by a stenographer or by a suitable technologic solution. The hearing will conclude after all registered speakers have had a chance to speak on the record, or at 12:00 p.m., whichever occurs earlier.

**HOW TO SUBMIT COMMENTS:**

To submit comments, utilize the Commission public comment webform located at [this link](#). The webform offers a place to easily comment on a specific rule or set of rules and provide any suggested changes.

If you prefer to submit comments in another format, please email comments to [PublicComment@ncgaming.gov](mailto:PublicComment@ncgaming.gov), along with your name and contact information, business or organization (if applicable), and the rule numbers to which your comments relate. All public comments must be submitted no later than **November 27, 2023** to be considered.

Only comments submitted in accordance with the instructions contained herein will be considered. Note that all comments are subject to the public records provisions of G.S. 132-1, et seq.

**FOR FURTHER INFORMATION:** Email the Commission at [sportsbettinginfo@lotterync.net](mailto:sportsbettinginfo@lotterync.net) or visit <https://nclottery.com/sports-betting>.

**Proposed Rulemaking:**  
North Carolina State Lottery Commission Rules Manual  
For Sports Wagering and Pari-Mutuel Wagering  
November 7, 2023

For more information about this proposed rulemaking see the Notice of Proposed Rulemaking memorandum published and disseminated to interested parties on November 7, 2023. That document and other resources are available for review at: <https://nclottery.com/sports-betting>.

**Guide to this Proposed Rulemaking**

As explained in the Notice of Proposed Rulemaking, the draft Rules Manual that follows contains proposed rules noticed on October 17, 2023, as well as proposed rules noticed on November 7, 2023. Notably, this rulemaking includes amendments to certain provisions included in the earlier October 17 notice. At the time of publication of this document, neither the Commission nor its Sports Betting Committee have taken formal action concerning proposed rules from October 17, 2023. However, the public comment period is now closed for the rules proposed in October 2023.

Please use the following key when reviewing this document:

- Rules proposed in the October 17, 2023, Notice of Rulemaking for which the public comment period has closed **appear in blue text**.
- Items that appear in **blue strikethrough text** or in **underlined and highlighted black text** represent changes offered in the November 7, 2023, rulemaking to rules proposed on October 17, 2023. The Commission will accept public comment concerning these proposed changes. Be advised, however, that the Commission may take action with respect to the October 17, 2023, during the public comment period for the rules proposed November 7, 2023.
- Newly proposed rules appear in **black, underlined text**; the Commission welcomes public comment about these new proposals.

Finally, be advised that in the future the Commission anticipates conducting rulemaking to implement pari-mutuel horseracing and Article 10 of the State Lottery Act.

# North Carolina State Lottery Commission Rules Manual For Sports Wagering and Pari-Mutuel Wagering

## INTRODUCTION

The North Carolina State Lottery Commission Rules Manual for Sports Wagering and Pari-Mutuel Wagering is adopted pursuant to Chapter 18C of the North Carolina General Statutes.

## Chapter 1 - General Wagering

### Subchapter A – General Provisions

#### Rule 1A-001 Definitions

In addition to defined terms in G.S. 18C-901 and G.S. ~~19C-1001~~ 18C-1001, the following definitions apply throughout this Rules Manual, unless otherwise specified in the Rule, Subchapter, or Chapter:

- (1) “Abnormal Wagering Activity” means ~~wagering activity~~ Wagering Activity exhibited by one or more Players and considered by an Operator as a potential indicator of Suspicious or Illegal Wagering Activity, including the size of a Player’s Wager, increased ~~wagering~~ Wagering volume on a particular ~~wagering event~~ Wagering Event or Wager ~~type~~ Type, or unusual patterns of ~~wagering~~ Wagering over a period of time.
- (2) “Advertisement” means a notice, announcement, or communication to the public, or any specific members thereof, made by an Operator or on its behalf, designed to solicit or entice an Individual to participate in an Operator’s Sports Wagering or ~~Pari-mutuel~~ Pari-Mutuel Wagering offerings via broadcasting, publication, or any other means of dissemination in this ~~state~~ State, including but not limited to social media, direct messaging, text message, or electronic mail.
- (3) “Affiliate” means a Person who directly or indirectly controls, or is controlled by, or is under common control with, a specified Person.
- (4) “Age and Identity Verification” means a method, system, or device used by an Operator to verify the validity of a Player’s age and the Player’s identity.
- (5) “Applicant” means a Person that applies for a License to engage in activity regulated under these Rules and statutorily authorized by Articles 9 or 10 of the Act.

(6) "Authorized Representative" means a Responsible Party's licensed attorney-at-law of record or its authorized employee or other official representative; an Authorized Representative shall have full authority to take binding action on behalf of the Responsible Party.

(7) "Background Investigation" means the statutorily required credit history check, tax record check, criminal history record check, and any other checks or inquiries as determined by the Commission, in its discretion, for Individuals connected with an Applicant for a License and Persons required to be disclosed as set forth by law, these Rules, or a License application approved by the Commission.

(8) "Canceled Wager" means a Wager that was valid at the time that it was made but has since been invalidated in a manner acceptable by the Commission due to an event or action that prevents its completion.

(9) "Cash" means US currency.

(10) "Cash Equivalent" has the meaning provided in G.S. 18C-901(2).

(11) "Commission" has the meaning provided in G.S. 18C-103(1).

(12) "Commissioner" has the meaning provided in G.S. 18C-103(2).

(13) "Communication Technology" means the methods used and the components employed to facilitate the transmission of information, including electronic communications, and transmission and reception systems based on wire, cable, radio, microwave, light, optics, or computer data networks or similar electronic agents, including the Internet and intranets.

(14) "Confidential Player Information" means:

- (a) The amount of money credited to, debited from, withdrawn from, or present in a particular Wagering Account;
- (b) The amount of money ~~wagered~~ Wagered by a particular Player on an event one or series of events more Wagering Events;
- (c) The unique Wagering Account ID or username and authentication credentials that identify the particular Registered Player;
- (d) The identities of particular events Wagering Events or Wager types Types on which the Player is ~~wagering~~ Wagering or has ~~wagered~~ Wagered; and

- (e) Unless otherwise authorized by the Player, the name, address, and other information in possession of the Operator that would identify the Player to anyone other than the Commission or the Operator.

~~“Covered Services” has the meaning provided in G.S. 18C-901(4).~~

- (15) “Day” means a calendar day, unless otherwise specified in the Rule.

- (16) “Director” has the meaning provided in G.S. 18C-103(3).

- (17) **“Disciplinary Action” means action taken by the Commission or Director against a Responsible Party to assess a civil penalty, suspend a License, or revoke a License.**

- (18) **“Disciplinary Hearing” means a proceeding set forth in Chapter 1, Subchapter C of these Rules to comply with the hearing requirement of G.S. 18C-916.**

- (19) “Event Corruption” means an intentional arrangement, act or omission aimed at an improper alteration of the result or the course of a ~~sports competition or~~ **Wagering** event in order to remove all or part of the unpredictable nature of the ~~aforementioned sports competition~~ **event** with a view to obtaining an undue advantage for oneself or for others. By way of illustration, Event Corruption includes, but is not limited to, instances of: bribery, ~~match fixing~~ **Match Fixing** ~~Spot Fixing~~, misuse of insider information, officiating abnormalities, or any illegal, immoral or unethical activity that attempts to deliberately **to** distort the result of a ~~sporting contest or event~~ **Wagering Event** for the personal material gain of one or more parties involved in that corrupting activity.

- (20) “Fantasy Contests” means fantasy or simulated games or contests in which one or more fantasy contest players compete and winning outcomes reflect the relative knowledge and skill of the fantasy contest players and are determined predominantly by accumulated statistical results of the performance of individuals, including athletes in the case of sporting events. Fantasy contests do not include any of the following contests:

- (a) based on proposition wagering or contests that involve, result in, or have the effect of mimicking proposition wagering or other forms of Sports Wagering;
- (b) in which an Individual chooses, directly or indirectly, whether individuals or a single real-world team will surpass an identified statistical achievement, such as points scored;
- (c) in which an Individual submits a fantasy contest team which does not involve the knowledge, skill, input, or control of such person;

- (d) in which an Individual submits a fantasy contest team composed of:
  - (i) a single individual;
  - (ii) the entire roster of a real-world team; or
  - (iii) solely individuals who are members of the same real-world team; or
- (e) in which an Individual fantasy Player does not compete against at least one other Individual fantasy Player.

**(21) "Gaming Day" means a twenty-four-hour period which begins at 6:00 A.M. Eastern Time and ends the following Day at 5:59 A.M. Eastern Time.**

(22) "~~Independent testing laboratory~~ **Testing Laboratory**" means a laboratory which:

- (a) holds an active accreditation in accordance with:
  - (i) ISO/IEC 17020, ISO/IEC 17025, and ISO/IEC 17065 by an accreditation body that is a signatory to the International Laboratory Accreditation Cooperation Mutual Recognition Agreement; or
  - (ii) other active accreditation satisfactory to the Commission from a recognized accrediting body;
- (b) has a reputation for honesty, independence, competence, and timeliness that is demonstrably competent and **which is** qualified to scientifically test and **to** evaluate gaming equipment for compliance with the ~~statutes~~ **Act, state and federal law, applicable case law,** and these Rules; and
- (c) is approved by the Commission.

(23) "Indian Lands" has the meaning provided in the Indian Gaming Regulatory Act of 1988, 25 USC § 2703(4).

(24) "Individual" means a natural person.

(25) "Ineligible Person" means:

- (a) a Commissioner;
- (b) an Underage Individual;
- (c) an Individual prohibited from engaging in Sports Wagering pursuant to G.S. 18C-902(i);
- (d) an Involuntarily Excluded Person;
- (e) a ~~voluntarily excluded individual~~ **Voluntarily Excluded Person;**
- (f) an Individual ~~wagering~~ **Wagering** while not in ~~in~~ the authorized geographic boundaries within the State of North Carolina;
- (g) a Person Wagering in violation of ~~state~~ **State**, local, or federal law;
- (h) an Individual ~~wagering~~ **Wagering** on behalf of another **Individual or Person;**

- (i) except for the purpose of Layoff Wagers, as defined in Rule 2A-001(18), a Person that is not an Individual; or
  - (j) other Persons as determined by the Commission.
- (26) "Integrity Monitoring" means the monitoring of Sports Wagering or ~~pari-mutuel wagering~~ Pari-Mutuel Wagering to identify Abnormal Wagering Activity or Suspicious or Illegal Wagering Activities from an Event Corruption standpoint, ~~to then report~~ include reporting these activities to required or other appropriate parties.
- (27) "Internal Controls" means a system of internal procedures, as well as administrative and accounting controls, related to the integrity of Sports Wagering and ~~pari-mutuel wagering~~ Pari-Mutuel Wagering.
- (28) "Internet" means the international computer network of interoperable packet switched data networks, inclusive of additional technological platforms, including mobile, satellite, and other electronic distribution channels.
- (29) "Involuntarily Excluded Person" means an Individual who has been involuntarily prohibited from establishing a Wagering Account or participating in Sports Wagering ~~activities~~ Activities or ~~pari-mutuel wagering~~ Pari-Mutuel Wagering ~~activities~~ Activities under the jurisdiction of the Commission.
- (30) "Key Person" has the meaning provided in G.S. 18C-901(10).
- (31) "License" means a License applied for by an Applicant or issued by the Commission under these Rules and the Act.
- (32) "Match Fixing" means the act of playing or officiating a Wagering Event with the intention of achieving a pre-determined result, violating the rules of the event.
- (33) "~~Multi-factor~~ Multi-Factor Authentication" means a type of authentication which uses two or more of the following to verify an Individual's identity:
- (a) information known only to the Individual, including a password, pattern, or answers to challenge questions;
  - (b) an item possessed by an Individual, including an electronic token, physical token, or an identification card; or

(c) an Individual's biometric data, including fingerprints, voice recognition, or recognition of any physiological characteristic, including facial recognition.

(34) "Operator" for purposes of these Rules means:

- (a) ~~A sports wagering operator~~ **An Interactive** Sports Wagering Operator as defined in G.S. 18C-901(9).
- (b) An **advance deposit wagering (ADW)** licensee as defined in G.S. 18C-18C-1001(2).

(35) "Operator License" for the purposes of these Rules means a License issued by the Commission to

- (a) A **An Interactive** Sports Wagering Operator under G.S. 18C-904; or
- (b) An **advance deposit wagering (ADW)** licensee under G.S. 18C-1005.

(36) "~~Pari-mutuel wager~~ **Pari-Mutuel Wager**" or "~~Pari-mutuel wagering~~ **Pari-Mutuel Wagering**" ~~Pari-Mutuel Wagering~~ has the meaning provided in G.S. 18C-1001(3).

(37) "Person" has the meaning provided in G.S. ~~18C-103(3)~~ **18C-103(7)**.

(38) "Personal Information" has the meaning provided in G.S. 75-61(10).

(39) "Player" means a Person who ~~wagers on sporting events or horse races~~ **Wagers on Wagering Events**.

~~"Rake" means the fee that is deducted by an Operator from a Wager made for Exchange Wagering or other peer-to-peer wagering, or entry fees paid by Players who participate in a tournament, contest, or pool.~~

~~"Rake Adjustment" means an adjustment made by an Operator to account for shortfalls in connection with Exchange Wagering or other peer-to-peer wagering, tournament, contest, or pool.~~

**(40) "Registered Player" means an Individual who has established a Wagering Account with an Operator.**

(41) "Responsible Party" means Operators, Sports Wagering Service Providers, and Sports Wagering Suppliers.

**(42) "Revocation" means action taken by the Commission or Director to terminate the rights and privileges associated with a License and to permanently prohibit the Responsible Party from applying for or receiving a License within the State.**

(43) "Rule" means a requirement, condition, or directive adopted by the Commission in this ~~rules manual~~ **Rules Manual** or any technical manual authorized herein that is applicable to an Applicant, Responsible Party, Player, Person, Individual, or other party subject to the authority, oversight, or supervision of the Commission.

(44) "Segregated Account" means a financial account that ~~segregates~~ **separates** funds, to include Cash and Cash Equivalents, owned by Players and that is restricted to funds owned by Players in the United States, and **has funds that are** not commingled with the Operator's operational funds.

(45) "Sensitive Information" means information about an Individual, including Personal Information, transactional ~~wagering~~ **Wagering** data, authentication credentials, secure seeds and keys used in encryption, and other data that shall be handled in a secure manner.

(46) "Service Provider" or "Sports Wagering Service Provider" has the meaning provided in G.S. 18C-901(15).

(47) "Sports Facility" has the meaning provided in G.S. 18C-901(17).

(48) "Sports Governing Body" has the meaning provided in G.S. 18C-901(18).

(49) "Sports Wager" or "Sports Wagering" has the meaning provided in G.S. 18C-901(19).

*"Spot Fixing" means an activity in which a specific aspect of a Sporting Event, unrelated to the final result but upon which a betting market exists, is fixed in an attempt to ensure a certain result in a proposition bet.*

**(50) "Sports Wagering Operator" means an Interactive Sports Wagering Operator as defined in G.S. 18C-901(9).**

(51) "State" means the State of North Carolina not to include the Indian Lands within its boundaries.

(52) "State Lottery Act" or "Act" means Chapter 18C of the General Statutes.

(53) "Sufficient Clarity" means the capacity of a Surveillance System to record images at a resolution determined by the Commission to clearly identify the intended activity, Individual, object, or location.

**(54) "Supplier" or "Sports Wagering Supplier" has the meaning provided in G.S. 18C-901(22).**

(55) "Surveillance Operation Room" means the secured area where surveillance takes place or where active surveillance equipment is located.

(56) "Surveillance System" means a system of video cameras, monitors, recorders, video printers, switches, selectors, and other equipment used for surveillance.

(57) "Suspension" means action taken by the Commission or Director to temporarily deauthorize the rights and privileges associated with a License after which the Responsible Party shall cease all activity regulated by these Rules for the requisite period of Suspension as defined in the Commission decision or order.

(58) "Suspicious or Illegal Wagering Activity" means activities, actions or behaviors that raise concerns about the integrity of the Wagering Activity or the Wagering Event itself. This includes, but is not limited to: Match Fixing or point-shaving, misuse of insider information, Abnormal Wagering Activity, Wagering by Ineligible Persons, money laundering, use of multiple Accounts, collusion or cheating, Wager or Wagering Event manipulation, unauthorized use of bots or automated systems, and potential breaches of internal rules or code of conduct related to Wagering for a Sports Governing Body, racing regulatory body, or equivalent, ~~wagering activity or conduct that may corrupt the outcome of a Wagering Event, including:~~

- ~~(a) Match Fixing;~~
- ~~(b) the manipulation of an event or aspect of an Event;~~
- ~~(c) misuse of inside information;~~
- ~~(d) a potential breach of a sports governing body's, or equivalent's internal Rules or code of conduct pertaining to Wagering;~~
- ~~(e) Event Corruption; or~~
- ~~(f) other conduct that corrupts the outcome of an Event or an aspect of an Event for which a betting market exists.~~

(59) "Ticket Writer" means a cashier employed by an Operator **who is** assigned the responsibility for the operation of a ~~ticket writer station~~ **Ticket Writer Station**.

(60) "Ticket Writer Station" means a point-of-sale system used by a ~~ticket writer~~ **Ticket Writer** for the execution or formalization of ~~wagers~~ Wagers placed on behalf of a Player.

(61) "Tribal Gaming Enterprise" has the meaning provided in G.S. 18C-901(25).

(62) "Underage Person" means an Individual under twenty-one years of age.

(63) “Void Wager” or “Voided Wager” means a Wager that was not valid at the time it was placed or a Wager that was valid at the time it was placed but has since become invalid for reasons, including but not limited to the change in eligibility status of an event participant or subject of the Wager.

(64) “Voluntarily Excluded Person” means an ~~individual~~ **Individual who** whose name is included, at their own request, ~~on a voluntary exclusion list~~ **in the Voluntary Exclusion Program.**

(65) “Voluntary Exclusion List ~~Program~~” means a **program operated by the Commission to maintain** a list of Individuals who voluntarily exclude themselves from Sports Wagering or Pari-Mutuel Wagering and from establishing or maintaining a Wagering Account with an Operator for such Wagering; ~~the voluntary exclusion list includes related information regarding such Individuals that is collected and securely shared with authorized recipients in order to effectuate G.S. 18C-922 and related Rules.~~

(66) “Wager” means a sum of money or Cash Equivalent risked on an uncertain occurrence.

(67) “Wagering Account” or “Account” means:

- (a) An ~~interactive account~~ **Interactive Sports Wagering Account** used for placing Sports Wagers as defined in G.S. 18C-901(8); or
- (b) An **advance deposit** account used for placing ~~Pari-mutuel wagers~~ **Pari-Mutuel Wagers** as contemplated in G.S. 18C-1015.

**(68) “Wagering Activity” means Sports Wagering Activity or Pari-Mutuel Wagering Activity unless otherwise specified.**

**(69) “Wagering Event” means:**

- (a) For Sports Wagering, a Sporting Event as defined in G.S. 18C-901(16); or**
- (b) For Pari-Mutuel Wagering, a horse race.**

(70) “Wagering Facility” means:

- (a) A place of public accommodation approved by the Commission for in-person Sports Wagering; or
- (b) A ~~facility or simulcast facility~~ approved by the Commission for in-person ~~Pari-mutuel wagering~~ **Pari-Mutuel Wagering.**

(71) "Wagering Kiosk" or "Kiosk" means a self-service automated kiosk ~~device~~, computer terminal, or other similar ~~device~~ machine that a ~~Person~~ Player may use in a Wagering Lounge to place a Wager using Cash and Cash Equivalents. A ~~wagering kiosk~~ Wagering Kiosk may also be used to redeem a Wager and ~~for~~ other regulated functions where supported.

(72) "Wagering Lounge" means the part of a Wagering Facility operated by an Operator and approved by the Commission for in-person Sports Wagering or ~~Pari-mutuel wagering~~ Pari-Mutuel Wagering.

(73) "Wagering Rules" means the comprehensive rules established by an Operator for governing Wagering ~~Transactions~~ Activities with that Operator.

(74) "Wagering Ticket" or "Ticket" means a printed record, or digital representation thereof, that contains information pertaining to a Wager ~~on a sporting event~~ Sporting Event or ~~Pari-Mutuel race~~ in connection with a Wagering Event.

~~"Wagering Transactions" means Sports Wagering transactions or Pari-mutuel Wagering transactions unless otherwise specified.~~

(75) "Wagering Voucher" or "Voucher" means a printed record, or digital representation thereof, that may be used to fund a Sports Wager or may be redeemable for Cash or Cash Equivalents.

(76) "Wagering Window" means a window in a structure approved by the Commission within a Wagering Facility from which a Ticket Writer conducts Wagering Transactions by accepting or distributing Cash or Cash Equivalents.

(77) "Wager Type" means the form of a Wager offered by a Sports Wagering Operator, including but not limited to Single-Game Wagers, Teaser Wagers, Parlays, Over-Under, Moneyline, Pools, Exchange Wagering, In-Game Wagering, In-Play Wagers, Proposition Wagers, Straight Wagers, and other Sports Wagers approved by the Commission.

(78) "Winnings" means the total ~~cash~~ Cash value of property or sums, including Cash, Cash Equivalents, or instruments of monetary value paid, to a Player by an Operator as a direct result of a winning Wager.

### Rule 1A-002 Scope and Application of Rules

(a) These Rules apply to Persons whose conduct makes them subject to Articles 9 and 10 of the Act. Unless explicitly identified by the Commission as applicable to North Carolina Education Lottery retailers or lottery players **Players**, this Rules Manual for Sports Wagering and Pari-Mutuel Wagering does not apply to the administration, operation, or conduct of the State-operated lottery established and overseen by the Commission.

(b) Through these Rules, the Commission directs staff to create processes and take certain actions with respect to members of the public and interested parties that are subject to the Act or the Commission's oversight.

(c) The Commission's Policies and Procedures concerning the operation of the state's **State's** lottery may, from time to time, constitute persuasive authority in the context of regulated gaming activity.

**(d) Nothing in these Rules limits, changes, or otherwise supplants the Department of Revenue's authority, requirements of Operators, or Rules.**

PROPOSED

### Rule 1A-003 Authorization

(a) These Rules cover only activities specifically authorized by Chapter 18C of the North Carolina General Statutes or other ~~state~~ **State** law. The federal Indian Gaming Regulatory Act, 25 U.S.C. § 2701, and G.S. 14-292.2 do not represent a basis for these Rules.

(b) These Rules do not implicitly or expressly authorize any Applicant, Responsible Party, any ~~party~~ **Person** acting on behalf of a Responsible Party, any Person subject to the Commission's oversight or authority, or any other Person to engage in Sports Wagering, ~~Pari-mutuel~~ **Pari-Mutuel** Wagering, regulated gaming activity, or related activities beyond those allowed by law. These Rules do not displace federal or any other ~~state~~ **State** law.

(c) The Act and these Rules do not apply to Sports Wagering or Pari-Mutuel Wagering conducted exclusively on Indian Lands by an Indian tribe operating in accordance with a tribal-state gaming compact, G.S. 14-292.2, and authorized to conduct Class III gaming pursuant to a compact with the State.

(d) For purposes of these Rules, Sports Wagering and Pari-mutuel Wagering are conducted exclusively on Indian Lands only if the Person who places the Wager is physically present on Indian Lands when the Wager is initiated and the Wager is received by an Indian tribe operating on the same Indian Lands in accordance with a tribal-state gaming compact, G.S. 14-292.2, and in conformity with the safe harbor requirements as provided in 31 U.S.C. § 5362(10)(c).

November 7, 2023

Blue Text = *not* open for public comment

Blue Text = open for public comment

Black Text = open for public comment

Black Text = open for public comment

### **Rule 1A-004 Severability of Provisions**

The provisions of Rules contained within this Rules Manual are severable. If a provision of a Rule is invalid, or if an application thereof to a Person or circumstance is invalid, the invalidity shall not affect other provisions or applications which may be given effect without the invalid provision or application.

Proposed

### **Rule 1A-005 Reservation of Authority**

The Commission expressly reserves all powers, duties, and authority granted to it by the Act and other applicable law. While the Commissioners properly and necessarily delegates certain authority and duties in order to fulfill and execute the Commission's supervisory and administrative obligations, the Commissioners ~~do~~ **does** not delegate their ultimate authority to fulfill and execute their lawful duties. On those occasions ~~where~~ **when** the ~~Commissioners elect~~ **Commission elects** not to exercise their full statutory authority, such actions reflect a policy decision by the ~~Commissioners~~ **Commission** and not a waiver or relinquishment of that authority. In their **its** sole discretion, the ~~Commissioners~~ **Commission** may modify or repeal the Commission's Rules or policies at any time. Nothing contained herein is to be construed to limit the statutory powers and duties of the ~~Commissioners~~ **Commission**.

PROPOSED

### **Rule 1A-006 Assignment of Duties and Responsibilities to the Director**

(a) Subject to the Commission’s oversight and direction, the Director shall be the primary administrative and enforcement agent for licensing and regulatory matters arising under Articles 9 and 10 of Chapter 18C in the North Carolina General Statutes and other applicable state **State** law. The Director shall have all of the powers and duties described by law and as assigned or delegated by the Commission.

- (1) The duties of the Director’s designees shall be exercised and discharged subject to the direction, control, and supervision of the Director or the Chair of the Commission.
- (2) The Director may formally or informally assign authority and responsibilities to Commission staff.
- (3) Unless otherwise specified herein, as used in this Rules Manual “Director” also includes any staff designee or agent or contractor appointed formally or informally by the Director to act on the Director’s behalf, subject to the Director’s supervision or oversight.

(b) When prompt action is required due to emergent circumstances and it is not practicable or reasonable to assemble a quorum of the Commission, the Director, in consultation with the Commission Chair and Sports Betting Committee Chair, if available, is authorized to act in the name of the Commission to the extent necessary to carry out specific action or actions limited to responding to or addressing the emergent circumstances ~~until~~ **during a period not to exceed** the next meeting of the Commission. Action taken pursuant to this provision shall be presented to the Commission for ratification or other action at the next regularly-scheduled or called meeting of the Commission.

(c) Any delegated authority under these Rules does not authorize the Director or other actor to take any action:

- (1) prohibited by law;
- (2) previously considered and specifically rejected by the Commission; or
- (3) contrary to the Commission’s duly adopted directions to the Director or staff.

### Rule 1A-007 Executive Orders

(a) To provide certainty to the regulated public and support efficient operations and administration, the Commission authorizes the Director to issue Executive Orders, as needed. Executive Orders shall have the same force and effect as these Rules.

(b) The Director shall provide the Commission with **forty-eight hour** prior notice of any Executive Order before such Order's final publication on the Commission's website. Email notice sent to each Commissioner shall suffice.

(1) The Director shall provide a report to the Commission concerning any Executive Orders issued at next regularly scheduled Commission meeting, or at an earlier meeting as directed by the Chair or a majority of Commission members.

(2) Executive Orders expire after one year unless otherwise stated ~~or adopted as~~ **by the Director at the time of the entry of the Order and as approved by the Commission** or ~~as otherwise~~ adopted as **a** Rule by the Commission.

(3) The Director shall approve and sign every Executive Order that issues; approval and execution of Executive Orders is non-delegable.

PROPOSED

**Rule 1A-008 Technical Manuals and Bulletins Published by the Director**

(a) Consistent with these Rules, the Director shall publish, as needed, Technical Manuals and Bulletins to interpret and implement Articles 9 and 10 of the Act and these Rules.

(b) Technical Manuals and Bulletins duly adopted by the Commission have the same force and effect as this Rules Manual.

(c) The Director may revise Technical Manuals and Bulletins from time to time. Revisions to Technical Manuals and Bulletins shall become valid upon thirty Days' notice from the Director to a Responsible Party. For purposes of this Subchapter, the Director may provide notice by sending an email to a Responsible Party's email address of record with a hyperlink to the Commission's website that collects the Technical Manual and Bulletins or revisions thereto.

(d) Technical Manuals and Bulletins shall be collected and published on the Commission's website.

Proposed

### Rule 1A-009 Request for Variance or Waiver of Requirement

(a) For good cause shown, the Director may waive any of the non-statutory grounds for denial or renewal of a License, ~~or other requirement in these Rules.~~ For good cause shown, the Director may grant a variance from the operation of these Rules or a requirement in these rules.

(b) A Person requesting a waiver or variance shall submit a written request in a format specified by the Director.

The written request shall contain at least the following:

- (1) The standard for which the waiver or variance is sought;
- (2) Detailed facts in support of the request;
- (3) An explanation of the unique circumstances justifying the request; and
- (4) Any other information requested by Commission staff or the Director.

(c) If the request does not meet the requirements in Paragraph (b) of this Rule or is incomplete, the requestor shall be notified

- (1) of the deficiency; and
- (2) that the request will not be presented to the Director unless the identified deficiency is corrected.

(d) At any time before or after a waiver or variance has been granted, the Director may:

- (1) Limit or place restrictions on the waiver or variance as the Director considers necessary in the best interest of the State;
- (2) Require the requestor who is granted the waiver or variance to cooperate with the Director and to provide the Director with any additional information requested; or
- (3) Set an expiration date for the waiver or variance.

(e) The requestor shall be notified of the Director's decision.

(f) The decision of the Director on a request for a waiver or variance is final and may not be appealed. Denial or modification of any waiver or variance request submitted under this Rule does not require notice or an opportunity for hearing.

(g) The Director retains the sole authority to grant, deny, or modify a waiver or variance request submitted under this Rule.

(h) The Director may revisit a previous waiver or variance decision or request for any lawful reason *sua sponte* and may modify or rescind a prior decision regarding the same, as needed.

November 7, 2023

Blue Text = *not* open for public comment

Blue Text = open for public comment

Black Text = open for public comment

Black Text = open for public comment

(i) The grant or denial of a waiver or variance does not bind the Commission or Director to take similar action in the future.

Proposed

November 7, 2023

Blue Text = *not* open for public comment

Blue Text = open for public comment

Black Text = open for public comment

Black Text = open for public comment

#### **Rule 1A-010 Effective Date of Rules Manual**

(a) This Rules Manual shall be effective upon the date of its adoption or the earliest date allowed by law, whichever is later.

(b) New Rules, amended Rules, and revisions to this Rules Manual shall become effective immediately upon adoption by the Commission or on such date specified by the Commission.

Proposed

November 7, 2023

Blue Text = *not* open for public comment

Blue Text = open for public comment

Black Text = open for public comment

Black Text = open for public comment

### **Rule 1A-011 Commission Location and Office Hours**

The Commission's physical and mailing addresses, hours of operation, and points of contact with respect to issues arising under Article 9 or 10 of the Act shall be prominently posted on the Commission's website.

Proposed

November 7, 2023

Blue Text = *not* open for public comment

Blue Text = open for public comment

Black Text = open for public comment

Black Text = open for public comment

### **Rule 1A-012 Method of Payment**

All required fees or sums to be paid to the Commission shall be paid via wire transfer of funds or other form as prescribed by the Director.

Proposed

November 7, 2023

Blue Text = *not* open for public comment

Blue Text = open for public comment

Black Text = open for public comment

Black Text = open for public comment

### **Rule 1A-013 Confidential Materials**

(a) Parties submitting documents or materials to the Commission, its Director, staff, or agents are responsible for conspicuously marking such materials on or before the time of submission as “Confidential” or “Trade Secret” as appropriate, in accordance with applicable North Carolina laws.

(b) Parties that fail in accordance with this Rule to mark documents that are otherwise not subject to public disclosure assume the risk that such documents may be disclosed, whether inadvertently or purposefully.

Proposed

### Rule 1A-014 Address Requirements

(a) All Responsible Parties and Applicants shall provide the Commission with a designated contact, including a mailing address, an email address, and a phone number. This information may be submitted via a licensure application or through other forms prescribed by the Director.

(b) Within 10 Days of changing the designated contact, ~~either it's~~ the mailing address, ~~or~~ the electronic mailing address, or the phone number on file with the Commission, a Licensee or Applicant shall notify the Commission of such change in writing. Information required to be provided by this Rule shall be submitted to the Commission on a form and in a manner prescribed by the Director.

(c) The Commission or the Director may serve orders, decisions, or other documents generated by the Commission or its staff on Responsible Parties and Applicants by first class mail or electronic mail to the Responsible Party's or Applicant's address on file with the Commission or to a registered agent as identified in filings with the North Carolina Secretary of State.

(d) Applicants and Responsible Parties shall provide the Commission with information about their registered agent, including name, physical address, phone number, and email address.

PROPOSED

November 7, 2023

Blue Text = *not* open for public comment

Blue Text = open for public comment

Black Text = open for public comment

Black Text = open for public comment

## Subchapter B – Licensing Provisions

### Rule 1B-001 Burden on Applicant

The burden of proof shall be on the Applicant to show by clear and convincing evidence that the Applicant:

- (1) complies with the laws of the State of North Carolina, ~~and~~ the Rules of the Commission, **and any other applicable law** regarding eligibility and qualifications for the License; and
- (2) is not otherwise disqualified from holding a License.

Proposed

### **Rule 1B-002 Opportunity to Participate in Wagering Industry as Revocable Privilege**

(a) Participation in ~~wagering operations~~ **any aspect of Wagering operations covered by these Rules** by a Responsible Party shall be deemed a revocable privilege and shall be conditioned on the proper and continued qualification of the Responsible Party, and on the discharge of the affirmative ~~responsibility~~ **responsibilities** of each Responsible Party to provide to the Commission, Director, and other regulatory and investigatory authorities under any other provision of law, any assistance and information necessary to assure that the policies underlying the Act and these Rules are achieved.

(b) An Applicant is seeking a privilege to participate in ~~the wagering industry~~ **Wagering operations covered by these Rules** in North Carolina; consequently, it assumes and accepts all risks of adverse publicity, notoriety, embarrassment, criticism, or other action or financial loss that may occur in connection with the application process or the public disclosure of information. By submitting an application under these Rules, the Applicant expressly waives any claim for damages or injunctive relief that may result from the application process.

PROPOSED

November 7, 2023

Blue Text = *not* open for public comment

Blue Text = open for public comment

Black Text = open for public comment

Black Text = open for public comment

### **Rule 1B-003 Consultation Before Submission of Application**

The Director may conduct consultation meetings or information sessions with Applicants and prospective Applicants to provide guidance regarding application procedures and requirements. In the event of conflicting information or guidance, formal and informal communications issued by or on behalf of the Director to provide guidance do not take precedence over ~~state~~ State or federal law, these Rules, or other official governance materials.

Proposed

November 7, 2023

Blue Text = *not* open for public comment

Blue Text = open for public comment

Black Text = open for public comment

Black Text = open for public comment

**Rule 1B-004 Electronic Form of Applications; Copies of Application and Supporting Materials**

(a) The Applicant shall complete and submit the applicable License application on a form and in a manner prescribed by the Commission.

(b) Information and documents submitted to the Commission in connection with a License application shall be made using the electronic form and formats required by the Commission and submitted in a manner designated by the Director.

(c) Upon request, an Applicant shall submit to the Director at no cost copies of the application or any supporting documents or materials in the electronic or hard-copy medium specified by the Director.

Proposed

November 7, 2023

Blue Text = *not* open for public comment

Blue Text = open for public comment

Black Text = open for public comment

Black Text = open for public comment

**Rule 1B-005 All Applications are Sworn; Duty to Update or Amend During Pendency of Review**

(a) Information and documents submitted to the Commission in an application shall be sworn or affirmed under the penalties of perjury as to their truth, validity, and comprehensiveness by the Applicant or, if the Applicant is not an individual **Individual**, by an officer or director **Director** of the Applicant.

(b) If information submitted by an Applicant as part of a License application changes or becomes inaccurate, the Applicant shall immediately notify the Commission of the change or inaccuracy and amend the application submission.

Proposed

### Rule 1B-006 Timeliness

(a) To be eligible for consideration, a ~~licensing~~ **Licensing** application ~~must~~ **shall** be submitted on or before the deadline established by the Director.

- (1) The Commission may establish different deadlines for different Licenses.
- (2) After an application deadline passes for a particular License, the Director may establish a new deadline for a cycle of future applications.

(b) When an application or any supplemental element of an application ~~must~~ **shall** be submitted to the Director by a particular date, then such material shall be submitted not later than 11:59:59 p.m. ~~ET~~ **Eastern Time** on the last Day of the specified period. Any application materials submitted after that deadline will not be considered. The risk of technological, electrical, or other logistical difficulties that prevent timely submission of application materials is on the Applicant.

(c) The Director may, at their discretion, extend the submission deadline for all Applicants for a particular License for a period determined by the Commission.

(d) The Commission may also utilize rolling application processes that do not require deadlines.

Proposed

### Rule 1B-007 Consideration of Late Applications

(a) A License application submitted after an established deadline will generally not be considered or evaluated. Untimely submission is grounds for summary denial of an application.

(b) An untimely application may be considered under limited circumstances as determined by the Commission.

(c) An untimely application may be considered under the following limited circumstances:

- (1) The Director determines **one or more of** the following:
  - i. That both of the following conditions exist:
    - a. No other Applicant or interested Person would be unfairly prejudiced by the delayed submission of the application; and
    - b. Neither the Commission nor the Director has taken substantive action with respect to any application submitted prior to the deadline.
  - ii. Additionally, at least one (1) of the following conditions is present:
    - a. The failure to file the application prior to the expiration of the deadline was caused by the action or inaction of a third party, which relates to the method or timing of the delivery of the application to the Commission, **and was the product of reasonable and excusable neglect**;
    - b. The circumstances surrounding the method or timing of the delivery of the application indicate that in the normal course of events the application should have been received by the Commission prior to the expiration of the deadline; or
    - c. Prior to the expiration of the deadline, the Applicant reasonably believed that delivery of the application would occur prior to expiration of the deadline.
- (2) The Director determines that the Applicant's failure to file the application prior to the expiration of the deadline was caused in whole or in part by documented incorrect or misleading information or instructions provided by an employee or agent of the Commission and that Applicant acted reasonably in relying on such information or instructions, taking into consideration the nature of the information or instructions and the identity of the ~~individual~~ **Individual** providing the information or instructions;
- (3) The Director acts to establish a new deadline applicable to all ~~person~~ **Persons** to which the original deadline was applicable; or
- (4) The Director determines that consideration of the application is necessary to prevent manifest injustice.

November 7, 2023

Blue Text = *not* open for public comment

Blue Text = open for public comment

Black Text = open for public comment

Black Text = open for public comment

(d) The Commission strongly disfavors consideration of late applications and there is a presumption against considering an application that is not timely filed.

~~The Commission strongly disfavors consideration of late applications.~~

Proposed

### Rule 1B-008 Authorization to Review

(a) By submitting an application the Applicant authorizes the Commission, Director, investigative contractors acting on the Commission's behalf, and others authorized by the Commission to obtain or access any and all **gaming-related** information the Applicant has provided in any other jurisdiction to a domestic regulatory body while the Applicant sought or operated with a gaming or similar ~~license~~ **License** in that other jurisdiction, as well as any information obtained by that other jurisdiction during the course of any investigation the other jurisdiction may have conducted regarding the Applicant.

(b) An Applicant shall authorize other jurisdictions or regulators to release to the Commission any information contemplated by this Rule, and shall timely provide appropriate written authorizations, as needed. Failure to provide such authorization in a timely fashion shall result in the summary denial of the Applicant's application or potential ~~suspension~~ **Suspension** or ~~revocation~~ **Revocation** of a License.

(c) At the Director's request, an Applicant shall provide complete copies of licensure-related materials and applications submitted to other state regulatory commissions for gaming, Sports Wagering, ~~Pari-mutuel~~ **Pari-Mutuel** Wagering, and the like. The Director is authorized to address issues pertaining to trade secrets, confidentiality, privacy, security, and integrity with the Applicant and other regulators.

### Rule 1B-009 Administrative Sufficiency Review

(a) Upon receipt of an Applicant's application and payment of the applicable ~~licensing~~ **Licensing** fee, the Director shall review the application to determine whether it facially contains all required information and materials such that the application may be deemed "administratively sufficient."

(b) If the Director determines that an application is "administratively insufficient," then the Director shall notify the Applicant and, if feasible, identify the facially deficient component(s).

(c) An Applicant so notified of administrative insufficiency shall have no more than 10 Days after the issuance of the notice to submit the information necessary to cure the deficient component(s).

(1) The Director may establish additional or shorter deadlines for the submission of information that supplements, changes, or corrects information or materials previously submitted.

(2) The Director may refuse to consider any such information that is not submitted in compliance with established deadlines.

(3) If supplemental materials are not submitted in a timely fashion, the application remains administratively insufficient and is subject to automatic denial.

(d) A positive determination of "administrative sufficiency" begins the Commission's ~~sixty-day~~ **Sixty-Day** application review period. Such determination does not constitute a finding with respect to the accuracy or adequacy of the information submitted, and shall not bar the Director's or Commission's request for further information with respect to the application. During the substantive evaluation of an Application, the Director may determine that an Applicant's answer is incomplete or inadequate.

### Rule 1B-010 Consent to Background Investigation Required; Recent Criminal History Check

(a) The Commission, or a third-party contractor approved by the Commission, shall conduct a ~~background investigation~~ **Background Investigation** on the Applicant, and Persons required to be disclosed on the application, as required by the Commission.

(1) In the event an Applicant and its disclosed Persons have had a completed criminal history record check in the twelve months prior to the application, the Commission may, in its discretion, accept the results of that prior criminal history record check on submission of an affidavit that there has been no change in criminal history since the prior criminal history record check in this or another state or territories of the United States and the District of Columbia. The Commission or Director shall prescribe the form and contents of such affidavit.

(2) The Commission shall not award a ~~license~~ **License** if an Applicant or disclosed Person has been convicted in any jurisdiction of a felony, a gambling offense, a criminal offense involving moral turpitude or obstruction of justice, or any criminal offense involving dishonesty or breach of trust within ten years of application.

(b) An Applicant for ~~licensure~~ **Licensure** and Persons required to be disclosed on the application as deemed necessary by the Commission shall consent to a criminal history record check, including criminal history record information obtained from the Federal Bureau of Investigation. Refusal to consent to a criminal history record check constitutes grounds for the Commission to deny ~~licensure~~ **Licensure** summarily.

(1) If used, criminal history record information obtained from the Federal Bureau of Investigation pursuant to this Rule shall include other state and national criminal history record information.

(2) All criminal history record information obtained by the Commission pursuant to this Rule is subject to G.S. 18C-904(j), 18C-906(h), 18C-907(l), and 18C-916(b), is for the official use of the Commission only, and shall be kept confidential.

(3) An ~~individual~~ **Individual** required to submit to a criminal history record check under this Rule shall submit to having their fingerprints taken.

(c) Individuals and Persons required to participate in the ~~background investigation~~ **Background Investigation** required by these Rules or Articles 9 and 10 of the Act shall provide a statement that irrevocably gives consent to the Commission, Director, and their investigative contractors, and other authorized Persons acting on the Commission's behalf to:

(1) Verify all information provided in the application; and

(2) Conduct a ~~background investigation~~ **Background Investigation**.

(d) The statement shall be on a form made available by the Director and shall be submitted in a manner determined by the Director.

(e) The Director shall make available an affidavit form for those ~~individuals~~ **Individuals** subject to the ~~background investigation~~ **Background Investigation** process who have completed a criminal history check in the twelve months prior to the application's submission.

- (1) A complete copy of the previous criminal history check shall be attached to the affidavit form.
- (2) The Director reserves the right, in their sole discretion, to undertake a supplemental or additional ~~background investigation~~ **Background Investigation** of any Individual who submits an affidavit involving a prior criminal history check.

(f) If, while conducting a ~~background investigation~~ **Background Investigation**, a basis for recommending denial of a License is discovered, Commission staff shall:

- (1) Informally notify the Applicant; and
- (2) If a final decision has not yet issued on the application, allow the application to be withdrawn or amended within a specified period.

(g) For an Applicant who is a citizen of any country other than the United States or was previously a citizen of a country other than United States, the ~~background investigation~~ **Background Investigation** shall require an international criminal history records check.

PROPOSED

November 7, 2023

Blue Text = *not* open for public comment

Blue Text = open for public comment

Black Text = open for public comment

Black Text = open for public comment

#### **Rule 1B-011 Duty to Update Application; Process to Amend**

(a) If information in a submitted License application changes or becomes inaccurate, the Applicant shall immediately notify the Commission of the change or inaccuracy in writing with a supplement to its application.

(b) All Applicants, including Key Persons and Individuals subject to ~~background investigations~~ **Background Investigations**, have a continuing duty to disclose material changes and correct material omissions in the application.

(c) An Applicant shall amend or supplement its License application and related submissions, including submissions concerning Key Persons and Individuals subject to Background Investigations, to the Commission through a process and forms approved by the Director.

Proposed

November 7, 2023

Blue Text = *not* open for public comment

~~Blue Text~~ = open for public comment

**Black Text** = open for public comment

~~Black Text~~ = open for public comment

### **Rule 1B-012 Supplemental Information and Cooperation**

(a) In connection with a pending application or License -related matter, the Director may request supplemental information and documents from an Applicant, Responsible Party, Key Person, ~~or individual~~ **Individual** subject to a ~~background investigation~~ **Background Investigation**.

(b) Failure to submit requested additional information sought by the Director may be grounds for summary denial of the application, ~~suspension~~ **Suspension** of a License, or ~~revocation~~ **Revocation** of a License.

(c) Unless the Director specifies a different period or a date certain, an Applicant, Responsible Party, Key Person, or Individual shall respond to a supplemental information request in writing with relevant materials within ten Days.

Proposed

### Rule 1B-013 Approval or Denial of License Application; Authority

(a) The **Commission delegates to the** Director ~~has~~ decision-making authority to grant or deny a License application. The Director shall report all decisions to grant or deny a License application to the Commission.

(b) Any Applicant whose application is denied shall receive a written denial notice. The notice shall state the summary grounds for the denial and provide the Applicant information about seeking reconsideration of the determination as outlined in ~~[cross-reference (forthcoming in later Rulemaking)]~~ **Rule 1B-019**.

(c) Grounds for denial of a License may include the following:

- (1) The Applicant is unable to satisfy the requirements under the Act and these Rules.
- (2) The Applicant or any Key Person is not of good character, honesty, or integrity.
- (3) The Applicant's or any Key Person's prior activities, criminal record, reputation, or associations indicate any of the following:
  - (i) A potential threat to the public interest.
  - (ii) The potential to impede the regulation of Sports Wagering or ~~Pari-mutuel~~ **Pari-Mutuel** Wagering.
  - (iii) The potential of promoting unfair or illegal activities **or Event Corruption** in the conduct of Sports Wagering or ~~Pari-mutuel~~ **Pari-Mutuel** Wagering.
- (4) The Applicant or any Key Person knowingly makes a false statement of material fact or deliberately fails to disclose information requested by the Commission.
- (5) The Applicant or any Key Person knowingly fails to comply with the provisions of the Act and these Rules or any requirements of the Commission.
- (6) The Applicant or any Key Person was convicted in any jurisdiction of a felony, a gambling offense, a criminal offense involving moral turpitude or obstruction of justice, or any criminal offense involving dishonesty or breach of trust within the 10 years prior to the submission date of the application.
- (7) Any ~~revocation, suspension,~~ **Revocation, Suspension**, or denial of the Applicant's license **License** to conduct Sports Wagering, or ~~Pari-mutuel~~ **Pari-Mutuel** Wagering, other forms of gaming activity, or a Covered Service issued by any other jurisdiction.
- (8) The Applicant has defaulted on any obligation or debt owed to this State.
- (9) For Sports Wagering Operators, any breach, discontinuance, or other cessation of the Written Designation Agreement required under G.S. 18C-905.

### Rule 1B-014 Reapplication for Licensure After Withdrawal, Denial, or Revocation

(a) An Applicant may not submit a ~~licensing~~ **Licensing** application earlier than one year after:

- (1) Electing to withdraw an application from consideration;
- (2) Denial of a previous License application involving the Applicant; or
- (3) Revocation of its License in North Carolina.

(b) In the event an Applicant has unsuccessfully sought reconsideration or an appeal of a denied application or ~~of a revocation~~ **Revocation**, the one-year period in Paragraph (a) of this Rule begins on the ~~day~~ **Day** a final decision issues.

(c) The Director, in their sole discretion, may waive or shorten the one-year period if the Applicant can demonstrate **by clear and convincing evidence** ~~good cause~~ and its suitability for licensure.

PROPOSED

November 7, 2023

Blue Text = *not* open for public comment

Blue Text = open for public comment

Black Text = open for public comment

Black Text = open for public comment

### **Rule 1B-015 Withdrawal of Application**

(a) An Applicant's written notice of withdrawal of an application or **of** a renewal application may be filed by any Applicant at any time before an application is denied or a License is revoked or terminated.

(b) Application withdrawal requests shall be permitted without the need for approval by the Director or the Commission.

Proposed

**Rule 1B-016 Authority to Retain and Utilize Contract Investigators**

(a) The Director may retain qualified contractor investigators, either directly or pursuant to a contract or contracts with a private investigative business or businesses, to assist with activities such as initial suitability, qualification, and ~~background investigations~~ **Background Investigations** of Applicants, Responsible Parties, and Key Persons.

(b) Once retained, each contractor investigator shall be provided with the necessary authority and credentials to serve as an official agent of the Commission in conducting initial suitability, qualification, and ~~background investigations~~ **Background Investigations** of Applicants, **Responsible Parties, and Key Persons**.

Proposed

November 7, 2023

Blue Text = *not* open for public comment

Blue Text = open for public comment

Black Text = open for public comment

Black Text = open for public comment

### Rule 1B-017 Review and Issue Licenses

The Commission shall review and issue Licenses to qualified Applicants within sixty Days of receipt of a completed, administratively sufficient application. The Commission may extend the review period for an additional thirty Days if the ~~background investigation~~ Background Investigation is outstanding or for other reasons determined by the Director.

PROPOSED

November 7, 2023

Blue Text = *not* open for public comment

Blue Text = open for public comment

Black Text = open for public comment

Black Text = open for public comment

### **Rule 1B-018 Conditional Licensure**

- (a) The Director may offer an Applicant a License subject to certain conditions and limitations. If the Applicant accepts an offer of Conditional Licensure, the Applicant shall abide by the conditions and limitations or be subject to Disciplinary Action.
  
- (b) If the Applicant declines the offer of Conditional Licensure, then the application shall be deemed denied.

PROPOSED

### **Rule 1B-019 Reconsideration on Denial of a License**

- (a) Any Applicant whose application is denied shall have fifteen Days from receipt of notice of denial, issued pursuant to Rule 1B-013, to submit a written request for reconsideration to the Director. The written request for reconsideration shall contain:
- (1) A statement identifying the grounds for denial which the party intends to contest and state the reasons therefor;
  - (2) A description of all facts the Applicant is relying on to contest the grounds for denial;
  - (3) A description of any alleged errors by the Commission; and
  - (4) A statement of truth, swearing or affirming that all information contained in the written request for reconsideration is accurate and complete.
- (b) Upon receipt of a written request for reconsideration, the Director shall either ratify the prior denial or take other appropriate action within 15 Days. The Director, in their discretion, may extend the time period for good cause; if additional time is required, the Director shall notify the Applicant in writing. If the Director ratifies the denial of the application, the Applicant shall receive notice of the Director's decision and information about appealing the Director's decision.
- (c) Any Applicant who has sought reconsideration of denial of their License from the Director and received an unfavorable decision may appeal the Director's decision to the Sports Betting Committee. The Applicant shall have fifteen Days from receipt of the Director's decision to submit a written appeal. The written appeal shall contain:
- (1) A statement identifying the grounds for denial which the party intends to contest and state the reasons therefor;
  - (2) A description of all facts the Applicant is relying on to contest the grounds for denial and supporting documentary materials relied upon;
  - (3) A description of any alleged errors by the Commission;
  - (4) A description of any alleged errors by the Director;
  - (5) A statement of truth, swearing or affirming that all information contained in the written appeal is accurate and complete; and
  - (6) An acknowledgement signed by an Authorized Representative that the Applicant waives confidentiality with respect to all information and materials provided by the Applicant and collected by the Commission and its agents in relation to the Application, required Background Investigations, and evaluation of License suitability.

- (d) Upon receipt of a written appeal of the Director's decision, the Commission staff shall begin to compile a full record of the application. Staff will provide this record to the Sports Betting Committee and to the Applicant that submitted the appeal within 21 Days of the Commission's receipt of the written appeal. On behalf of the Director, Commission staff may include a written response to the written appeal from the Applicant in the record.
  
- (e) The Sports Betting Committee shall have 90 Days from receipt of the full application record to make a final decision. The Sports Betting Committee may in its discretion elect to receive oral presentations from the parties in an open meeting, seek supplemental written information for its consideration from the Applicant, or reach its decision based on the record alone. The Applicant will receive notice of the final decision, which shall be in writing and shall explain the basis for the decision.
  
- (f) An Applicant who voluntarily withdraws its application for a License shall waive all rights to seek reconsideration pursuant to this Rule.

PROPOSED

November 7, 2023

Blue Text = *not* open for public comment

Blue Text = open for public comment

Black Text = open for public comment

Black Text = open for public comment

**Rule 1B-020 Duty to maintain suitability**

Each License is a revocable privilege granted by the Commission contingent upon continuing suitability for licensure. Each Responsible Party has a continuing duty to maintain and, at the Commission's or Director's direction, demonstrate its suitability for Licensure.

Proposed

**Rule 1B-021 Attestation of Compliance** [Note: formerly 1B-018]

(a) On an annual basis at a time designated by the Director, each Responsible Party shall submit an attestation of compliance to the Commission on forms prescribed by the Commission or in an electronic platform provided by the Commission.

(b) The Responsible Party's attestation shall identify, if applicable, any material deficiencies with respect to Responsible Party's compliance with these Rules or the Act. The Responsible Party may elect to provide the Director with additional sworn or affirmed written submissions to provide the Director with context and information, as well as information about the Responsible Party's plans and ongoing efforts to achieve compliance.

(c) Material omissions or false statements in the attestation or related submissions may serve as the basis for ~~revocation, suspension,~~ **Revocation, Suspension**, civil penalties, sanctions, or enforcement actions.

(d) The Responsible Party's attestation or related submission shall be signed by any officer or agent of the Responsible Party, who ~~is~~**has** also **been** identified as a Key Person. Their attestation shall be made on the basis of information known or reasonably known to the Responsible Party.

(1) By signing under oath, the ~~individual~~ **Individual** attests to the truth, accuracy, and completeness of the attestation and materials provided on behalf of the Responsible Party.

(2) The Individual(s) providing attestations and related written submissions need not have first-hand or other personal knowledge of all information submitted to the Commission; such ~~individuals~~ **Individuals** may consult with and gather information from other ~~individuals~~ **Individuals** within the Responsible Party or in entities whose actions are for the benefit of the Responsible Party or are controlled or directed by the Responsible Party. Individuals who assisted the affiant(s) or with whom the affiant(s) consulted shall be identified by name in the written submission, along with their organization, mailing address, and email address.

November 7, 2023

Blue Text = *not* open for public comment

~~Blue Text~~ = open for public comment

**Black Text** = open for public comment

~~Black Text~~ = open for public comment

**Rule 1B-022 Annual Review of Licensed Operators** [Note: formerly 1B-019]

The Commission shall review each ~~licensed~~ **Licensed** Operator annually to ensure that each is acting in accordance with the Act and Rules adopted by the Commission **and representations included its Attestation of Compliance**. If the Commission determines that **there is probable cause that** an Operator is in violation of the Act or any Rules adopted pursuant to the Act, the Commission may **seek to** suspend or revoke the License of the Operator or assess a civil monetary penalty **in accordance with these Rules**.

Proposed

November 7, 2023

Blue Text = *not* open for public comment

~~Blue Text~~ = open for public comment

**Black Text** = open for public comment

~~Black Text~~ = open for public comment

**Rule 1B-023 License Period; Revocation or Suspension** [Note: formerly 1B-020]

Other than a provisional Sports Wagering ~~supplier~~ **Supplier** License issued pursuant to G.S. 18C-907, any License issued pursuant to the Act and these Rules shall be valid for five years unless sooner revoked or suspended or otherwise made invalid by operation of law.

Proposed

November 7, 2023

Blue Text = *not* open for public comment

Blue Text = open for public comment

Black Text = open for public comment

Black Text = open for public comment

**Rule 1B-024 Renewal Application** [Note: formerly 1B-021]

(a) At least sixty Days prior to the expiration of a License, the Responsible Party shall submit a renewal application, on a form and in a manner prescribed by the Commission, including a renewal fee, which shall be the same as the fees for a new License of the same type.

(b) The renewal applications shall include each of the components of initial applications.

(c) A Responsible Party's attestations of compliance submitted to the Director pursuant to Rule 1B-021 shall be deemed incorporated into the Responsible Party's renewal application.

(d) Responsible parties **Parties** seeking renewal shall be subject to ~~background investigations~~ **Background Investigations and other review by the Commission** under the same conditions and requirements as an initial Applicant seeking licensure.

PROPOSED

**Rule 1B-025 Denial of Renewal** [Note: formerly 1B-022]

(a) The Commission may deny a License renewal ~~for~~ based on:

- (1) one or more of the same grounds that would constitute denial of an initial application under ~~Paragraph (e) of~~ Rule 1B-013;
- (2) a violation of the Act or these Rules;
- (3) a pattern of noncompliance with Rules or directives promulgated by the Commission;
- (4) failure to pay the taxes or fees imposed under these Rules; or
- (5) the Commission's previous decision to suspend or impose civil penalties on the Responsible Party or its Key Persons.

(b) The Commission may deny a License renewal if the Commission finds good cause that the Responsible Party has materially not complied with any provisions of the Act or any provision in these Rules.

PROPOSED

**Rule 1B-026 Public Record** [Note: formerly 1B-023]

Notwithstanding Chapter 132 of the General Statutes or any other provision of law, except for G.S. 18C-916(b), only the following documents under this section **Rule** shall be a public record, with respect to each Applicant and each Responsible Party:

- (1) The name, address, and platform used for ~~wagering transactions~~ **Wagering Transactions**.
- (2) The names of all Key Persons.
- (3) For Operators:
  - (a) the documented history of working to prevent compulsive gambling, including training programs for its employees.
  - (b) the branding that the Applicant plans to hold out to the public displaying its platform used for ~~wagering transactions~~ **Wagering Transactions**.
- (4) The granting or denial of the application.

PROPOSED

**Rule 1B-027 Duty to report** [Note: formerly 1B-024]

Each Responsible Party shall promptly report to the Commission as soon as practicable, but in no event later than seventy-two hours after discovery:

~~All criminal or disciplinary proceedings commenced against that Responsible Party or any Key Persons in connection with its operations.~~

- (1) Any criminal charge or disciplinary proceeding commenced by a domestic gaming regulators or law enforcement authority in connection with gaming activities or operations against (i) that Responsible Party; (ii) its Key Persons involved in regulated activity in North Carolina; or (iii) its officers or directors who are is directly involved in the operation, management, or control of sports wagering or who exercises substantial influence or control over the sports wagering activities in any domestic jurisdiction.
- (2) All changes in Key Persons. All new Key Persons shall consent to a background investigation **Background Investigation** and compliance with the Act and these Rules.
- (3) Any material deficiency with respect to Responsible Party's compliance with these Rules or the Act.

PROPOSED

### **Rule 1B-028 Notification to Director regarding certain events**

Each Responsible Party shall provide written notification to the Director when it is subject to or experiences any of the events or occurrences identified in this Rule. Notification shall be provided in writing in a manner designated by the Director, and Responsible Party shall provide the notification as soon as it learns of the event or occurrence and, in any event, within seventy-two hours. The Responsible Party's notification requirement arises from the following events and occurrences:

- (1) A violation or apparent violation of a Rule of the Commission by any of the following:
  - (a) The Responsible Party;
  - (b) A substantial owner, Key Person, or employee of the Responsible Party; or
  - (c) A Person or entity acting, or authorized to act, on behalf of or in furtherance of the interests of the Responsible Party.
- (2) Any denial, suspension, or revocation by a governmental agency or regulatory body in any state, federal, or tribal jurisdiction of a Sports Wagering related License, registration, certification, permit, or approval held by or applied for by the Responsible Party.
- (3) Any discipline, including a fine or warning, related to Sports Wagering imposed upon the Responsible Party by any governmental agency or regulatory body in any state, federal, or tribal jurisdiction;
- (4) Civil litigation filed against the:
  - (a) Responsible Party's North Carolina operations;
  - (b) Responsible Party that could significantly impact its North Carolina operations; or
  - (c) Responsible Party's Key Person arising from or related to regulated gaming activity in North Carolina or other domestic jurisdictions;
- (5) A criminal, civil, or administrative action, threatened action, or investigation initiated by any governmental agency or regulatory body in any state, federal, or tribal jurisdiction against the sports Responsible Party.
- (6) Any arrest, indictment, charge, or criminal conviction of any Key Person in North Carolina or in any jurisdiction where such criminal matters concern or are connected with gaming activities; gaming operations; a felony; any gambling offense; a criminal offense involving moral turpitude or obstruction of justice; or any criminal offense involving dishonesty, breach of trust, or fraud.
- (7) Claims made by a governmental agency or regulatory body in any state concerning the tax liability of Responsible Party or a Key Person or substantial owner of the Responsible Party.
- (8) A civil, criminal, administrative, or tax action initiated:
  - (a) by or against an employee or Key Person of the Responsible Party if the action relates to the gaming activity conducted by Responsible Party; or
  - (b) against a Key Person, substantial owner, or an Affiliate of a Responsible Party, if the action relates to a gaming operation under the jurisdiction of a governmental entity.

- (9) A bankruptcy, receivership, or debt adjustment initiated by or against the Responsible Party, or an Affiliate thereof, or the Responsible Party's substantial owners.
- (10) A compliance review conducted by the Internal Revenue Service under the Bank Secrecy Act of 1970. The Responsible Party shall provide a copy of the compliance review report or the equivalent within ten Days of the receipt of the report.
- (11) An action, event, or omission, with respect to which the Director has instructed the Responsible Party to provide notice so that the Director can ensure that the Responsible Party continues to maintain suitability for licensure.
- (12) Any information known or that should reasonably be known to the Responsible Party or Key Person, including but not limited to the receipt of a subpoena or other official notification, that the Responsible Party or Key Person is or may be the subject of a criminal investigation by a law enforcement or regulatory agency or a civil investigation by regulatory agency concerning fraud, securities, or taxation;
- (13) Any material pending legal proceedings required to be reported in accordance with 17 CFR 229.103 - (Item 103) Legal proceedings.
- (14) Any pending legal proceeding which includes any allegation of fraudulent conduct by the Responsible Party or its Key Persons that may reasonably threaten the Responsible Party's economic viability or that alleges a pattern of improper conduct by the Responsible Party or its Key Persons over a sustained period of time;
- (15) Any significant financial event related to a Responsible Party. For purposes of this provision, a significant financial event means a merger, acquisition, consolidation, debt restructuring, material change in debt rating by major credit rating agencies (US/International), legal entity change, material ownership change, the assessment of a fine or penalty of two hundred and fifty thousand dollars (\$250,000) or greater by the SEC, a similar state agency, or the international equivalent thereof, restatement of previously issued financial statement(s), late filing of financial statement(s) with the SEC, a similar state agency, or the international equivalent thereof, US or international equivalent bankruptcy petition, default of financial debt covenants and receivership, disposal of a material business segment or asset, or adverse actions taken by the IRS;
- (16) Issuance of an "Adverse" or "Qualified" audit opinion, or the international equivalent, by an independent accountant to the Responsible Party;
- (17) A change in accounting firm engaged to perform attestation and/or assurance services for the Responsible Party; or
- (18) Issuance of a delisting notice from a United States or international stock exchange relative to the Responsible Party.

**Rule 1B-029 License Assignment or Transfer**

- (a) A Responsible Party may request the assignment or transfer of their License to another Person by submitting a request in writing.
- (b) The assignee or transferee shall complete the requisite Licensure application and include the following:
  - (1) A copy of the Responsible Party's written request for assignment or transfer of their License;
  - (2) A draft copy of the proposed Assignment and Assumption Agreement; and
  - (3) If seeking transfer or assignment of a Sports Wagering Operator License, a Written Designation Agreement, pursuant to Rule 2B-006.
- (c) To qualify for consideration of the License transfer or assignment, the assignee or transferee shall first pay the requisite application fee and meet all qualifications and Background Investigation requirements for the requisite License.
- (d) The Director may approve or deny the License assignment or transfer upon consideration of whether the assignment or transfer is in the best interests of the State.
- (e) The Assignment and Assumption Agreement shall be subject to the approval of the Director and shall include the Director as a signatory solely for the purpose of consenting to the Assignment and Assumption Agreement.
- (f) An unauthorized assignment or transfer of a License voids the License.
- (g) The Responsible Party may seek reconsideration of the Director's decision to deny a license transfer or assignment, as outlined in Rule 1B-019.

November 7, 2023

Blue Text = *not* open for public comment

Blue Text = open for public comment

Black Text = open for public comment

Black Text = open for public comment

### **Rule 1B-030 Termination of License**

Upon termination of a License for any reason, no further Wagering Transactions or activities shall be conducted by the Responsible Party. After termination, at a date designated by the Director, the former Responsible Party shall submit to the Director a final accounting and surrender its License.

Proposed

**Rule 1B-031 Closing of a Responsible Party's operation; dissolution**

- (a) A Responsible Party shall notify the Director of any temporary or permanent closing plans at least sixty Days prior to closing its operations or as soon as the Responsible Party knows that closing is imminent, whichever period is shorter.
- (b) Within thirty Days of notice to the Director, the Responsible Party shall provide the Director with a closing plan regarding the disposition of outstanding Tickets and futures Wagers.
- (c) A Responsible Party shall notify the Director of any permanent cessation of operations at least sixty (60) Days prior to operations ceasing, or the change of ownership, or as soon as the Responsible Party knows that closing is imminent, whichever period is shorter.
- (d) Within thirty Days of notice to the Director, an Operator shall provide the Director with a closing plan regarding the disposition of Player Accounts and funds therein, if applicable. The closing plan shall be consistent with Operator's Internal Controls and identify any amendments the Operator proposed in order to implement the closing plan.
- (e) A Responsible Party shall surrender its License within ten Days of the dissolution effective date.

Proposed

November 7, 2023

Blue Text = *not* open for public comment

Blue Text = open for public comment

Black Text = open for public comment

Black Text = open for public comment

**Rule 1B-032 License Display** [Note: formerly 1B-025]

An Operator shall prominently display the License issued by the Commission on its websites, mobile applications, and, if applicable, within the Wagering Lounge.

Proposed

## **Subchapter C – Disciplinary Actions and Hearings**

### **Rule 1C-001 Grounds for Disciplinary Actions.**

(a) The Commission, the Sports Betting Committee, or Director may suspend a License, revoke a License, or assess a civil penalty for a violation committed by a Responsible Party, or by the Responsible Party’s employees or agents whether or not such actors hold a License issued by the Commission. An Operator may be subject to Disciplinary Action for violations committed by other Responsible Parties acting on its behalf, for its benefit, or at its direction.

(b) The following are examples of conduct that constitute grounds for Disciplinary Action:

- (1) Violation of the Act or other law, including, but not limited to, failure to maintain qualifications or suitability needed for a License;
- (2) Violation of Rules promulgated under the Act;
- (3) Violation of conditions of Licensure;
- (4) Violation of Commission directives, orders, or resolutions;
- (5) Violation of Laws, Rules, regulations, or ordinances impacting public safety;
- (6) Any act or omission of fraud, deceit, misrepresentation, or conduct prejudicial to public confidence in the integrity of Wagering Activity;
- (7) Suspension or Revocation of a similar License held in another state or territory; or
- (8) Other grounds identified by the Commission or Director.

(c) Acceptance or renewal of a License constitutes an agreement by the Responsible Party to be bound by Commission Rules. It is the responsibility of the Responsible Party to remain self-informed of the content of and any revisions to these Rules; ignorance of the Rules does not excuse violations.

### **Rule 1C-002 Informal Resolution**

- (a) Any dispute between the Commission and a Responsible Party that involves the Responsible Party's rights, duties, or privileges, arising from matters involving a proposed Disciplinary Action, may be settled or resolved through informal procedures. Settlement of disputes is encouraged at any stage of the Disciplinary Hearing or before such proceedings commence.
  
- (b) Unless otherwise provided by law, the parties may resolve a Disciplinary Hearing before final action by the Commission. Resolution may occur by stipulation, agreed settlement, consent order, waiver, default, or other method agreed upon by the parties.
  
- (c) If the Commission and the other Responsible Party do not agree to a resolution of the dispute through informal processes, the Commission shall commence a Disciplinary Hearing to determine the Responsible Party's rights, duties, privileges, or the appropriate Disciplinary Action.

PROPOSED

### **Rule 1C-003 Initiation of Disciplinary Hearing; Notice of Hearing**

- (a) The Director, initiates a Disciplinary Hearing by:
- (1) designating a hearing officer from a preselected panel of approved hearing officers, pursuant to Rule 1C-020;
  - (2) following notification from the hearing officer of the date, time, and place of the hearing, which shall comply with Paragraph (c) of this Rule, submitting a “Notice of Disciplinary Hearing” to the hearing officer and Responsible Party.
- (b) The Notice of Disciplinary Hearing shall be:
- (1) provided to the designated hearing officer via email or other method identified by the hearing officer;
  - (2) served on the Responsible Party via email or in a manner outlined in Rule 1C-004;
  - (3) in writing and contain at minimum:
    - (i) a short, plain statement of the facts describing the circumstances, violations, or conduct giving rise to the Disciplinary Hearing;
    - (ii) the Disciplinary Action recommended;
    - (iii) reference(s) to the particular Act or Rules germane to the Disciplinary Action; and
    - (iv) the date, hour, and place of the hearing.
- (c) The Hearing officer shall set the date for the Disciplinary Hearing without undue delay; however, the hearing shall not occur within the 15 Days immediately following service of the Notice of Disciplinary Hearing.
- (1) Notice of the date, hour, and place of the hearing shall be posted on the Commission’s website. Notice of any postponement or rescheduling of such hearing shall be posted on the website as soon as reasonably practicable.
  - (2) A party other than the Commission that receives notice of a hearing may waive its right to be heard by submitting a written waiver to the Hearing officer.

**Rule 1C-004 Method of Service**

- (a) In connection with a Disciplinary Hearing, service of process may be accomplished pursuant to means identified under G.S. 1A-1, Rule 5(b). If service is effectuated by registered, certified, or first-class mail, by signature confirmation as provided by the United States Postal Service, or by designated delivery service authorized pursuant to 26 U.S.C. § 7502 (f)(2) with delivery receipt, then a copy shall be addressed to the party at the latest address given by the party to the Commission. Service by one of the additional methods provided in G.S. 1A-1, Rule 5(b), is effective as provided therein and shall be accompanied by a certificate of service as provided in G.S. 1A-1, Rule 5(b). G.S. 1A-1, Rule 6(e), applies if service is by first-class mail.
  
- (b) The designated hearing officer may, in their discretion, identify different means for accomplishing service of process. The parties to the Disciplinary Hearing may agree to service of process via email.

PROPOSED

**Rule 1C-005 License Surrender**

- (a) When a Responsible Party is accused of any act, omission, or conduct that would subject it to Disciplinary Action, the Responsible Party, with the consent and approval of the Director, may surrender the License and all the rights and privileges pertaining to it for a period of time established by the Director.
  
- (b) A Responsible Party that surrenders a License shall not thereafter be eligible for or submit any application for Licensure during the period of License surrender.

Proposed

**Rule 1C-006 Representation of Parties**

- (a) The Responsible Party that is subject of the Disciplinary Hearing shall appear in person, through an attorney.
  
- (b) The Responsible Party's attorney shall be deemed to control all matters respecting the interest of the Responsible Party in the Disciplinary Hearing.
  
- (c) The Director, staff, and the Commission's attorney shall act on behalf of the Commission at the Disciplinary Hearing.

Proposed

### **Rule 1C-007 Practice Before the Commission**

- (a) Any attorney representing a Responsible Party in a Disciplinary Hearing shall notify the Commission's attorney in writing of such representation immediately after being retained by the party. Such notice shall constitute an appearance on behalf of the party as an attorney of record in the matter.
  
- (b) Each attorney practicing law in a Disciplinary Hearing shall promptly file with the hearing officer a notice of appearance in each particular matter and on behalf of each client represented and may be required to file evidence of the attorney's authority to act in such capacity. The address of each attorney, telephone number, and e-mail address shall be stated.
  
- (c) In accordance with Rules of the North Carolina State Bar which govern the practice of law in North Carolina, an out-of-state attorney-at-law shall be associated with a North Carolina attorney-at-law in order to represent a Responsible Party in a Disciplinary Hearing. Out-of-state attorneys shall also comply with G.S. 84-4.1, pay a fee, register with the North Carolina State Bar through their in-state counsel, and comply with other applicable State law.
  
- (d) When any matter is scheduled before the Commission, the Sports Betting Committee, or a hearing officer, the attorney shall, consistent with ethical requirements, appear or have a partner, associate, or another attorney familiar with the case appear. Unless an attorney has been excused in advance by the hearing officer, the Chair of the Sports Betting Committee, the Chair of the Commission, or their designee, an attorney's failure to appear may not be grounds for continuance.
  
- (e) Motion to Withdraw as Attorney of Record. – An attorney retained to represent a client in a proceeding shall not withdraw from such representation without first filing a motion to withdraw and having the Commission, the Sports Betting Committee, or hearing officer approve such withdrawal. Motions to withdraw shall include a certificate of service showing service on and approval of the client from whom representation is being withdrawn.

### **Rule 1C-008 Ex Parte Communication**

- (a) Unless required for disposition of an ex parte matter authorized by law, a Responsible Party with a disciplinary matter before the Commission, the Sports Betting Committee, or hearing officer, or attorney or other representative for a Responsible Party with a disciplinary matter before the Commission, the Sports Betting Committee, or hearing officer, shall not communicate, directly or indirectly, with any hearing officer or member of the Commission in connection with any issue of fact or question of law at issue in the disciplinary matter except on written notice and opportunity for all parties to participate.
- (b) This prohibition begins at the time of the Notice of the Disciplinary Hearing.
- (c) When the disciplinary matter is in front of the Sports Betting Committee, the members of the Sports Betting Committee may only communicate with other members of the Commission that are also members of the Sports Betting Committee about issues related to the proceeding. When the disciplinary matter is in front of the Commission, a Commission member may communicate with other members of the Commission about issues related to the proceeding.
- (d) A hearing officer or Commission member may have the aid and advice of the Commission staff other than the hearing officer or the staff which has been or is engaged in investigating or prosecuting functions in connection with the case under consideration or a case with related factual issues or similar legal issues.
- (e) This Rule does not apply to a Commission employee or party representative with professional training in accounting, actuarial science, economics, or financial analysis insofar as the case involves financial practices or conditions.
- (f) In the event such ex parte communication occurs, the Commission, the Sports Betting Committee, or the hearing officer may make such orders to take such action as fairness requires. Upon notice and hearing, the Commission, the Sports Betting Committee, or the hearing officer may take such Disciplinary Action as is appropriate in the circumstances against any Person who knowingly and willfully makes or solicits the making of a prohibited ex parte communication.

### **Rule 1C-009 Motions**

- (a) All motions filed with the Commission prior to a Disciplinary Hearing before the hearing officer shall be in writing, shall be served on the parties, and shall set forth reasons supporting the motion. All parties upon whom a motion is served shall have ten Days from service to file a response. During a hearing, motions may be made orally, unless the hearing officer directs otherwise. Each motion shall state with particularity the grounds upon which it is based and the relief or order sought.
  
- (b) Motions shall, in the ordinary course of proceedings, be heard and disposed of by hearing officers to whom the case is assigned, by the Sports Betting Committee when the case is before the Sports Betting Committee, or by the Commission when the case is before the Commission as a whole.

PROPOSED

November 7, 2023

Blue Text = *not* open for public comment

Blue Text = open for public comment

Black Text = open for public comment

Black Text = open for public comment

**Rule 1C-010 Postponement of Hearing**

- (a) Postponement or rescheduling of a hearing ordinarily will not be allowed.
  
- (b) Except in the case of extreme emergency, unusual circumstances, for good cause shown, or upon consent by all parties, no such request will be considered unless received in writing at least three (3) Days in advance of the time set for the hearing.

Proposed

**Rule 1C-011 Witness and Exhibit Lists**

- (a) Unless the hearing officer orders otherwise, a list of witnesses expected to be called during the Disciplinary Hearing and the list of exhibits, including copies of said exhibits, intended to be presented at the hearing shall be filed with the hearing officer and exchanged by the parties no later than 5 p.m., three business Days prior to the scheduled hearing. Materials may be distributed electronically upon the approval of the hearing officer.
  
- (b) Should a party attempt to admit into evidence any exhibit not provided in accordance with this Rule other than for purposes of rebuttal, upon objection by the opposing party, the hearing officer may consider this fact in their decision on the motion.

Proposed

November 7, 2023

Blue Text = *not* open for public comment

Blue Text = open for public comment

Black Text = open for public comment

Black Text = open for public comment

**Rule 1C-012 Burden of Proof**

The Commission has the burden of proving the facts alleged in the Notice of Disciplinary Hearing by clear and convincing evidence.

Proposed

### **Rule 1C-013 Evidence**

- (a) Except as otherwise provided, the Rules of evidence as applied in the trial division of the North Carolina General Court of Justice shall be followed; but, when evidence is not reasonably available under such rules to show relevant facts, they may be shown by the most reliable and substantial evidence available.
- (b) In all Disciplinary Hearings, irrelevant, immaterial, and unduly repetitive evidence shall be excluded.
- (c) Evidence in a Disciplinary Hearing, including records and documents shall be offered and where appropriate admitted, and made a part of the record. Other factual information or evidence excluded from a hearing shall be made part of the record but shall not be considered in determination of the case, except as permitted under Rule 1C-016.
- (d) Documentary evidence may be received in the form of a copy or excerpt or may be incorporated by reference, if the materials are so incorporated are available for examination by the parties. Upon timely request, a party shall be given an opportunity to compare the copy with the original if available.
- (e) A party that seeks to enter the contents of voluminous records into evidence should offer that evidence as an exhibit in the form of a chart or summary. The offering party shall supply the opposing party with copies of all supporting documents on which the summaries are based.

November 7, 2023

Blue Text = *not* open for public comment

Blue Text = open for public comment

Black Text = open for public comment

Black Text = open for public comment

### **Rule 1C-014 Depositions**

A deposition may be used in lieu of other evidence when taken in compliance with the Rules of Civil Procedure,

G.S. 1A-1.

Proposed

### **Rule 1C-015 Prehearing Conference and Stipulations**

- (a) The hearing officer may direct the parties to conduct an informal pre-hearing conference, or the parties may request such a conference, which shall be scheduled at a time and place agreed upon by the parties. If the parties do not agree on the time and place of the pre-hearing conference, the hearing officer may set the time and place of the pre-hearing conference, giving reasonable written notice to all parties in the proceedings.
- (b) At the discretion of the hearing officer, all or part of the pre-hearing conference may be conducted by telephone or other electronic means, so long as each party has an opportunity to participate.
- (c) The hearing officer shall conduct the pre-hearing conference to address, where applicable:
  - (1) exploring settlement possibilities;
  - (2) formulating, clarifying, and simplifying the issues to be contested at the hearing;
  - (3) preparing stipulations of facts or findings;
  - (4) ruling on the identity and number of witnesses;
  - (5) determining the extent to which direct evidence, rebuttal evidence, or cross-examination will be presented in written form and the extent to which telephone, video tape, or other electronic means will be used as a substitute for proceedings in person;
  - (6) determining what depositions, discovery orders, or subpoenas will be needed; and
  - (7) other matters identified by the hearing officer
- (d) The parties in a Disciplinary Hearing may agree upon any fact involved in the controversy by stipulation in writing filed with the hearing officer; which stipulation shall be used as evidence at the hearing and be binding on the parties thereto. Parties should agree upon facts when practicable.
- (e) Written stipulations shall be filed with the hearing officer no later than 5 p.m., three business Days prior to the scheduled hearing.

November 7, 2023

Blue Text = *not* open for public comment

Blue Text = open for public comment

Black Text = open for public comment

Black Text = open for public comment

**Rule 1C-016 Official Notice**

Official notice may be taken of all facts of which judicial notice may be taken under Rule 201 of the North Carolina Rules of Evidence and of other facts within the specialized knowledge of the Commission. The noticed fact and its source shall be stated and made known to affected parties at the earliest practicable time, and any party shall on timely request be afforded an opportunity to dispute the noticed fact through submission of evidence and argument.

Proposed

**Rule 1C-017 Discovery**

- (a) Parties in a Disciplinary Hearing may engage in limited discovery pursuant to the provisions of the Rules of Civil Procedure, G.S. 1A-1. Discovery shall be confined to material factual matters appearing in the Notice of Disciplinary Hearing.
  
- (b) Upon request for an identifiable Commission record involving a material fact in a Disciplinary Hearing, the Commission shall promptly provide the record to a party, unless the record relates solely to the Commission's internal procedures or is exempt from disclosure by law.
  
- (c) Discovery will be limited by the hearing officer, taking into account such considerations as: burdensome expense, prior opportunity of a party to acquire the information, the complexity of issues in the case, and other relevant factors.

PROPOSED

November 7, 2023

Blue Text = *not* open for public comment

Blue Text = open for public comment

Black Text = open for public comment

Black Text = open for public comment

### **Rule 1C-018 Affidavits**

An affidavit may be admitted as evidence in lieu of oral testimony if the matters therein contained are otherwise admissible and the parties agree to its admission.

Proposed

**Rule 1C-019 Protection of Trade Secrets; Confidential Information**

- (a) Any claim of confidential information, including but not limited to trade secrets or proprietary business information, shall be in writing or on the record if made at a hearing. The claim shall:
  - (1) Identify the information claimed to be confidential;
  - (2) Present facts supporting the claim; and
  - (3) Set forth the relief sought.
  
- (b) Any party wishing to oppose a written claim of confidentiality shall do so within fifteen Days, except if the claim is made at a hearing, or if the hearing officer may prescribe a briefer response time. The opposing party shall present facts to support opposition to the claim of confidentiality.
  
- (c) The hearing officer may review the subject information in camera and may, if necessary, receive it ex parte.
  
- (d) If the claim is upheld, the hearing officer shall issue such orders as may be appropriate to protect the confidentiality of the information at issue.

PROPOSED

**Rule 1C-020 Designation of Hearing Officer**

- (a) The Commission shall select and maintain a list of no fewer than eight qualified hearing officers. When Notice of Disciplinary Hearing is issued to the parties in a contested case, it shall identify the hearing officer designated by the Director to preside over the matter.
  
- (b) Individuals selected by the Commission as hearing officers shall be members in good standing of the North Carolina State Bar who have demonstrated experience and expertise in areas of due process and administrative law within the last five years. A hearing officer shall not be contemporaneously employed by the State.
  
- (c) Hearing officers shall be removed from the list for one or more of the following reasons: termination or revocation of the hearing officer's license to practice law, misfeasance, malfeasance, misconduct, immoral conduct, incompetency, the Commission of a crime, or any other good and adequate reason as found by the Commission.
  
- (d) The Commission shall determine the compensation for a hearing officer. The Commission shall pay the hearing officer's compensation and authorized expenses.

PROPOSED

**Rule 1C-021 Disqualification of Commission Member or Hearing Officer**

- (a) A member of the Commission or the hearing officer may withdraw from a proceeding whenever the Commissioner or hearing officer deems themselves to be disqualified.
- (b) Any party may request a Commissioner or hearing officer, before or at the time of the hearing, to withdraw on grounds of conflict, personal bias, or reason for disqualification, by filing a motion. Such motion shall set forth in detail the matters alleged to constitute grounds for disqualification.
- (c) If, in the opinion of the Commissioner or hearing officer, the motion referred to in Paragraph (b) of this Rule is filed with reasonable cause and is sufficient on its face, the Commissioner or hearing officer shall forthwith be disqualified and withdraw from the proceeding.
- (d) When a Commissioner or the hearing officer is disqualified or withdraws from the proceeding, the Chair of the Commission, or the Chair of the Sports Betting Committee if the Chair of the Commission is unavailable, shall appoint a different hearing officer or Commissioner to participate in the proceeding.
- (e) If the Commissioner or hearing officer denies the request for disqualification and does not withdraw from the proceeding, the Commissioner or hearing officer shall so rule upon the record, stating the grounds for ruling and shall proceed with the hearing, or, if the hearing has closed, the Commissioner or hearing officer shall proceed with the issuance of a written decision and the provisions of Rule 1C-022 shall thereupon apply.

### **Rule 1C-022 Hearing Officer Responsibilities**

- (a) It shall be the duty of the hearing officer to conduct a fair and impartial hearing to assure that the facts are fully elicited to adjudicate all issues and to avoid delay.
- (b) The hearing officer shall have the authority to:
- (1) Administer oaths and affirmations;
  - (2) Rule upon motions;
  - (3) Rule upon offers of proof and receive relevant evidence;
  - (4) Take or cause depositions to be taken whenever the needs of justice would be served;
  - (5) Regulate the course of the hearings and set the time and place for continued hearings;
  - (6) Hold conferences for the settlement or simplification of the issues;
  - (7) Dispose of procedural requests or similar matters, including motions to amend or dismiss pleadings, to dismiss complaints or portions thereof, and to order hearings reopened, or upon motion, consolidation of issues or proceedings or severance of issues or proceedings prior to issuance of any final decision;
  - (8) Hear and examine witnesses and to receive into the record documentary or other evidence;
  - (9) Request the parties at any time, before, during, or after, the hearing to state their respective positions concerning any issues in the case or any argument or theory in support of their positions;
  - (10) Adjourn or continue the hearing as the needs of justice and good administration require;
  - (11) Amend the procedural Rules set forth in this Subchapter as necessary to ensure the timely adjudication of disciplinary matters; and
  - (12) Take any other action necessary under the foregoing and authorized by the published Rules of the Commission or the General Statutes.

**Rule 1C-023 Consolidation**

- (a) When hearings involving a common question of law or fact or multiple proceedings involving the same or related parties are pending, the hearing officer may order a joint hearing of any matters at issue in the cases, order the cases consolidated, or make other orders to reduce costs or delay in the proceedings.
  
- (b) Cases may be consolidated on the motion of any party, or on the hearing officer's own motion where there exists common parties, common questions of law or fact, or both, in such other circumstances as justice and the administration of the Act require.

Proposed

November 7, 2023

Blue Text = *not* open for public comment

Blue Text = open for public comment

Black Text = open for public comment

Black Text = open for public comment

### **Rule 1C-024 Severance**

Upon its own motion, or upon the motion of any party, the hearing officer may, for good cause, order the severance of any issues, parties, or proceedings in a hearing.

Proposed

### **Rule 1C-025 Conduct of a Hearing**

- (a) All hearings shall be open to the public. Hearings shall be conducted in a fair and impartial manner.
  
- (b) At the hearing the parties shall be given an opportunity to present evidence on issues of fact, to examine and cross-examine witnesses, including the author of a document prepared by, on behalf of, or for the use of the Commission and offered into evidence, to submit rebuttal evidence, and present arguments on issues of law or policy.
  
- (c) The use or operation of a device to capture, record, transmit, or broadcast a photograph, video, motion picture or audio of a proceeding or person during a hearing or within the facility where a hearing is being held or in an area adjacent to the hearing without the approval of the hearing officer is forbidden. Parties seeking to operate such equipment shall relay a request in writing to the Director at least 48 hours in advance of the proceeding. The Director shall relay all written requests to the hearing officer, who shall respond to all requests in writing or on the record at the hearing. The hearing officer shall control the manner of any recording or broadcasting processes they allow to ensure that it is not disruptive to the hearing.

Proposed

**Rule 1C-026 Venue of a Hearing**

- (a) The hearing of a contested case shall be conducted where the Commission maintains its principal office or in any county determined by the hearing officer in their discretion to promote the ends of justice or better serve the convenience of witnesses.
  
- (b) Any party may make a motion to change the venue of a hearing and shall set forth reasons supporting the motion. Decisions on a motion to change venue shall be in the discretion of the hearing officer. Any party to a hearing waives their objection to venue by proceeding in the hearing.

Proposed

**Rule 1C-027 Failure to Appear**

- (a) If a party fails to appear in a contested case after they have been given proper notice, the hearing officer may continue the hearing or proceed with the hearing and make its decision in the absence of the party.
- (b) Subject to the provisions of Paragraph (c) of this Rule, the failure of a party to appear at or during a duly noticed hearing shall be deemed to be a waiver of all rights to participate and be heard in the hearing.
- (c) The hearing officer, upon a timely showing of good cause, may excuse such failure to appear. In such event, the hearing may be rescheduled.

Proposed

**Rule 1C-028 Examination of Witnesses**

- (a) Witnesses shall be examined orally under oath or affirmation. Opposing parties shall have the right to cross-examine any witness whose testimony is introduced by an adverse party. All parties may cross-examine any witness called by the hearing officer pursuant to Rule 1C-022.
  
- (b) Witnesses shall present a valid government issued form of identification which includes their legal name and a photograph to the court reporter prior to the start of a hearing. Remote testimony via videoconference may be allowed in the discretion of the hearing officer.

Proposed

**Rule 1C-029 Hearing Officer Recommendation**

- (a) The recommendation of the hearing officer shall be in writing and shall include findings of fact, conclusions of law, and a recommended disciplinary action, if any, to the Sports Betting Committee.
  
- (b) Findings of fact shall be based exclusively on the evidence and on matters officially noticed. Findings of fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of the underlying facts supporting them.
  
- (c) The hearing officer shall sign the recommendation. Upon filing of the recommendation, jurisdiction shall rest solely in the Sports Betting Committee, and all motions, petitions, and other pleadings filed subsequent to such issuance shall be addressed to the Sports Betting Committee.

Proposed

**Rule 1C-030 Sports Betting Committee Decision**

- (a) After review and consideration of the hearing officer’s recommendation, the Sports Betting Committee shall make a written order adopting, amending, or rejecting and remanding the recommendation of the hearing officer.
  
- (b) After review and consideration of the hearing officer’s recommendation, if the Sports Betting Committee finds that the record is incomplete, the Sports Betting Committee may remand the case back to the hearing officer for further proceedings.
  
- (c) The order becomes effective upon service on the parties, unless the order specifies a different effective date.
  
- (d) A copy of the order shall be served upon each party by one of the methods for service of process described in Rule 1C-004.
  
- (e) A copy of the or order shall be furnished to the party’s attorney of record.

Proposed

### **Rule 1C-031 Appeal to the Commission**

- (a) A Responsible Party may appeal the order of the Sports Betting Committee to the Commission by filing a written appeal with the Commission no later than fifteen Days from receipt of the Sports Betting Committee's order. The written appeal shall contain:
- a. A statement identifying the grounds for which the party intends to contest the Sports Betting Committee's order and state the reasons therefor;
  - b. A description of all facts the Responsible Party is relying on to contest the order;
  - c. A description of any alleged errors by the hearing officer or Sports Betting Committee; and
  - d. A statement of truth, swearing or affirming that all information contained in the written appeal is accurate and complete.
- (b) Upon filing of the written appeal, jurisdiction shall rest solely in the Commission, and all motions, petitions, and other pleadings filed subsequent to such appeal shall be addressed to the Commission.
- (c) Upon receipt of written appeal, the order of the Sports Betting Committee shall be stayed, pending final decision by the Commission.
- (d) Upon receipt of the written appeal, the Commission staff shall compile a full record of the Disciplinary Hearing, including the Sports Betting Committee's order. Staff will provide this record to the Commission and to the Responsible Party who submitted the appeal within 21 days of the Commission's receipt of the written appeal. The Commission staff may include a written response to the written appeal from the Responsible Party in the record.
- (e) The Commission shall have 90 Days from receipt of the full record to make a written final decision adopting, amending, or rejecting and remanding the Sports Betting Committee's order.
- (f) The Commission's final decision shall be served upon each party by one of the methods of service of process described in Rule 1C-004.

November 7, 2023

Blue Text = *not* open for public comment

Blue Text = open for public comment

Black Text = open for public comment

Black Text = open for public comment

### **Rule 1C-031 Judicial Review**

Any party or Person aggrieved by the final decision or order of the Commission in a hearing, and that has exhausted all administrative remedies made available to the party or Person aggrieved by statute or Commission Rule, may seek judicial review in the Superior Court of Wake County North Carolina. In addition to the copy filed with the Court, a copy of the petition for judicial review shall be served on all parties in the underlying hearing.

Proposed

**Rule 1C-032 Official Record**

- (a) The Commission shall prepare an official record of a hearing that shall include:
- (1) Notices, pleadings, motions, and intermediate rulings;
  - (2) Questions and offers of proof, objections, and rulings thereon;
  - (3) Evidence presented;
  - (4) Matters officially noticed, except matters so obvious that a statement of them would serve no useful purpose;
  - (5) Proposed findings and exceptions filed by the parties; and
  - (6) Any decision, opinion, order, or recommendation by the hearing officer at the hearing, the Sports Betting Committee, or the Commission.
- (b) Proceedings at which oral evidence is presented shall be recorded, but need not be transcribed unless requested by a party.

Proposed

November 7, 2023

Blue Text = *not* open for public comment

Blue Text = open for public comment

Black Text = open for public comment

Black Text = open for public comment

**Rule 1C-033 Request for Transcript of Hearing**

- (a) Upon written request, Commission staff shall provide a non-certified copy of a transcript of hearing within a reasonable time after receiving the request.
  
- (b) Should a party wish to receive a certified copy of a transcript of hearing, they shall request this directly from the court reporting company and bear any associated cost.

Proposed

### **Rule 1C-034 Summary Suspension**

- (a) Counsel for the Commission shall present a motion for summary Suspension to the Chair of the Commission, or the Chair of the Sports Betting Committee if the Chair of the Commission is unavailable, and may be presented ex parte. The motion shall be supported by an affidavit of a Person with first-hand knowledge of the facts alleged which require emergency action.
  
- (b) The Chair of the Commission or Chair of the Sports Betting Committee may summarily suspend a License without notice or a formal Disciplinary Hearing if the Chair of the Commission or Chair of the Sports Betting Committee determines based on factual showing assembled by Commission staff that:
  - (1) the safety or health of Persons or employees or the integrity of Sports Wagering or Pari-Mutuel Wagering is jeopardized by continuing an operation; or
  - (2) Suspension is necessary for the immediate preservation of the integrity of Sports Wagering, Pari-Mutuel Wagering, public peace, health, safety morals, good order, or general welfare.
  
- (c) When a License is summarily suspended, the Director shall immediately designate a hearing officer and schedule a hearing, to occur at the earliest practicable date, on the merits of the charges set out in a Notice of Disciplinary Hearing issued contemporaneously with the order of summary Suspension. Such hearing shall proceed according to Rules outlined in this Subchapter.
  
- (d) As soon as possible following the decision to summarily suspend a License, the Director shall serve on the Responsible Party the order for summary Suspension, the Notice of Disciplinary Hearing, and other record materials considered by the Chair of the Commission or Chair of the Sports Betting Committee in ordering the summary Suspension. The order of summary Suspension shall be effective no earlier than the date of service of the summary Suspension order on the Licensee. The Notice shall be served personally or pursuant to Rule 1C-004.
  
- (e) The order of summary Suspension shall remain in effect until the Commission vacates it. The order of summary Suspension shall state when the Suspension will begin and end, and shall state the reasons for the Suspension.
  
- (f) At the scheduled hearing, the summarily suspended Responsible Party may petition the hearing officer to vacate the summary Suspension order.

- (1) If the hearing officer finds that the summary Suspension order was issued in error or on insufficient factual grounds to justify emergency action, the hearing officer may vacate the summary Suspension order.
  - (2) The hearing officer shall hear and consider the merits of the Responsible Party's petition. Rules governing the conduct and procedure of Commission Disciplinary Hearings shall apply under those circumstances.
- 
- (g) Neither an order of summary Suspension nor a denial of a motion to vacate an order of summary Suspension is a final Commission decision.
  - (h) The Director or their designee shall serve the Responsible Party with the order of summary Suspension via email and by a method outlined Rule 1C-004.

Proposed

## **Subchapter D – Audit and Internal Control Standards**

### **Rule 1D-001 Internal Controls.**

- (a) Unless otherwise provided for by the Commission, before beginning Wagering operations, an Operator shall submit its Internal Controls in detail, in as identified in these Rules.
- (b) The Operator’s proposed Internal Controls shall be submitted to the Director in a form or in the manner required by the Commission.
- (c) At the time of submitting Internal Controls to the Director, the Operator shall stamp or otherwise mark each page of the Internal Controls with the word "CONFIDENTIAL" if the Operator does not believe the material submitted should be subject to public disclosure. All Internal Control documents submitted to the Director, regardless of marking(s) are subject to applicable law concerning public records and confidentiality.
- (d) The Director’s review and written approval of the Operator’s proposed Internal Controls is required for the Operator to begin Wagering operations.
- (e) The Director may perform inspections required to determine conformance with the approved Internal Controls.
- (f) If the Director determines that the Internal Controls of the Operator do not comply with the requirements of these Rules or otherwise require revision, the Director shall notify the Operator in writing. Within fifteen Days after receiving the notification, the Operator shall amend its Internal Controls accordingly and shall submit for the Director’s approval a copy of the written Internal Controls, as revised; any explanation necessary to an understanding of the revisions; and a description of other remedial measures taken.

**Rule 1D-002 Revisions to Internal Controls.**

(1) A proposed revision to a portion of an Internal Control shall be submitted to the Director for approval. If within thirty Days the Director has not approved, denied, or otherwise provided written notice of an action taken to the proposed revision, an Operator may implement the proposed revised Internal Controls as submitted; in such circumstances, the Commission and Director retain authority to require further revision or to deny the proposed revision, and such delay shall not constitute waiver or estoppel.

(2) The Director may, in writing, approve, deny, or require additional modifications to any revision to the Internal Controls. If the Operator is notified of a required modification, the Operator shall address the modification within fifteen Days, unless otherwise required by the Director.

(3) If the Director requests additional information, clarification, or modification of a revision to the Internal Controls and the Operator fails to satisfy the request within fifteen Days after the request, the Commission shall consider the proposed revision denied and it cannot be implemented or, if previously implemented, the Operator has fifteen Days to stop implementation of that revision. If the Operator subsequently wants to pursue the revision, it shall resubmit the request along with the additional information previously requested by the Director. Nothing in this Chapter shall be interpreted to limit an Operator's use of technology. If the Operator intends to use new technology not identified in its initial proposal, it shall submit the proposed changes to its Internal Controls to incorporate the use of new technology for review.

**Rule 1D-003 Emergency Revision to Internal Controls.**

(a) In the event of an emergency, the Operator may temporarily revise or amend its Internal Controls. The Operator shall notify the Director in writing that an emergency exists before temporarily amending its Internal Controls. Such notification shall identify the emergency in detail.

(b) The Operator shall submit the temporary emergency revision of the Internal Controls to the Director within twenty-four hours of enacting the emergency revision. The submission shall include the detailed emergency procedures that will be implemented and the time period for which the emergency procedures will be temporarily in place. Concerns that the Commission or Director have with the submission shall be addressed with the Operator; the Commission or Director may reject the emergency revision to Internal Controls.

(c) As soon as the circumstances necessitating the emergency revision to the Internal Controls abate, an Operator shall resume compliance with the Internal Controls protocol approved by the Commission.

PROPOSED

**Rule 1D-004 Operator Remains Ultimately Responsible for Internal Controls.**

(a) To the extent a Service Provider, Supplier, or other third-party is involved in or provides Internal Controls required in this Chapter, the Operator's Internal Controls shall document the roles and responsibilities of the Service Provider, Supplier, or other third-party. The Operator's Internal Controls shall also include procedures to evaluate the adequacy of and monitor compliance with the Operator's Internal Controls by the Service Provider, Supplier, or other third party.

(b) The Operator shall be responsible for compliance with each of its Internal Controls, including ones fulfilled or provided by a Service Provider, Supplier, or other third party with whom it contracts.

Proposed

**Rule 1D-005 Administrative and Accounting Procedures.**

The Operator's Internal Controls shall include a detailed narrative description of the administrative and accounting procedures designed to satisfy the requirements of these Rules, including:

- (1) administrative controls which include, as their primary objective, policies and procedures designed to ensure that activities and transactions of the Operator are started and completed in accordance with the applicable policy or procedure.
- (2) accounting controls, as detailed in these Rules, which include, as their primary objectives:
  - (1) processes for recording the collection of Wagers, payment of Wagers, and cancellation of Wagers issued in accordance with generally accepted accounting principles; and
  - (2) requirements for an annual financial audit.
- (3) reporting controls which shall include policies and procedures for the timely reporting of standard financial and statistical reports and information in accordance with these Rules.
- (4) access controls which include, as their primary objective, the safeguarding of company assets to include safeguards in the form of organizational safeguards.
- (5) provisions to ensure that Internal Controls related to:
  - (1) Responsible Gaming Plans comply with Subchapter F of this Chapter;
  - (2) Wagering Accounts comply with Subchapter G of this Chapter;
  - (3) Wagering Facilities comply with Subchapter H of this Chapter;
- (6) all other applicable policies and procedures required pursuant to these Rules.

**Rule 1D-006 Jobs Compendium.**

The Internal Controls shall include a complete and up-to-date jobs compendium detailing job descriptions, chains of command, and lines of authority for personnel engaged in the Wagering operation. The Operator shall submit the updated jobs compendium to the Director eighteen months after Internal Controls approval and every two years thereafter, unless otherwise directed by the Commission or Director. A jobs compendium shall include the following sections:

- (1) A table of contents listing the position title and job code for each job description and the page number on which the corresponding job description may be found;
- (2) A table of organization for each department and division, including all positions, and illustrating by position title and direct and indirect lines of authority within the department or division.
  - (a) The tables of organization shall provide for:
    - (i) a system of personnel and chain of command which permits management and supervisory personnel to be held accountable for actions or omissions within their areas of responsibility;
    - (ii) the segregation of incompatible functions so that no employee is in a position in the normal course of their duties both to commit an error or to perpetrate a fraud and then to conceal the error or fraud;
    - (iii) primary and secondary supervisory positions which permit the authorization or supervision of transactions at relevant times; and
    - (iv) areas of responsibility which are not so extensive as to be impractical for one Person to monitor.
  - (b) Each page of a table of organization shall specify:
    - (i) the date of its submission;
    - (ii) the date of the previously submitted table of organization which it supersedes; and
    - (iii) a unique title or other identifying designation for that table of organization.
- (3) A description of each employee position which accurately corresponds to the position title as listed in the table of organization and in the table of contents. Each position description shall be organized by departments or divisions, and shall include, at a minimum, the following:
  - (a) Position title and corresponding department;
  - (b) Job duties and responsibilities;
  - (c) Detailed descriptions of experiential or educational requirements;
  - (d) The date of submission of each employee position job description and the date of any prior job description it supersedes;
  - (e) The date of submission and page number of each table of organization on which the employee position title is included;

November 7, 2023

Blue Text = *not* open for public comment

Blue Text = open for public comment

Black Text = open for public comment

Black Text = open for public comment

- (f) Identification of positions where the employee is subject to a background check.

Proposed

**Rule 1D-007 Information Security Responsibilities.**

(a) The Internal Controls shall ensure that an Operator effectively implements its information security program in compliance with this Chapter and effectively allocates information security function responsibilities.

(b) The Operator shall implement, maintain, and comply with its comprehensive information security program as described in the Internal Controls, the purpose of which shall be to protect the confidentiality, integrity, and availability of Personal Information and other identifying information listed at G.S. 14-113.20(b) that is in its possession or in the possession of those entities acting on the Operator's behalf or under its direction.

(c) The Operator's information security program shall contain administrative, technical, and physical safeguards appropriate to the size, complexity, nature, and scope of the operations and the sensitivity of the Personal Information and other identifying information listed at G.S. 14-113.20(b) owned, licensed, maintained, handled, or otherwise in the possession of the Operator or in the possession of those entities acting on the Operator's behalf or under its direction.

(d) With respect to allocating security function responsibilities, the Operator shall utilize in its organizational structure an information security forum and an information security department as described in Paragraph (f) of this Rule.

(e) The Operator shall formally establish an information security forum or other organizational structure(s) comprised of senior managers to monitor and review the information security program to ensure the program's suitability, adequacy, and effectiveness.

(1) The forum or other structure(s) shall maintain formal minutes of meetings and convene at least every six months.

(2) The Operator's chief security officer or equivalent head of the information security department shall be a full member of the information security forum and be responsible for recommending information security policies and changes.

(f) The Operator shall maintain an information security department that is responsible for developing a security strategy in accordance with the overall Wagering operation. The information security department will subsequently work with the Operator's other departments, Affiliates, or Responsible Parties to implement and maintain the associated action plans. The department shall:

- (1) be involved in reviewing tasks and processes that are required from the security perspective for the Operator, including, but not limited to, the protection of information and data, communications, physical, virtual, personnel, and overall business operational security;
- (2) report to no lower than executive level management and shall be independent of the information technology department with regard to the management of security risk; and
- (3) have the competences and be sufficiently empowered and have access to resources needed to enable the adequate assessment, management, and reduction of risk.

Proposed

**Rule 1D-008 Information Processing.**

The Internal Controls shall include a description of the Operator’s or its Affiliates’ use of computerized algorithms, automated decision-making, machine learning, artificial intelligence, or any similar system, which shall include:

- (1) a description of permissible and impermissible uses of such practices and capabilities;
- (2) the purposes for which such practices and capabilities are used;
- (3) the types of input and output data utilized and an accounting of the source of each;
- (4) a description of how these systems are used to:
  - (a) minimize risky play behavior; and
  - (b) market or advertise to Players.

Proposed

### **Rule 1D-009 Reporting Requirements in the Event of a Cyber Incident**

- (a) The Internal Controls shall ensure that an Operator that experiences a cyber incident to its information system resulting in a material loss of control, compromise, unauthorized disclosure of data or information, or any other similar occurrence shall:
- (1) Provide written notification of the incident to the Director as soon as practicable but no later than seventy-two hours after becoming aware of the incident. Upon request, the Operator shall provide the Director with specific information regarding the incident;
  - (2) Perform, or have a third party perform, an investigation into the incident, prepare a report documenting the results of the investigation, notify the Director of the completion of the report, and make the report available to the Director for review upon request. The report shall include, without limit, the root cause of the incident, the extent of the incident, including detailed information about injuries to North Carolina Players, if any, planned or proposed measures to mitigate any harm to North Carolina Players, and any actions taken or planned to be taken to prevent similar events that allowed the incident to occur; and
  - (3) Notify the Director when any investigation or similar action taken by an entity external to the Operator is completed and make the results of such investigation or similar action available to the Commission upon request.
- (b) For purposes of this rule:
- (1) “cyber incident” means any act or attempt to gain unauthorized access to an information system for purpose of disrupting, disabling, destroying, or controlling the system or destroying or gaining access to the information contained therein; and
  - (2) “information system” means a set of resources organized for the collection, processing, maintenance, use, sharing, dissemination, or disposition of information. Elements of an information system include, without limit, hardware, software, information, data, applications, communications, and people.
- (c) The requirements in this Rule are supplemental to any requirements applicable to Licensees arising under State or federal law.

**Rule 1D-010 Accounting Records.**

(a) The Operator shall maintain complete, accurate, and legible records of transactions related to their Wagering Operation for five years, including transactions pertaining to revenues, expenses, assets, liabilities, and equity in conformance with generally accepted accounting principles.

(1) The Commission or Director may direct Operators to modify how the records are maintained if an Operator's records are not in accordance with generally accepted accounting principles or if the records are not in sufficient detail.

(2) The accounting records shall be maintained using a double entry system of accounting with transactions recorded on the accrual basis and supported by detailed subsidiary records.

(b) The detailed subsidiary records shall include, at a minimum:

(1) detailed general ledger accounts identifying revenue, expenses, assets, liabilities, and equity;

(2) a record of investments, advances, loans, and accounts receivable balances due the Operator;

(3) a record of loans and other accounts payable;

(4) a record of accounts receivable written off as uncollectible;

(5) journal entries prepared;

(6) tax work papers used in preparation of a state or federal tax return if applicable;

(7) records supporting the accumulation of the costs for complimentary services and items. A complimentary service or item provided to Persons in the normal course of a Wagering business shall be recorded in an amount based on the full retail price normally charged for the service or item or as is otherwise consistent with generally accepted accounting principles;

(8) records required by the Internal Controls; and

(9) other records that the Commission requires to be maintained.

(c) The Operator shall maintain records supporting, as applicable:

(1) for Sports Wagering, the Gross Wagering Revenue, as defined by G.S. 18C-901(7); and

(2) for Pari-Mutuel Wagering, the total Wagers placed by residents of this State.

(d) If an Operator fails to maintain the records used by it to calculate the applicable amounts specified in Paragraph (c), the Commission may compute and determine the amounts on the basis of an audit conducted by the Commission using available information.

**Rule 1D-011 Financial Audits.**

(a) Upon submitting an application, and annually thereafter, Operators shall submit to the Director, within one hundred and twenty Days of the Operator’s fiscal year end, its financial audit for that fiscal year.

(b) The financial audit shall be performed by an independent certified public accountant authorized to practice in North Carolina and presented in accordance with generally accepted accounting principles and containing the opinion of the independent certified public accountant as to its fair preparation and presentation in accordance with generally accepted accounting principles. If an Operator’s audited financial statements are produced at the parent company level, the audited financial statements of the parent company may be submitted, only if North Carolina’s information is identified and accessible separately from the entire parent company information. If prepared in another U.S. State or jurisdiction, the financial audit shall be reviewed and certified as outlined herein by an independent certified public accountant authorized to practice in North Carolina.

(c) The Director shall determine the number of copies of audits or reports required under these Rules. The audits or reports shall be received by the Commission or postmarked no later than the required filing date.

PROPOSED

**Rule 1D-012 Retention, Storage and Destruction Records.**

The Internal Controls shall include a records retention schedule, and provisions related to the storage and destruction of records that at a minimum incorporates the following provisions:

(1) An Operator shall maintain, in a place secure from theft, loss, or destruction, adequate records of its business and accounting operations.

(2) An Operator shall organize and index required records in a manner that enables the Commission to locate, inspect, review, and analyze the records with reasonable ease and efficiency.

(3) An Operator shall make the records available to the Commission or Director, on request, within a time provided for by the Commission or Director. The records shall include, but not be limited to:

- (a) a listing of all current and former employees along with their titles, chains of command, and history of employment status;
- (b) all correspondence with, or reports to, the Commission or any local, state, or federal governmental agency;
- (c) all correspondence concerning the business of an Operator, its Service Providers, Suppliers, or other third party with whom it contracts;
- (d) the business and organizational structure of the record holder;
- (e) any acquisition, construction, remodeling, relocation, or maintenance of a proposed or existing Wagering Facility; and
- (f) for Sports Wagering, the Written Designation Agreement, pursuant to Rule 2B-006.

(4) An Operator shall keep and maintain, in a manner and form required by the Commission, accurate, complete, and legible records of books, records, or documents, including electronic storage media, pertaining to, prepared in, or generated by, the Operator, including but not limited to:

- (a) forms;
- (b) reports;
- (c) accounting records;
- (d) ledgers;
- (e) subsidiary records;
- (f) internal and external audit records;
- (g) correspondence; and
- (h) personnel records.

(5) An Operator shall retain the records for not less than five years or for a period required by law for inspection by authorized State or federal government agents or officials. If a litigation, claim, or audit is started before the expiration of the five-year period, the records shall be retained until litigation, claims, or audit findings involving the records have been resolved.

(6) Compliance with G.S. 18C-910(b).

(7) An Operator shall, except as otherwise provided, notify the Director in writing at least sixty Days prior to the scheduled destruction of records required to be retained in accordance with this Rule. This notice shall list the types of record scheduled for destruction, including a description sufficient to identify the records included, the retention period, and the date of destruction. If documents are to be destroyed in the normal course of business in accordance with document retention policies previously set forth in the Internal Controls approved by the Director, no notice to the Director shall be required.

(8) The Commission or Director may prohibit the destruction of records required to be retained in accordance with this Rule by so notifying the Operator in writing within forty-five Days of receipt of the notice of destruction pursuant to Paragraph (7) of this Rule or within the specified retention period. Any original records in this regard may thereafter be destroyed only after notice from the Commission or Director, or by order of the Commission on the petition of the Operator or by the Commission or Director on its own initiative.

(9) The Operator may use the services of a disposal company for the destruction of records required to be retained in accordance with this Rule.

(10) Nothing in this Chapter shall be construed as relieving an Operator from meeting an obligation to prepare or maintain a book, record or document required by another federal, state or local governmental body, authority or agency.

### **Rule 1D-013 Reserve Requirement**

(a) The Internal Controls shall include a plan to maintain and protect sufficient Cash or Cash Equivalents and other supplies to continuously conduct Sports Wagering or Pari-Mutuel Wagering through a reserve in the amount needed to ensure the security of funds held in Wagering Accounts and the ability to cover the outstanding liabilities for Wagering.

(b) The reserve may take the form of a bond, an irrevocable letter of credit, payment processor reserves and receivables, Cash or Cash Equivalents segregated from operational funds, a guaranty letter, a combination thereof, or another means as approved by the Commission.

(c) The reserve shall be calculated as follows:

(1) For Sports Wagering, the reserve shall be not less than the greater of five hundred thousand dollars (\$500,000), or the sum of the:

- (A) cashable amounts held by the Operator on Wagering Accounts;
- (B) pending withdrawals from Wagering Accounts;
- (C) amounts accepted by the Operator on Sports Wagers whose outcomes have not been determined;
- (D) amounts owed but unpaid on winning Sports Wagers; and
- (E) average monthly amount of Sports Wagering taxes due to the State of North Carolina for the past twelve months, except during the first eleven months of licensure which shall be calculated as the average monthly amount of Sports Wagering taxes due to the State of North Carolina since the Operator started accepting Sports Wagers.

(2) For Pari-Mutuel Wagering, the reserve shall not be less than the sum of the:

- (A) cashable amounts held by the Operator on Wagering Accounts;
- (B) pending withdrawals from Wagering Accounts;
- (C) amounts accepted by the Operator on Pari-Mutuel Wagers whose outcomes have not been determined;
- (D) amounts owed but unpaid on winning Pari-Mutuel Wagers; and
- (E) one twelfth (1/12) of the aggregate Annual fee for ADW licensees accrued for the past twelve months, except during the first eleven months of licensure which shall be calculated as the aggregate accrued Annual Fee for ADW licensees divided by the number of months the ADW licensee has been accepting ADW Wagers.

(3) The reserve shall be adequate to pay all winning Wagers when due.

(4) Amounts available to Players for Wagering that are not redeemable for Cash may be excluded from the reserve computation.

(d) An Operator is presumed to have met this requirement if the Operator maintains, on a daily basis, a minimum reserve in an amount that is equal to or exceeds the average daily minimum reserve, calculated on a monthly basis, for the corresponding month in the previous year.

(e) An Operator shall have access to Wagering Account and transaction data to ensure the amount of its reserve is sufficient. Unless otherwise directed by the Commission or Director, an Operator shall file a monthly attestation with the Director, in the form and manner prescribed by the Commission, that funds have been safeguarded under this Rule.

(f) The Director may audit an Operator's reserve at any time and may direct an Operator to take action required to ensure the purposes of this Rule are achieved, including but not limited to requiring the Operator to modify the form of its reserve or increase the amount of its reserve.

(g) An Operator shall deposit and maintain reserve funds with a financial institution insured by the FDIC and licensed to transact business in North Carolina.

Proposed

### **Rule 1D-014 Risk Management Framework**

(a) The Operator shall implement and maintain an effective risk management framework. This framework may be provided in-house by a unit capable of performing this function with appropriate segregation of functions and reporting duties, or by a Supplier.

(b) The Internal Controls shall contain a description of the risk management framework, including but not limited to:

- (1) automated and manual risk management procedures;
- (2) employee management, including access controls and segregation of duties;
- (3) information regarding identifying and reporting fraud, suspicious conduct, or Suspicious or Illegal Wagering Activity;
- (4) controls ensuring regulatory compliance;
- (5) description of anti-money laundering (AML) compliance standards;
- (6) description of software applications that comprise the system used for Wagering;
- (7) description of types of Wagers available to be offered by the Operator;
- (8) description of the procedures to prevent past posting of Wagers;
- (9) description of the procedures to cancel or void a Wager;
- (10) description of the procedures to prevent individuals from placing Wagers as agents or proxies for other Individuals or Persons;
- (11) description of integrated third-party platforms; and
- (12) other information that may be required by the Commission.

### **Rule 1D-015 Taxation Requirements**

The Internal Controls shall ensure that the Operator remains in full compliance with Internal Revenue Service (IRS) requirements, and the Operator shall provide for the withholding or reporting of income tax of Players as required by applicable state or federal law. The Operator shall:

(1) comply with applicable tax laws and regulations including, without limitation, laws and regulations applicable to tax withholding and laws and regulations applicable to providing information about payouts and withholdings to taxing authorities and to Players.

(2) disclose potential tax liabilities to Players at the time of the award of Wagering payouts in excess of limits set by the IRS. These disclosures will include a statement that the obligation to pay applicable taxes on payouts is the responsibility of the Player and that failure to pay applicable tax liabilities may result in civil penalties or criminal liability. On written request, the Operator shall provide Players with summarized tax information on Wagering Activities.

PROPOSED

### **Rule 1D-016 Bank Secrecy Act Compliance**

The Internal Controls shall ensure that the Operator remains in full compliance with provisions of The Bank Secrecy Act of 1970, 31 USC §§ 5311 to 5332, and related federal regulations, applicable to the operation of Sports Wagering or Pari-Mutuel Wagering. The Operator shall:

- (1) maintain records related to its compliance with The Bank Secrecy Act of 1970, 31 USC §§ 5311 to 5332, including currency transaction reports, suspicious activity reports, and supporting documentation, for five years or for a period required by law for inspection by agents or officials of the State or federal government. If a litigation, claim, or audit is started before the expiration of the five-year period, the records shall be retained until litigation, claims, or audit findings involving the records have been resolved. The Operator shall provide the records to the Director and appropriate law enforcement agencies on request consistent with the authorization prescribed in The Bank Secrecy Act of 1970, 31 USC §§ 5311 to 5332, and applicable regulations.
  
- (2) provide written notice to the Director as soon as the Operator becomes aware of a compliance review that is conducted by the Internal Revenue Service under The Bank Secrecy Act of 1970, 31 USC §§ 5311 to 5332, and involves or impacts the Operator. The Operator shall provide a copy of the compliance review report or the equivalent to the Director within fourteen Days after the receipt of the report by the Operator.

### **Rule 1D-017 Anti-Money Laundering (AML) Monitoring**

The Internal Controls shall implement anti-money laundering (AML) procedures and policies that adequately address the risks posed by Sports Wagering or Pari-Mutuel Wagering for the potential of money laundering and terrorist financing. At a minimum, the AML procedures and policies shall provide for:

- (1) controls to assure ongoing compliance with the local AML regulations and standards observed by the Commission;
- (2) up to date training of employees, including but not limited to contractors, affiliates, and similar personnel, in the identification of unusual or suspicious transactions;
- (3) assigning an Individual or Individuals to be responsible for areas of AML by the Operator including reporting unusual or suspicious transactions;
- (4) use of automated data processing systems to aid in assuring compliance; and
- (5) periodic independent tests for compliance with a scope and frequency as required by the Commission. Logs of tests shall be maintained for five years.

### **Rule 1D-018 Integrity Monitoring and Suspicious Behavior**

(a) An Operator shall implement and maintain an effective Integrity Monitoring system. This solution may be provided in-house by a unit capable of performing this function with appropriate segregation of functions and reporting duties, or by a Supplier.

(b) The Internal Controls shall include provisions for an Operator to report to the Director as soon as practicable, but in no event longer than seventy-two hours after discovery:

(1) information regarding irregularities in volume or changes in odds identified as Abnormal Wagering Activity;

(2) information relating to the following which shall also be reported to the relevant Sports Governing Body, racing regulatory body, or equivalent:

(A) Abnormal Wagering Activities or other patterns that may indicate a concern with the integrity of a Wagering Event or Events;

(B) potential breaches of the internal rules and codes of conduct pertaining to Wagering of a relevant Sports Governing Body, racing regulatory body, or the equivalent, to the extent the Operator has actual knowledge of the potential breach;

(C) other conduct that corrupts a Wagering outcome of a Wagering Event or events for purposes of financial gain, including Event Corruption; or

(3) information relating to Suspicious or Illegal Wagering Activities, including the use of funds derived from illegal activity, the placement of Wagers to conceal or launder funds derived from illegal activity, the use of agents to place Wagers, and the use of false identification in placing Wagers.

(c) An Operator shall maintain the confidentiality of information provided by a Sports Governing Body, racing regulatory body, or the equivalent for purposes of investigating or preventing the conduct described in Paragraph (b) of this Rule, unless disclosure is required by the Act, the Commission, or other law or court order, or unless the Sports Governing Body, racing regulatory body, or equivalent consents to disclosure.

(d) An Operator receiving a report of Suspicious or Illegal Wagering Activity shall be permitted to suspend Wagering on Wagering Events or Wager Types related to the report and may place a hold on suspicious Wagers while investigating, but may only cancel or void Wagers related to the report after receiving approval from the Commission or Director.

(e) On request by the Commission or Director, an Operator shall provide remote, read-only access and the required software and hardware for the Commission to evaluate or monitor the systems used for Wagering. If

requested, the Operator shall provide the Commission with remote access or other approved mechanism that shall provide at a minimum:

- (1) all reports of Abnormal Wagering Activity;
- (2) if the Abnormal Wagering Activity was subsequently determined to be Suspicious or Illegal Wagering Activity;
- (3) all reports considered at the outset to be Suspicious or Illegal Wagering Activity; and
- (4) the actions taken by the Operator according to its Integrity Monitoring system.

(f) Nothing in this Rule shall require an Operator to provide information that is prohibited from being shared pursuant to federal, state or local law or regulation, including, but not limited to, laws and regulations relating to privacy and Personal Information.

(g) An Operator shall maintain records of Integrity Monitoring services and activities, including reports and Suspicious or Illegal Wagering Activity and supporting documentation, for a minimum of three years after a Wagering Event occurs or for a period required by law for inspection by agents or officials of the State or federal government. If a litigation, claim, or audit is started before the expiration of the five-year period, the records shall be retained until litigation, claims, or audit findings involving the records have been resolved.

(h) The Operator shall disclose these records to the Commission on request.

(i) The Commission may require an Operator to provide access to hardware or software to the Commission, or to an Independent Testing Laboratory, for evaluation of its Wagering offering or to conduct further monitoring of Wagering data.

November 7, 2023

Blue Text = *not* open for public comment

Blue Text = open for public comment

Black Text = open for public comment

Black Text = open for public comment

**Rule 1D-019 Data Security.**

The Internal Controls shall ensure that an Operator maintains the security and confidentiality of Wagering data, Player data, Personal Information, financial information, and other confidential information, including information provided by a Sports Governing Body, racing regulatory body, or the equivalent, from unauthorized access and dissemination except as otherwise authorized by the Act and these Rules. Consistent with federal law, nothing in this Rule shall in and of itself preclude the use of Internet or cloud-based hosting.

Proposed

**Rule 1D-020 Personal Information Security.**

(a) Information an Operator obtains with respect to the creation and maintenance of a Wagering Account, including Personal Information and authentication credentials, shall be collected in compliance with the Operator's privacy policies set forth in its Internal Controls; local privacy regulations; applicable state and federal law; and standards enforced by the Commission or Director. Both Personal Information and the Wagering Account funds shall be considered to be critical assets for risk assessment.

(b) No employee or agent of the Operator shall divulge to any Person Personal Information or Confidential Player Information, information about the placing of a Wager, or other Sensitive Information related to the operation of the Operator without the consent of the Player, except as required by this Rule, the Commission, and as otherwise required or allowed by state or federal law.

(c) The Operator shall implement procedures for the security and sharing of Personal Information, information about funds in a Wagering Account, and other Sensitive Information as required by the Commission, including, but not limited to the:

- (1) designation and identification of one or more employees, including but not limited to contractors or other personnel, having primary responsibility for the design, implementation, and ongoing evaluation of these procedures and practices;
- (2) procedures to be used to determine the nature and scope of information collected, the locations and manner in which this information is stored, and the storage devices on which this information may be recorded for purposes of storage or transfer;
- (3) measures to be used to protect information from unauthorized access; and
- (4) procedures to be used if a breach of data security has occurred, including required notification to the Commission.

### **Rule 1D-021 Disputes Pertaining to Wagering**

(a) The Operator's Internal Controls shall set forth its procedures for receiving, investigating, responding to and reporting on disputes submitted to it by Players.

(b) An Operator shall include on their websites, mobile applications, and if applicable, within the Wagering Lounge, a clear mechanism to inform Players of their right to submit a dispute against the Operator, including

- (1) information explaining how to submit a dispute to the Operator;
- (2) how the Operator seeks to respond to or resolve the dispute submitted by the Player; and
- (3) how the Player may submit to the Commission a report of their dispute.

(c) When a Player submits a dispute to the Operator, the Operator shall immediately create a written dispute report, setting out the:

- (1) name of the Player;
- (2) nature of the dispute asserted;
- (3) name of the Persons against whom the dispute was made, including employees or contractors;
- (4) date and time of the purported conduct or incident giving rise to the dispute;
- (5) date the Player submitted the dispute; and
- (6) the nature of relief or action sought by the Player and, if applicable, the action taken or proposed to be taken by the Operator to address the dispute.

(d) An Operator shall investigate and attempt to resolve disputes with the Player.

- (1) An Operator shall respond to disputes in writing within ten Days or may seek an extension of time from the Director not to exceed ten Days by providing information about why a response cannot be provided within that time period.
- (2) If the Operator will not grant or provide the Player the relief requested to resolve the dispute, then the Operator shall state in writing and with specificity the reason(s) why the requested relief or action will not be provided.
- (3) If an Operator's response to a dispute is that more information is needed to address the dispute, the Operator shall provide specific information to the Player about the form and nature of the needed information. When the Player provides the Operator additional information, the Operator shall provide to the Player any further response within seven Days.
- (4) In its written response to the dispute asserted by the Player, the Operator shall advise the Player of their right to submit the dispute to the Commission in the form and manner prescribed by the Commission or Director.

(e) Unless otherwise directed by the Commission, for disputes related to Wagering Accounts, settlement of Wagers, or activity that is contrary to the law related to Wagering that cannot be resolved to the satisfaction of the Player, the Operator shall promptly notify the Director of the dispute, including all information submitted by the Player and the Operator's response, along with other pertinent information and documentation.

(f) On receipt of a dispute from a Player or notification of an unresolved dispute from an Operator, the Director may investigate as they consider to be appropriate and may direct an Operator to take corrective action the Commission or Director considers appropriate, consistent with law and these Rules.

(g) Disputes received by an Operator from a Player and the Operator's responses to disputes, including internal records such as dispute reports, shall be retained for five years thereafter or for a period required by law for inspection by agents or officials of the State or federal government.

(1) If a litigation, claim, or audit is started before the expiration of the five-year period, the records shall be retained until litigation, claims or audit findings involving the records have been resolved.

(2) The Operator shall produce these records to the Commission or Director within ten Days of a request by the Commission or Director or may seek an extension of time in writing from the Director not to exceed ten Days by providing information about why the requested records cannot be provided within that time period and identifying when these records will be produced.

**Rule 1D-022 Prohibition of Credit Extension**

- (a) The Internal Controls shall include controls to prohibit the Operator from accepting a Wager or deposit of funds into a Wagering Account that is derived from the extension of credit to a Player by an Operator's Affiliates or agents. For purposes of this Rule, credit shall not be considered to have been extended when, although funds have been deposited into a Wagering Account, the Operator is awaiting actual receipt of these funds in the ordinary course of business.
  
- (b) An Operator's Internal Controls shall ensure the Operator and its agents do not advertise or market to Players (i) small amount credit contracts; (ii) short-term cash loans secured by a personal check held for future deposit or electronic access to a Player's bank account; or (iii) any loan or credit product that does not comply with G.S. 53-173. .
  
- (c) An Operator's Internal Controls shall ensure that neither Operator nor its agents refer a Player to a credit provider to finance Wagering Activity.
  
- (d) Internal Controls shall prohibit an Operator from providing Personal Information related to a Player to a credit provider.

Proposed

**Rule 1D-023 Ineligible Persons.**

- (a) The Internal Controls shall include commercially and technologically reasonable measures to prevent access to Sports Wagering or Pari-Mutuel Wagering by an Ineligible Person.
  
- (b) If an Operator detects, or is notified of, information tending to indicate that an Individual may be an Ineligible Person and may have engaged or is engaging in Sports Wagering or Pari-Mutuel Wagering, the Operator shall use reasonable measures to verify whether the Individual is an Ineligible Person.
  
- (c) If the Operator establishes, by reasonable measures, that the Individual is an Ineligible Person, the Operator shall cancel any Wager and confiscate the wagered funds. Internal Controls shall set forth the Operator's policies and procedures with respect to account of an Ineligible Person.
  
- (d) If the Operator cannot establish, by reasonable measures, that the Individual is an Ineligible Person, then the Individual is presumed to not be an Ineligible Person for the purposes of this Rule.

PROPOSED

**Rule 1D-024 Reporting Requirements Related to Ineligible Persons**

- (a) The Internal Controls shall ensure that an Operator submits an Ineligible Person Report to the Director each month reporting the following information for the previous month, as applicable:
  - (a) The number of Ineligible Persons found in a Wagering Lounge;
  - (b) The number of Ineligible Persons found who made a Wager or attempted to make a Wager; and
  - (c) The number of Ineligible Persons referred to a law enforcement authority by the Operator.
  
- (b) If an Operator does not identify or encounter any reportable activity with respect to Ineligible Persons, then it shall affirmatively state so in the report.
  
- (c) In making such report, the Operator may create a custom submission or utilize the form provided by the Director. The Director shall establish deadlines for report submissions.

PROPOSED

**Rule 1D-025 Wagering Reports of Operators**

(a) The Internal Controls shall detail the Operator’s ability to prepare reports for Wagering Activities as required by the Commission including reports detailing, as applicable:

- (1) for Sports Wagering, the Gross Wagering Revenue, as defined by G.S. 18C-901(7);
- (2) for Pari-Mutuel Wagering, the total Wagers placed by residents of this State;
- (3) Wagering liability and payouts; and
- (4) other reports required by the Commission.

(b) The Operator shall timely file with the Commission additional reports required by the Act or by Rules prescribed by the Commission.

(c) The Operator shall provide all data and reports required by the Commission or the Director in the report format prescribed.

Proposed

**Rule 1D-026 Access to Wagering Data and Records by Commission or the Department of Revenue**

(a) The Operator's Wagering data and records concerning its Wagering operation in the State shall be subject to inspection, review, and audit by the Commission staff, as assigned by the Director, or by the Department of Revenue.

(b) The Internal Controls shall detail the Operator's controls to assure that all Wagering data and records concerning its Wagering operation that the Commission requires to be maintained under the Act and these Rules are appropriately segregated and controlled to prevent unauthorized access.

(c) The Operator shall provide the Commission or the Department of Revenue with access to the Wagering data and records, on request and with reasonable notice.

(d) The Operator shall deliver all Wagering data and records requested by the Commission or the Department of Revenue either by report or data file in the form and frequency required by the Commission or the Department of Revenue. In lieu of providing copies of such information, the Operator may provide the Commission or the Department of Revenue timely remote, electronic access to the Operator's records or information.

(e) The Operator shall retain the Wagering data and records for a minimum of five years or for a period required by law for inspection by agents or officials of the State or federal government. If a litigation, claim, or audit is started before the expiration of the five-year period, the records shall be retained until litigation, claims, or audit findings involving the records have been resolved.

**Rule 1D-027 Independent Audit of Internal Controls.**

- (a) The Operator shall have its Internal Controls independently audited at least once every two years with the results documented in a written report. For Sports Wagering, this includes Internal Controls conducted by other Responsible Parties on behalf of the Operator. Reports shall be maintained and available to the Commission.
- (b) These independent audits may be conducted by the Commission, or a third-party contractor approved by the Commission. The Commission may, in its discretion, allow for an internal audit group or board within the Operator or parent company of the Operator, which is independent of the Operator, to serve as a third-party contractor for use in completing this audit.
- (c) The Commission or a third-party auditing contractor shall be responsible for auditing the Operator's compliance with the Act and these Rules, the Internal Controls, and other applicable rules, regulations, or procedures.
- (d) Documentation, including checklists, programs, reports, corrective actions, and other items, shall be prepared to evidence independent audit work performed as it relates to the requirements of this Rule, including instances of noncompliance.
- (e) Independent audit reports shall include objectives, procedures and scope, findings and conclusions, and recommendations.
- (f) An Authorized Representative of Operator's management shall be required to respond in writing to the independent audit findings and the stated corrective measures to be taken to avoid recurrence of the audit exception or finding. These management responses shall be included in the final independent audit report.
- (g) Follow-up observation and examinations shall be performed to verify that corrective actions have been taken regarding all instances of noncompliance cited by the independent audits, or by the Commission. The verification shall be performed within six months following the preliminary findings indicating audit exception are presented to the Operator.
- (h) It is acceptable to leverage the results of prior audits conducted within the audit period by the same third-party contractor in another Wagering jurisdiction. This leveraging shall be noted in the audit report. This leveraging does not include Internal Controls unique to the State, which will require new audits.

## **Subchapter E – Standards for Wagering**

### **Rule 1E-001 Wagering Rules.**

- (a) The Operator shall adopt comprehensive Wagering Rules, which shall be approved by the Director. The Wagering Rules, together with other information the Director considers appropriate, shall be conspicuously displayed on the Operator’s websites, mobile applications, and if applicable, within the Wagering Lounge. Copies shall be made readily available to Individuals and Players.
- (b) The Operator shall not implement changes or modifications of the practices, procedures, or representations on which the approval was based without the prior written approval of the Director.
- (c) The Internal Controls shall ensure that the Operator keeps a log of any changes to the Wagering Rules for a period of five years.
- (d) Failure by an Operator to act in accordance with the Wagering Rules may result in monetary penalties, Suspension or Revocation of its License, civil damages, injunctive relief, or criminal liability.

**Rule 1E-002 Acceptance of Wagers.**

- (a) Wagers shall be placed through a Wagering Account or within a Wagering Lounge.
- (b) Available Wagers shall be displayed to Players and include the lines or odds, the Wager Type, and Wagering Event on which Wagers are being accepted.
- (c) An Operator may not set lines or odds or offer Wagering propositions designed to ensure that a Player will win a Wager or a series of Wagers, unless the lines, odds, or Wagering propositions are offered in connection with a promotion or bonus conducted in accordance with Rule 1E-003. An Operator may not accept a Wager on a Wagering Event unless a Wagering proposition is posted on the Operator's websites, mobile applications, or if applicable, within the Wagering Lounge.
- (d) An Operator shall not advise or encourage Individual Players to place a specific Wager of any specific type, kind, subject, or amount. This restriction does not prohibit general advertising or promotional activities.
- (e) Wagers may only be made by Players using:
  - (1) Cash;
  - (2) Cash Equivalents converted to Cash;
  - (3) credit cards or debit cards;
  - (4) electronic funds transfers (EFTs) including automated clearing house and other electronic methods;
  - (5) promotional or bonus credits;
  - (6) winning Wagering Tickets or Vouchers;
  - (7) funds within a Wagering Account; and
  - (8) other forms of payment approved by the Commission.
- (f) The Operator shall debit the amount Wagered by a Player from their Wagering Account. Wagers shall not be accepted in an amount in excess of an Account balance.
- (g) No Operator shall accept a Wager from a Person through the use of the Wagering Account of or for another Person. No Operator shall knowingly allow a Person to make a Wager utilizing the Wagering Account of another Person.

November 7, 2023

Blue Text = *not* open for public comment

Blue Text = open for public comment

Black Text = open for public comment

Black Text = open for public comment

- (h) An Operator shall file with the Commission, in a manner and form developed by the Commission, a report of an error that occurs in offering a Wagering Event or Wager or if an unapproved event or Wager Type is offered to the public.

Proposed

**Rule 1E-003 Promotional or Bonus Wagering.**

(a) An Operator may conduct promotions or bonuses in accordance with this Rule. Procedures for the issuance, acceptance, and tracking of promotions or bonuses shall be defined in the Internal Controls.

(b) An Operator shall maintain a record of promotions or bonuses related to Sports Wagering or Pari-Mutuel Wagering to facilitate the Commission's tracking of promotional or bonus activity, which shall address the:

- (1) unique identification for the promotion or bonus;
- (2) date and time the promotion or bonus was or is scheduled to be available;
- (3) current balance for promotional or bonus awards;
- (4) total amount of promotional or bonus awards issued;
- (5) total amount of promotional or bonus awards redeemed;
- (6) total amount of promotional or bonus awards expired;
- (7) total amount of promotional or bonus award adjustments;
- (8) current status of the promotion or bonus; and
- (9) date and time the promotion or bonus was or is scheduled to discontinue.

(c) All promotion or bonus rules shall be full, accurate, concise, transparent, and shall not contain misleading information. Promotion or bonus rules shall be accessible by the Player and provide unambiguous notice of the:

- (1) date and time the promotion or bonus is active and expires;
- (2) rules of play;
- (3) nature and value of prizes or awards;
- (4) eligibility restrictions or limitations;
- (5) Wagering and redemption requirements, including limitations;
- (6) how the Player is notified when they have received an award;
- (7) order in which funds are used for Wagers;
- (8) eligible events or Wagers; and
- (9) cancellation requirements.

(d) Promotions or bonuses shall not be described as:

- (1) "free" unless those promotions or bonuses are in fact free and without any cost to the Player. If the Player has to risk or lose their own money or if there are conditions attached to the Player's own money, the promotion or bonus rules shall disclose those terms and may not be described as free; or

(2) “risk-free” if those promotions or bonuses require the Player to incur a loss or risk the Player’s own money to use or withdraw Winnings from the purportedly risk-free Wager.

(e) An Operator shall provide a clear and conspicuous method for a Player to cancel their participation in a promotion or bonus that uses restricted Wagering credits that cannot be cashed out until a Wagering requirement or other restrictions associated with the credits is met. The Operator’s cancellation method shall include the following:

(1) On a request for cancellation, the Operator shall inform the Player of the amount of unrestricted funds that will be returned after cancellation and the value of restricted Wagering credits that will be removed from the Wagering Account.

(2) If a Player elects to proceed with cancellation, unrestricted funds remaining in a Player’s Wagering Account shall be returned according to the rules of the applicable promotion or bonus.

(f) Once a Player has met the terms of a promotion or bonus, an Operator shall not limit Winnings earned while participating in the promotion or bonus.

(g) No promotion or bonus offer available to new Players may contain terms that delay full implementation of the ability to redeem the promotion or bonus for a period of longer than thirty Days, or require the Player to maintain an Account with the Operator for longer than thirty Days to be eligible for the promotion or bonus, regardless of the amount of Wagering in that period by the Player.

## **Subchapter F – Responsible Gaming**

### **Rule 1F-001 Responsible Gaming Plan.**

- (a) At least thirty Days prior to conducting Sports Wagering or Pari-Mutuel Wagering in North Carolina, Operators shall submit a responsible gaming plan to the Commission that shall include information related to the posting of materials related to problem gambling, resources to be made available to Players expressing concerns about problem gambling, responsible gaming limits, and Voluntary Exclusion Programs. This plan shall be approved by the Director prior to authorizing the Operator to operate within the State. The Operator will provide an updated plan annually every year thereafter.
- (b) The responsible gaming plan shall include, at a minimum:
- (1) the goals of the plan, procedures, and deadlines for implementation of the plan;
  - (2) the identification of the Individuals who will be responsible for the implementation, monitoring, and maintenance of the plan;
  - (3) the Operator’s plan for creating and disseminating promotional material to educate Players about compulsive and problem gambling and to inform them about treatment services available to compulsive and problem gamblers and their families. The Operator shall provide examples of the materials to be used as part of its plan and a description of how the material will be disseminated;
  - (4) a copy of the employee training programs as part of comprehensive employee trainings on hire and regularly thereafter on the nature of responsible gaming and the role of employees in responding to circumstances in which Individuals present signs of problem gambling;
  - (5) the duties and responsibilities of the employees designated to implement or participate in the plan;
  - (6) procedures to assess, prevent, and address problem gambling by Players, including:
    - (A) identifying Players with suspected or known problem gambling behavior;
    - (B) preventing Wagering by Ineligible Persons;
  - (7) commitments to participate in responsible gaming initiatives, including, but not limited to:
    - (A) participating in responsible gaming committees;
    - (B) providing additional education and awareness for identified vulnerable populations;
  - (8) procedures for advertising and marketing, which shall comply with applicable standards of socially responsible advertising, including applicable state and federal laws and standards on this subject;
  - (9) annual reporting on responsible gaming activities; and
  - (10) other policies and procedures as determined by the Commission to prevent problem gambling and encourage responsible gaming.

- (c) In approving the organizations and disclosures listed in Paragraph (a) of this Rule, the Commission shall consider industry standards for responsible gaming and other relevant factors.
  
- (d) If an Operator proposes to amend its written plan prior to the Commission's annual review, the Operator shall submit a proposed amended written plan for Commission approval prior to implementing any amendments. The Operator shall not implement the amended written plan until the Director approves the amended written plan. While the Director reviews the amended written plan, the Operator shall continue to implement the written plan most recently approved. .
  
- (e) At least every five years, the Operator shall ensure that the Operator's responsible gaming plan is independently reviewed by a third party approved by the Director, which review shall comply with industry standards. The cost of the independent review is the responsibility of the Operator.

PROPOSED

**Rule 1F-002 Voluntary Exclusion Program.**

- (1) The Commission operates a Voluntary Exclusion Program under which Individuals are excluded from establishing a Wagering Account or placing Wagers for a set period, up to and including that Individual's lifetime. Information regarding such Individuals is collected and securely shared with authorized recipients in order to effectuate G.S. 18C-922.
  
- (2) An Individual may request to be placed in the Voluntary Exclusion Program by completing a form prescribed by the Commission and proving the following information:
  - (1) Full name and any aliases or nicknames;
  - (2) Date of birth;
  - (3) Current residential address;
  - (4) Email address(es);
  - (5) Telephone number(s);
  - (6) Last four digits of Social Security Number or tax identification number, when provided voluntarily in accordance with Section Seven of the Privacy Act of 1974 (5 U.S.C. § 552a), or an equivalent government identification number for a noncitizen, for example, a passport or taxpayer identification number, if available;
  - (7) height, weight, gender, hair color, eye color, and any other physical characteristic that may assist in the identification of the Individual;
  - (8) The requested period of exclusion at one year, three years, five years, or lifetime.
  - (9) Other relevant information as required by the Commission.
  
- (3) The Individual seeking placement in the Voluntary Exclusion Program shall agree to make certain sworn acknowledgements, which are binding upon the Individual. These include, but are not limited to, the following:
  - (1) An acknowledgment that the Individual in the Voluntary Exclusion Program shall be prohibited from participating in any form of legalized Wagering in the State, excluding federally-recognized tribal lands, and is prohibited from collecting any Winnings or recovering any losses resulting from violation of the restrictions to which such Individual has agreed;
  - (2) An acknowledgment that the Individual in the Voluntary Exclusion Program may be refused entry or ejected from the Wagering Facility;
  - (3) An acknowledgment from the Individual that they will not engage in Wagering in North Carolina for the duration of the exclusion period and that it is the Individual's responsibility to refrain from doing so;

- (4) An acknowledgment that the Commission will share a list of participants in the Voluntary Exclusion Program with Operators in the State and that such Operators, pursuant to their own Internal Controls, may extend the exclusion of the Individual to Wagering offerings that the Operator and its Affiliates make available outside of North Carolina;
  - (5) An acknowledgement that the Commission may securely share the Voluntary Exclusion Program participant list with other domestic Wagering jurisdictions resulting in placement on the lists of such other jurisdictions, and may share such portion of the list with designated agents as may be necessary for the purpose of administering Voluntary Exclusion Programs;
  - (6) An acknowledgment that the Individual requesting placement in the Voluntary Exclusion Program shall notify the Commission within fourteen Days if the Individual's address or other contact information changes.
  - (7) An acknowledgment that the Individual will be removed from the Voluntary Exclusion Program upon expiration of the period of exclusion set at initial enrollment into the program.
- (4) An Individual requesting placement in the Voluntary Exclusion Program shall execute a waiver and release that shall release and forever discharge the State of North Carolina, the Commission, and the Commission's employees and agents from any liability to the Individual requesting exclusion, as applicable, and the Individual's heirs, administrators, executors, and assigns for any harm, monetary or otherwise, that may arise out of or by reason of any act or omission relating to the request for exclusion or request for removal from the Voluntary Exclusion Program, including, but not limited to:
- (1) The processing or enforcement of the request for exclusion or request for removal from the Voluntary Exclusion Program;
  - (2) The failure to withhold Wagering privileges from or restore Wagering privileges to a Voluntarily Excluded Person;
  - (3) Permitting a Voluntarily Excluded Person to engage in Wagering Activity while in the Voluntary Exclusion Program; and
  - (4) Disclosure of the information contained in the Voluntary Exclusion Program, except for a willfully unlawful disclosure of such information.

**Rule 1F-003 Eligibility and petition for removal from Voluntary Exclusion Program before completion of exclusion period**

(a) To be eligible for removal from the Voluntary Exclusion Program, a Voluntarily Excluded Person shall participate in a reinstatement session with a designated agent of the Commission. The reinstatement session shall include a review of the risks and responsibilities of Wagering, budget setting, and a review of problem gambling resources, unless the Individual declines such a review.

(b) After completion of the reinstatement session, the Voluntarily Excluded Person may submit a petition to the Director on a form provided by the Commission and available from the designated agent.

(c) The Commission's designated agent shall verify on the face of the petition that the Voluntarily Excluded Person has completed a reinstatement session. Thereafter, the Commission or the Director shall reinstate the Voluntarily Excluded Person after the completion of a thirty-Day waiting period.

PROPOSED

**Rule 1F-004 Involuntary Exclusion**

- (a) When the Commission is notified of an Individual who has been adjudicated by law as prohibited from engaging in Wagering in the State, the Individual shall be excluded from establishing or maintaining a Wagering Account or placing Wagers for a set period, up to and including that Individual's lifetime.
- (b) The Commission shall attempt to provide notice of exclusion to an Involuntarily Excluded Person.
- (c) An Involuntarily Excluded Person who wishes to contest their involuntary exclusion may request in writing an informal review by the Commission. This request for review shall fully state the reasons the Individual believes the involuntary exclusion was not supported by statute, Rule, procedure, or practice. The Commission's conclusion shall be final and binding on parties.

Proposed

November 7, 2023

Blue Text = *not* open for public comment

Blue Text = open for public comment

Black Text = open for public comment

Black Text = open for public comment

**Rule 1F-005 Commission Maintenance of Exclusion Lists**

- (a) The Commission shall maintain lists of all Voluntarily Excluded Persons and Involuntarily Excluded Persons, including the information provided pursuant to Rule 1F-002 and any new or updated information provided by the Individual or the Commission.
  
- (b) The Commission shall make the exclusion lists available to each Licensed Operator for secure retrieval.

Proposed

### **Rule 1F-006 Operator Duties**

- (a) The Operator shall maintain their own copies of the exclusion lists and shall establish Internal Controls to ensure that its copies of the lists are kept up to date. The Operator shall retrieve the lists from the Commission at minimum every seventy-two hours. The lists may only be accessed by Individuals authorized in accordance with the Internal Controls.
- (b) The Operator shall establish and implement Internal Controls to ensure that it, at minimum, undertakes commercially reasonable efforts to:
- (1) Prevent Voluntarily Excluded Persons and Involuntarily Excluded Persons from opening a new Wagering Account;
  - (2) Identify and suspend any Wagering Accounts of Voluntarily Excluded Persons and Involuntarily Excluded Persons;
  - (3) Seize any Winnings that accrue after an Individual's Exclusion;
  - (4) Eject or refuse Voluntarily Excluded Persons and Involuntarily Excluded Persons from entry into a Wagering Facility;
  - (5) Refund any remaining Account balances to Voluntarily Excluded Persons and Involuntarily Excluded Persons provided the Operator acknowledges that the funds have cleared;
  - (6) Ensure that Voluntarily Excluded Persons and Involuntarily Excluded Persons do not receive targeted or personalized mailings, Advertisements, marketing materials, promotions, Player club materials, reward materials, or other promotional materials or incentives related to Wagering via any channel, including, but not limited to, U.S. Mail, email, text message, push notification, social media messaging, or phone. For purposes of this subparagraph, "targeted" means that materials or messages are sent directly to an address, email address, telephone number, or other contact associated with the excluded Individual on their application or in the Operator's demographic record or files.
  - (7) Notify the Director in a manner prescribed by the Director if a Voluntarily Excluded Person or an Involuntarily Excluded Person is found in its Wagering Facility or attempting to place a Wager;
  - (8) in cooperation with the Commission, and where reasonably possible, determine the amount Wagered and lost by an Individual identified as a Voluntarily Excluded Person or an Involuntarily Excluded Person; and
  - (9) if a Player has pending Wagers prior to being excluded, handle these Wagers in accordance with the terms and conditions.

November 7, 2023

Blue Text = *not* open for public comment

~~Blue Text~~ = open for public comment

**Black Text** = open for public comment

~~Black Text~~ = open for public comment

- (c) At the request of the Director or Commission, Operators shall identify the parties or entities with whom it shares Voluntarily Excluded Person and Involuntarily Excluded Person data, and the technical method(s) it uses to share the information securely.
  
- (d) Winnings seized from Voluntarily Excluded Persons and Involuntarily Excluded Persons and amounts Wagered and lost by such Persons shall be deemed unclaimed prizes under G.S. 18C-132(b).
  
- (e) Nothing in the Act or these Rules shall be construed to preclude an Operator from seeking the payment of a debt accrued by an Individual during a period when the Individual was not participating in the Voluntary Exclusion Program.

Proposed

### **Rule 1F-007 Limitations on use of Excluded Person's Data and Personal Information**

- (a) Personal Information furnished to or obtained by the Commission pursuant to rules pertaining to the Voluntary Exclusion Program shall be deemed confidential and not be disclosed unless necessary to implement the Exclusion of Voluntarily Excluded Persons and Involuntarily Excluded Persons, or except in accordance with this Chapter, as required by law, or required by a validly issued court order.
  - (1) The Commission or Director may release periodically to the public demographics and general information regarding Voluntarily Excluded Persons and Involuntarily Excluded Persons, such as the total number of Persons on the list and anonymized, aggregate demographic information.
  - (2) The Commission or Director may make selected data available, upon request, for the limited purpose of assisting in the proper administration and enhancement of problem gambling treatment or responsible gaming programs.
- (b) Any Responsible Party, its employees, or agents that receive any information pursuant to G.S. 18C-922 shall use such information solely for the purpose of the exclusion of Voluntarily Excluded Persons and Involuntarily Excluded Persons, and not for any commercial purpose.
- (c) The names and Personal Information of Voluntarily Excluded Persons and Involuntarily Excluded Persons shall not be subject to disclosure under the North Carolina Public Records Law, G.S. 132-1.
- (d) Except as provided in these Rules, no employee or agent of the Commission or any Operator, Service Provider, Supplier, or third-party contractor affiliated with any of the previous parties shall disclose the name of or any information about any Voluntarily Excluded Persons and Involuntarily Excluded Persons to anyone other than authorized employees and agents whose duties and functions require access to such information.
- (e) It shall be permissible for an Operator, or an employee or agent thereof, to disclose the names of Voluntarily Excluded Persons and Involuntarily Excluded Persons to a Service Provider or Supplier for the purpose of enabling such Service Provider or Supplier, or third-party contractor affiliated with any of the previous parties to properly administer the lists or to remove the excluded Persons from a targeted or personalized mail, advertising or promotion, marketing, or event notifications to be made by or on the behalf of the Operator.
  - (1) The entity to whom such names are disclosed shall be prohibited from distributing or disclosing the names to the public or to any other party and shall be required to ensure the names are not disclosed.
  - (2) A Service Provider or Supplier, or third-party contractor affiliated with any of the previous parties that obtains the names of Voluntarily Excluded Persons and Involuntarily Excluded Persons from an Operator shall be permitted to use the list solely to exclude names or addresses from a marketing campaign on behalf

November 7, 2023

Blue Text = *not* open for public comment

Blue Text = open for public comment

Black Text = open for public comment

Black Text = open for public comment

of the Operator. Such company may not use the names for any other type of marketing or for any other purpose whatsoever.

Proposed

### **Rule 1F-008 Wagering Facilities and Excluded Persons**

For Wagering Facilities, the prohibition against allowing Voluntarily Excluded Persons and Involuntarily Excluded Persons to be present where Wagering Activities are conducted shall not apply to an excluded Person

if:

- (1) the excluded Person is carrying out the duties of employment or incidental activities related to employment;
- (2) the Operator or its agent has received prior notice about the excluded Person's planned presence on-site, unless it was impracticable for such notice to have been provided;
- (3) access to areas where Wagering Activity is conducted is limited to the time necessary to complete the excluded Person's assigned duties; and
- (4) the excluded Person does not otherwise engage in Wagering Activities.

Proposed

## Subchapter G – Wagering Accounts

### **Rule 1G-001 Wagering Account Requirements.**

- (a) The Operator shall adopt Internal Controls related to Account registration. An Individual shall have an established Wagering Account with the Operator to participate in Wagering over the Internet. Nothing in this Rule shall be interpreted to prohibit the Operator from accepting anonymous Wagers by a Wagering Kiosk or Ticket Writer Station within the Wagering Lounge.
- (b) A Wagering Account shall only be established in the name of a Registered Player who is a natural person and may not be in the name of a beneficiary, custodian, joint trust, corporation, partnership, or another entity.
- (c) An Operator shall collect the following Personal Information from Players:
- (1) the Player’s full legal name;
  - (2) the Player’s date of birth;
  - (3) the Player’s principal residential address, a post office box is not acceptable;
  - (4) the Player’s social security number, or the last four digits of the social security number, or an equivalent government identification number for a noncitizen, for example, a passport or taxpayer identification number; and
  - (5) other information collected from the Player used to verify their identity and to prove the Player is not an Ineligible Person.
- (d) During the Wagering Account registration process, the Player shall:
- (1) be denied the ability to register for an Account if they submit a birth date which indicates that they are an Underage Person;
  - (2) if not all fields are “required,” be informed on the Account application which information fields are “required,” which are not, and what will be the consequences of not filling in the required fields;
  - (3) agree to the terms and conditions and privacy policies of the Operator, considering that the Operator may not, as a condition of registration, require a Registered Player to waive any right, forum, or procedure otherwise available to the Registered Player under State or federal law in accordance with G.S. 18C-910(i);
  - (4) consent to the monitoring and recording of the use of their Account by the Operator and the Commission;
  - (5) affirm that:
    - (A) the Player meets eligibility requirements for registration; and

- (B) the Personal Information the Player is providing to open the Account is accurate; and
- (6) authorize the provision of notices and other required communications either through a designated mobile or other interface or to an electronic mail address designated by the Player
- (e) An Operator shall maintain an electronic Player file, which shall include the following for Wagering Accounts, as applicable:
  - (1) The unique Wagering Account ID and username, if different;
  - (2) the information indicated in Paragraph (b) of this Rule to register a Player and create the Account;
  - (3) the date and method of identity verification, including, where applicable, the document number of the government issued identification credential examined and its date of expiration, if applicable. If a government issued identification credential is not required for registration, the electronic record that details the process used to confirm the Player's identity shall be recorded;
  - (4) the date of Player agreement to the terms and conditions and privacy policies;
  - (5) previous Wagering Accounts and reason for de-activation;
  - (6) the date and method from which the Wagering Account was registered;
  - (7) the date and time a Wagering Account is accessed by an Individual, including IP address;
  - (8) a history of financial transactions, including deposits, withdrawals, and Account adjustments;
  - (9) Account details and current balance, including restricted Wagering credits and unrestricted funds. Restricted Wagering credits and unrestricted funds that have a possible expiration shall be maintained separately; and
  - (10) the current status of the Wagering Account.
- (f) The following information maintained as part of the electronic Player file shall be encrypted in transit and at rest:
  - (1) the Registered Player's government identification number, or portions thereof;
  - (2) the Registered Player's previous and current passwords, pins, or other authentication credentials, including biometric information; and
  - (3) the Registered Player's previous and current debit instrument numbers, debit card numbers, bank account numbers or other personal financial information.
- (g) An Operator may allow the Registered Player to update authentication credentials, registration information and the account used for financial transactions. A Multi-Factor Authentication process shall be used for these purposes.

**Rule 1G-002 Age and Identity Verification.**

- (a) The Operator shall put in place and utilize sufficient measures to verify the age, identity, and other information of the Registered Player that is necessary for the remote, electronic establishment of Wagering Accounts.
- (b) The Operator is responsible for ensuring that only eligible Persons may create a Wagering Account, deposit funds, or participate in Sports Wagering or Pari-Mutuel Wagering through such Account. The Operator shall deny the ability to create a Wagering Account, deposit funds, or participate in Sports Wagering or Pari-Mutuel Wagering to an Ineligible Person. This Rule shall not be construed to prevent an Individual from creating a Wagering Account and depositing funds to an Account even if they are prohibited from placing certain wagers.
- (c) At the time of Account establishment, the Operator shall use electronic verification using one or more secure online databases, which government or business regularly use to verify and authenticate age and identity, or by examination of government-issued photo identification, or similar identified in the Operator's Internal Controls, and the review of a supplemental, contemporaneous photograph of the Person to verify the Player's name, date of birth, and government identification number, or portions thereof.
- (d) The following data shall be verified as an exact match before Players may initiate deposits, withdrawals and Wagering:
- (1) the Player's last name;
  - (2) the Player's date of birth; and
  - (3) the Player's government identification number or credential, or portions thereof.
- (e) Operators shall ensure that reasonable measures to ensure the Person providing the identity information is truly the owner of the identity and that all identity information provided is accurate before a Player may initiate deposits, withdrawals, or Wagering. One of the following options is required:
- (1) correctly answer three dynamic knowledge-based questions compiled from public and private data including public records, credit reports, marketing data, and other recorded facts;
  - (2) verification that the Player's phone number and email address match the information provided by the Player;
  - (3) valid government issued identification credential;
  - (4) verification that the Player's device is associated with the user via historical location data and mobile phone identity authentication, or Multi-Factor Authentication; or

- (5) other methods approved by the Commission or Director.
  
- (f) The Operator shall refuse to establish an Account if it is found that the information supplied is untrue or incomplete.
  
- (g) An Operator shall use commercially available and demonstrable standards to confirm that an Individual attempting to create a Wagering Account is not an Ineligible Person.
  
- (h) An Operator shall re-verify a Player's identification after it has or should have reasonable suspicion that the Player's identification may have been compromised.

Proposed

November 7, 2023

Blue Text = *not* open for public comment

Blue Text = open for public comment

Black Text = open for public comment

Black Text = open for public comment

**Rule 1G-003 Limitation to one Account per Player.**

An Individual may not have more than one Wagering Account with an Operator. The Operator shall implement Internal Controls to terminate Accounts of an Individual that establishes or seeks to establish more than one username or more than one Account, whether directly or by use of another Person as proxy. These Internal Controls may allow a Registered Player that establishes or seeks to establish more than one username or more than one Account to retain one Account if the Operator investigates and makes a good-faith determination that the Player's conduct was not intended to obtain a competitive advantage.

Proposed

**Rule 1G-004 Terms and Conditions and Privacy Policies for Wagering Accounts.**

- (a) All terms and conditions and privacy policies for Wagering Accounts shall be readily accessible to the Player before and after registration and noticed when materially updated beyond grammatical or other minor changes.
- (b) All terms and conditions for Wagering Accounts shall address aspects of the Operator, including, but not limited to:
- (1) a statement that only Individuals located in the authorized geographic boundaries within the State of North Carolina may place Wagers;
  - (2) a statement that Ineligible Persons are prohibited from Wagering;
  - (3) advice to the Player to keep their authentication credentials, including password and username, secure;
  - (4) all processes for dealing with lost authentication credentials, forced password changes, password strength and other related items as required by the Commission;
  - (5) full explanation of rules applicable to dormant Wagering Accounts, including the conditions under which an Account is declared dormant and what actions will be undertaken on the Account once this declaration is made;
  - (6) actions that will be taken on the Player's pending Wagers placed prior to an exclusion or Suspension, including the return of Wagers, or settling Wagers, as appropriate;
  - (7) information about timeframes and limits regarding deposits to or withdrawals from Wagering Accounts, including a clear and concise explanation of fees, if applicable;
  - (8) statements indicating that the Operator has the right to:
    - (A) refuse to establish a Wagering Account for what it considers good and sufficient reason;
    - (B) refuse deposits to or withdrawals from Wagering Accounts for what it considers good and sufficient reason;
    - (C) unless there is a pending investigation or Player dispute, suspend or close a Wagering Account at any time pursuant to the terms and conditions between the Operator and the Player;
  - (9) statements indicating that the Players are prohibited from:
    - (A) transferring or selling an Account or Account balance;
    - (B) using a virtual private network or other technology that may obscure or falsify their physical location;
    - (C) allowing an unauthorized Person to access or use their Account; and
    - (D) collusion, cheating, or other unlawful activity.

- (c) All privacy policies for Wagering Accounts shall address aspects of the Personal Information protection, including, but not limited to:
- (1) the Personal Information required to be collected;
  - (2) the purpose and legal basis for Personal Information collection and of every processing activity for which consent is being sought;
  - (3) the period in which the Personal Information is stored, or, if no period can be possibly set, the criteria used to set this;
  - (4) the conditions under which Personal Information may be disclosed and the third-party entities with whom the Operator shares such data;
  - (5) an affirmation that measures are in place to prevent the unauthorized or unnecessary disclosure of the Personal Information;
  - (6) the identity and contact details on the Operator who is seeking the consent;
  - (7) a statement that the Operator will not discriminate against an Individual because the Individual does not consent to the sale of their data;
  - (8) instructions providing the Player with information about how to opt out of Operator's data collection activities;
  - (9) a statement that the Operator will honor the individual's request for the Operator to delete or cease use of the Personal Information and other data collected concerning that individual and direct its agents and affiliates to do the same;
  - (10) contact information for the Operator's privacy office or officer, or a point of contact at the Operator for privacy-related questions; and
  - (11) other privacy requirements specified by the Commission.

**Rule 1G-005 Responsible Gaming and Problem Gambling Information.**

An Operator shall provide the following Commission-approved responsible gaming and problem gambling information that shall be readily accessible to a Player:

- (1) a Commission-approved telephone number or website that an Individual may use to obtain information about problem gambling and resources addressing addiction and compulsive behavior and where to seek assistance with these issues;
- (2) a notification that underage gambling is a criminal offense and that anyone who facilitates an Underage Person to place a Wager has committed a criminal offense and shall be prohibited from Sports Wagering and Pari-Mutuel Wagering;
- (3) a list of the available responsible gaming limits and restrictions that may be invoked by the Player, including a means to initiate a “break” or interruption in play to discourage excessive play, and information on how to invoke those measures;
- (4) a link to the Voluntary Exclusion Program and enrollment information;
- (5) mechanisms in place for Players to detect unauthorized use of their Wagering Account, including the Player reviewing financial statements against known deposits;
- (6) a method for filing a dispute with the Operator; and
- (7) a method for filing with the Commission an unresolved dispute after reasonable means to resolve the dispute with the Operator have been exhausted utilizing forms and, in the manner prescribed by the Commission.

**Rule 1G-006 Account Access.**

- (a) The Operator shall use authentication credentials, including a username, or similar identity indicator, and a password or a secure alternative means to ensure that only the Player has access to the Wagering Account. Allowable authentication credentials are subject to the discretion of the Commission as required. The requirement does not prohibit the option for more than one method of authentication being available for a Player to access their Account.
  
- (b) If the Operator does not recognize the authentication credentials when entered, an explanatory message shall be displayed to the Player which prompts the Player to try again. The error message shall be the same regardless of which authentication credential is incorrect.
  
- (c) Players shall be given the option to use a Multi-Factor Authentication process when accessing their Wagering Account. In addition, a Multi-Factor Authentication process shall be used for the retrieval or reset of a Player's forgotten or lost authentication credentials.
  
- (d) Current Account balance information, including restricted Wagering credits and unrestricted funds, and transaction options shall be available to the Player once authenticated. Restricted Wagering credits and unrestricted funds that have a possible expiration date shall be indicated separately.
  
- (e) The Operator shall support a mechanism that allows for an Account to be locked if suspicious activity is detected, including three consecutive failed access attempts in a thirty-minute period. A Multi-Factor Authentication process shall be used for the Account to be unlocked.

**Rule 1G-007 Financial Transactions.**

The Operator shall provide the Registered Player written confirmation or denial of every financial transaction initiated on Wagering Accounts, including:

- (1) the type of transaction, such as a deposit or withdrawal;
- (2) the transaction value; and
- (3) for denied transactions, a descriptive message, if appropriate and available, as to why the transaction did not complete as initiated.

Proposed

**Rule 1G-008 Account Deposits.**

- (a) A Wagering Account may be funded using approved methods which shall produce a sufficient audit trail for verification of the source of the Wagers. Approved methods for funding Wagering Accounts include:
- (1) Cash or Cash Equivalentents converted to Cash;
  - (2) credit cards and debit cards;
  - (3) electronic funds transfers (EFTs) including automated clearing house and other electronic methods;
  - (4) promotional or bonus credits;
  - (5) Winnings;
  - (6) adjustments made by the Operator with documented notification to the Player; and
  - (7) other forms of payment approved by the Commission including those which are initiated with Cash.
- (b) The Wagering Account shall be credited for deposits in accordance with the Internal Controls as submitted by the Operator and approved by the Commission.

**Rule 1G-009 Failed Electronic Funds Transfers (EFTs).**

Where financial transactions are conducted through electronic funds transfers (EFTs), the Operator shall have security measures and Internal Controls to prevent EFT fraud. A failed EFT attempt is not considered fraudulent if the Registered Player has successfully performed an EFT on a previous occasion with no outstanding chargebacks. Otherwise, the Operator shall:

- (1) temporarily block the Registered Player's Wagering Account for investigation of fraud after five consecutive failed EFT attempts within a ten-minute period; if there is no evidence of fraud, the block may be vacated; and
- (2) suspend the Registered Player's Wagering Account after five additional consecutive failed EFT attempts within a ten-minute period.

Proposed

**Rule 1G-010 Account Withdrawals.**

- (a) An Operator shall not restrict the Registered Player from withdrawing the Registered Player's own funds or withdrawing Winnings from Wagers placed using the Registered Player's own funds, whether the Account is open or closed, except as otherwise provided in these Rules, or other applicable state or federal laws.
- (b) An Operator shall use a mechanism that may detect and prevent withdrawal activity initiated by a Registered Player that would result in a negative balance of the Wagering Account.
- (c) An Operator shall not allow a Wagering Account to be overdrawn unless caused by payment processing issues outside the control of the Operator.
- (d) An Operator shall honor the Registered Player's request to withdraw funds within five Days after the request unless the conditions set forth in Paragraph (e) of this Rule are met.
- (e) The Operator may decline to honor a Registered Player's request to withdraw funds only if the Operator believes in good faith that the Registered Player engaged in fraudulent conduct, Event Corruption, or other conduct that would put the Operator in violation of the Act and these Rules. In these cases, the Operator shall:
  - (1) suspend the Registered Player's Wagering Account and provide notice to the Registered Player; and
  - (2) conduct its investigation in a reasonable and expedient fashion, providing the Registered Player additional written notice of the status of the Wagering Account every fourteenth Day starting from the Day the original notice was provided to the Registered Player.
- (f) For purposes of this Rule, a request for withdrawal is considered honored if it is processed by the Operator apart from a delay by a payment processor, debit card issuer, or the custodian of a financial account.

November 7, 2023

Blue Text = *not* open for public comment

Blue Text = open for public comment

Black Text = open for public comment

Black Text = open for public comment

**Rule 1G-011 Account Adjustments.**

All adjustments to Wagering Accounts for amounts of five hundred dollars (\$500.00) or less shall be periodically reviewed by supervisory personnel as set forth in the Operator's Internal Controls. Other adjustments shall be authorized by supervisory personnel of the Operator before being entered.

Proposed

November 7, 2023

Blue Text = *not* open for public comment

Blue Text = open for public comment

Black Text = open for public comment

Black Text = open for public comment

**Rule 1G-012 Account information.**

On request of the Registered Player, the Operator shall provide a statement detailing Account activity for the past year, including Wagers, deposit amounts, withdrawal amounts, and bonus or promotion information, including amounts remaining for a pending bonus or promotion, and amounts released to the Registered Player. Operator shall provide an Account statement to each Registered Player via U.S. Mail on an annual basis.

Proposed

**Rule 1G-013 Responsible Gaming Limits.**

- (a) An Operator shall allow a Registered Player to limit the amount of player funds that may be deposited into a Wagering Account and spent through such Account.
- (1) A deposit limit shall be offered on a daily, weekly, and monthly basis and shall specify the maximum amount of player funds a Registered Player may deposit into their Wagering Account during a particular period.
  - (2) A Wager limit shall be offered on a daily, weekly, and monthly basis and shall specify the maximum amount of player funds that may be put at risk during a particular period.
- (b) Decreases to these limits shall become effective immediately upon being authorized by the Player or at the point in time that was clearly stated to the Registered Player. Increases to these limits shall become effective only after the expiration of the Player's previously authorized time period limit.

PROPOSED

**Rule 1G-014 Suspension and Restoration of Wagering Accounts.**

- (a) An Operator shall place a Wagering Account into a suspended mode:
- (1) when a Registered Player requests a break from Wagering for a specified period, which shall not be less than seventy-two hours;
  - (2) when required by the Commission or Director;
  - (3) if the Operator determines it lacks sufficient information to verify the age and eligibility of the Registered Player;
  - (4) on a determination by an Operator that a Registered Player:
    - (A) has provided false or misleading information in connection with the opening of the Account or has engaged in Event Corruption, collusion, cheating or other unlawful conduct;
    - (B) is or has been barred from placing Wagers in the State;
    - (C) is or has otherwise become an Ineligible Person;
    - (D) is deceased or incapacitated;
  - (5) when initiated by an Operator that has evidence that indicates:
    - (A) illegal activity including providing false or misleading information in connection with the opening of the Account, or engaging in collusion, cheating, or other unlawful conduct;
    - (B) a negative Wagering Account balance;
    - (C) a violation of the terms and conditions has taken place on a Player's Wagering Account;  
or
  - (6) for another non-discriminatory reason at the sole discretion of the Operator, so long as the reason is not based on a Registered Player's race, color, religion, national origin, age, sex, sexual orientation, gender identity, veteran status, disability, or other lawfully protected characteristic under federal, State, or local law.
- (b) When a Wagering Account is in a suspended mode, the Operator shall:
- (1) prevent the Registered Player from placing Wagers;
  - (2) prevent the Registered Player from depositing funds unless the Account is suspended due to having a negative Wagering Account balance, but only to the extent the Account balance is brought back to zero dollars;
  - (3) prevent the Registered Player from withdrawing funds from their Account, unless the Operator acknowledges that the funds have cleared, and that the reasons for Suspension would not prohibit a withdrawal;
  - (4) prevent the Registered Player from making changes to their Account;
  - (5) prevent the removal of the Account; and

November 7, 2023

Blue Text = *not* open for public comment

Blue Text = open for public comment

Black Text = open for public comment

Black Text = open for public comment

(6) prominently display to the Registered Player that the Account is in a suspended mode, the restrictions placed on the Account, and further course of action needed to remove the suspended mode.

(c) A Wagering Account in a suspended mode may be restored:

- (1) upon completion of the break from Wagering established by the Registered Player;
- (2) if authorized by the Director;
- (3) when the Registered Player is no longer an Ineligible Person; or
- (4) when the Operator has lifted the suspended status.

(d) In the event of termination of the Wagering Account in accordance with this Rule, the Registered Player shall be provided a timely ability to access and withdraw funds remaining in the Wagering Account, if the Operator acknowledges that the funds have cleared and that the reasons for termination would not prohibit a withdrawal.

PROPOSED

**Rule 1G-015 Account Closure.**

An Operator shall provide a conspicuous and readily accessible method for a Registered Player to close their Wagering Account through the Account management or similar page or through the Operator's customer support team.

- (1) Upon closure funds remaining in the Wagering Account shall be refunded to the Player, if the Operator acknowledges that the funds have cleared and no Commission investigation regarding the funds is pending.
- (2) As part of the of the Account closure process, the Registered Player shall be provided the opportunity to elect to have their Personal Information deleted or rendered no longer useable or accessible by the Operator, its agents, or its Affiliates.

Proposed

November 7, 2023

Blue Text = *not* open for public comment

Blue Text = open for public comment

Black Text = open for public comment

Black Text = open for public comment

**Rule 1G-016 Dormant Accounts.**

Wagering Accounts with no Player-initiated activity for at least three years shall be closed. Upon closure of a dormant Account, the Operator shall make reasonable efforts to contact the Registered Player to return any unclaimed funds. After one hundred and twenty Days of attempting to contact the Registered Player, the unclaimed funds in a dormant Account shall be presumed abandoned and shall be treated in accordance with Chapter 116B of the General Statutes.

Proposed

**Rule 1G-017 Test Accounts.**

An Operator shall establish test Accounts to be used by the Operator and the Commission or Director to test and audit the various components and operation of the systems used for Wagering pursuant to Internal Controls, which shall address:

- (1) the procedures for issuing funds used for testing, including the identification of who may issue the funds and the maximum amount of funds that may be issued;
- (2) the procedures for assigning a test Account for use by only one Individual; however, an Operator may establish a specific scenario or instance of a test Account that may be shared by multiple users if a user's activities are separately logged;
- (3) the maintenance of a record for test Accounts, to include when they are active, to whom they are issued, and the employer of the Individual to whom they are issued;
- (4) the procedures for auditing testing activity by the Operator to ensure the accountability of funds used for testing and proper adjustments to Wagering records; and
- (5) the procedures for authorizing and auditing out-of-state test activity.

PROPOSED

## **Subchapter H – Wagering Facilities**

### **Rule 1H-001 Wagering Facility Location.**

The Operator shall provide written notice to the Commission of the proposed physical location of the Wagering Facility, or of any proposed changes to the location of an existing Wagering Facility in a format specified by the Commission.

- (1) The notice shall be provided to the Commission at least sixty Days prior to the intended opening date of the new or relocated Wagering Facility so that the Commission may determine whether the proposed physical location meets the requirements of the G.S. 18C-926 and these Rules.
- (2) The Commission shall provide a written response within thirty Days of receipt of the notice.
- (3) Operator shall provide such notice for each proposed Wagering Facility.

PROPOSED

November 7, 2023

Blue Text = *not* open for public comment

Blue Text = open for public comment

Black Text = open for public comment

Black Text = open for public comment

**Rule 1H-002 Facility Naming Rights.**

- (a) No Operator shall contract for or purchase the right to name a Sports Facility or racetrack, or any physical locations within the Sports Facility or racetrack, including but not limited to seating locations, luxury boxes, parking lots, concourses, track, playing field, court, golf holes, locker rooms, benches, concession stands, and the like.
  
- (b) An Operator shall disclose to the public that it operates a Wagering Facility within the Sports Facility or racetrack. Notwithstanding Paragraph (a) of this Rule, the name of the Wagering Facility may bear or utilize the Operator's tradename.

Proposed

**Rule 1H-003 Floor Plan.**

- (a) The Operator shall establish and submit to the Director for approval a detailed floor plan of the Wagering Facility. The proposed floor plan shall detail:
- (1) a drawing to scale of the building, and each floor thereof, in which Sports Wagering or Pari-Mutuel Wagering shall be conducted, at a scale sufficient to identify the information established in this Rule. The drawing shall depict:
    - (A) the total square footage of the Wagering Lounge;
    - (B) a diagram, outlined in red, of the proposed designated Wagering area on each floor within the building;
    - (C) the Wagering Lounge, including Wagering Windows;
    - (D) the locations and number of Wagering Kiosks, though the Wagering Facility may move Wagering Kiosks from one location to another with approval of the Director;
    - (E) Wagering Lounges that are, or are from time to time, a restricted Wagering Lounge, specifying the nature of the restrictions and when they will apply;
    - (F) the cage;
    - (G) the count room;
    - (H) the vault;
    - (I) other restricted areas; and
    - (J) all areas subject to surveillance.
  - (2) a certificate of compliance approved by the local fire and building officials which has been approved; and
  - (3) a written statement by the appropriate local official that handicapped access to the designated Wagering Facility has been provided.
- (b) A floor plan may be amended on request by the Operator and upon approval by the Commission or Director. A request shall be filed with the Director in writing at least five Days prior to the time for which implementation of the amendment is sought.

November 7, 2023

Blue Text = *not* open for public comment

~~Blue Text~~ = open for public comment

**Black Text** = open for public comment

~~Black Text~~ = open for public comment

**Rule 1H-004 Wagering Lounges.**

- (a) Designated Wagering Lounges within the Wagering Facility shall be established so as to control access by the general public and prevent entry by an Underage Person or an Individual otherwise not permitted to place Wagers.
  
- (b) An Underage Person shall not be permitted to purchase or Cash a Wagering Ticket or Voucher.
  
- (c) The Wagering Lounge shall provide notification that underage gambling is a criminal offense and that anyone who facilitates an Underage Person to place a Wager has committed a criminal offense.

Proposed

**Rule 1H-005 Responsible Gaming and Problem Gambling Information.**

Commission-approved or Director-approved responsible gaming and problem gambling information shall be prominently displayed in the Wagering Facility. The Wagering Facility shall:

- (1) post in a conspicuous place in every Wagering Lounge a sign that bears a telephone number or website of a Commission-approved organization that provides assistance to problem or compulsive gamblers;
- (2) provide Commission-approved informational leaflets or other similar materials in the Wagering Lounge containing responsible gaming and problem gambling information including a Commission-approved telephone number or website that an Individual may use to obtain information about problem gambling and resources addressing addiction and compulsive behavior and where to seek assistance with these issues; and
- (3) provide Players expressing concern with a gambling problem with information regarding Commission-approved or Director-approved organizations that provide assistance to problem or compulsive gamblers.

PROPOSED

**Rule 1H-006 Anonymous Wagers and Payouts Greater Than \$10,000.**

- (a) The requirements of this Rule only apply to Wagers and payouts not associated with a Wager placed through a Wagering Account.
- (b) Prior to accepting a Wager in excess of ten thousand dollars (\$10,000) or making a payout in excess of ten thousand dollars (\$10,000) on a winning Wager, the Wagering Facility shall obtain and record:
- (1) the Player's full legal name;
  - (2) the Player's date of birth;
  - (3) the Player's principal physical address other than a post office box;
  - (4) the Player's Social Security number, or an equivalent government identification number for a noncitizen, for example, a passport or taxpayer identification number; and
  - (5) the document number from one of the following valid identification credentials collected from the Player to verify their identity:
    - (A) driver's license;
    - (B) passport;
    - (C) non-resident alien identification card;
    - (D) other reliable government-issued identification credentials; or
    - (E) other picture identification credential normally acceptable as a means of identification when cashing checks.
- (c) Subsequent to accepting a Wager in excess of ten thousand dollars (\$10,000) or making a payout in excess of ten thousand dollars (\$10,000) on a winning Wager the Wagering Facility shall maintain records for five years that include:
- (1) the time and date of the Wager or payout;
  - (2) the amount of the Wager or payout;
  - (3) the Player's full legal name;
  - (4) the Ticket Writer or other identification of the location where the Wager or payout occurred; and
  - (5) the identification of the employees accepting or approving the Wager and payout on the Wager.
- (d) The Operator shall monitor Wagers and payouts to ensure Players are not circumventing the recording and reporting requirements of this Rule or federal rules concerning wagering transactions and payouts.

**Rule 1H-007 Wagering Windows.**

- (a) A Wagering Facility may have one or more Wagering Windows located in the Wagering Lounge or in other window locations as approved by the Commission. A Wagering Window shall:
- (1) be designed and constructed to provide maximum security for the materials stored and the activities performed therein, in a manner approved by the Director;
  - (2) include one or more Ticket Writer Stations, which shall:
    - (i) interface with the Wagering system for Wagers placed;
    - (ii) contain a permanently affixed number, which shall be visible to the Surveillance System;
    - (iii) contain manually triggered silent alarm systems, which shall be connected directly to the Surveillance Operation Room and the Commission office if required; and
    - (iv) contain full enclosures, unless funds are either secured in a drop safe or other means approved by the Commission or transferred to the vault or cage;
  - (3) provide for surveillance equipment capable of accurate visual monitoring and recording of activities; and
  - (4) require an emergency exit door that is not a mantrap to be alarmed.
- (b) A Wagering Window shall have access to a secure location, including a vault, to store funds issued by a cage to be used in the operation of Sports Wagering or Pari-Mutuel Wagering. The secure location shall:
- (1) be a fully enclosed room, located in an area not accessible to the public;
  - (2) have a metal door with a locking mechanism that shall be maintained and controlled by the Wagering manager responsible for the Wagering Lounge;
  - (3) have an alarm device that signals surveillance personnel if the door to the secure location is opened; and
  - (4) have surveillance equipment capable of accurate visual monitoring and recording of activities in the secure location.
- (c) A Wagering Window shall have an operating balance not to exceed an amount specified in the Internal Controls and approved by the Director. Funds in excess of the operating balance shall be transferred to the cage in a secured container by an employee of the counter with a facility security officer. Prior to transporting the funds, facility security personnel shall notify surveillance personnel that the transfer will take place. Surveillance personnel shall monitor the transfer. The funds shall be transferred with appropriate documentation as set forth in the Internal Controls.
- (d) The assets for which a Ticket Writer is responsible shall be maintained on an imprest basis. A Ticket Writer shall not permit another Person to access the Ticket Writer's imprest inventory.

(e) A Ticket Writer shall begin a shift with an imprest amount of currency and coin to be known as the "Wagering inventory." No funds shall be added to or removed from the Wagering inventory during a shift except:

- (1) in collection of Wagers;
- (2) to make change for a Player placing a Wager;
- (3) in collection for the issuance of Vouchers;
- (4) in payment of winning or properly canceled or refunded Wagers;
- (5) in payment of Vouchers;
- (6) to process deposits or withdrawals to or from a Wagering Account, where supported;
- (7) in exchanges with the cashier's cage, a satellite cage, or vault supported by proper documentation which documentation shall be sufficient for accounting reconciliation purposes; or
- (8) in payment of appeasement payments to resolve a dispute with a Player.

(f) A Wagering inventory slip shall be completed by the Wagering manager, and the following information shall be recorded thereon at the start of a shift:

- (1) the date, time, and shift of preparation;
- (2) the denomination of currency and coin in the Wagering inventory issued to the Ticket Writer;
- (3) the total amount of each denomination of currency and coin in the Wagering inventory issued to the Ticket Writer;
- (4) the Ticket Writer Station to which the Ticket Writer is assigned; and
- (5) the written or digital signature of the Wagering manager.

(g) A Ticket Writer assigned to a Ticket Writer Station shall count and verify the Wagering inventory at the vault or other approved location and shall reconcile the count to the Wagering inventory slip. The Ticket Writer shall sign the count sheet attesting to the accuracy of the information recorded thereon. The Wagering inventory shall be placed in a Ticket Writer's drawer and transported directly to the appropriate Ticket Writer Station by the Ticket Writer.

(h) If funds are transferred from the vault to a Ticket Writer, the Wagering manager responsible for the vault shall prepare a two-part writer transfer-out form. On completion of the form, the original shall be retained by the vault manager and the duplicate shall be retained by the Ticket Writer. The form shall include the:

- (1) date and time of the transfer;
- (2) designation of the vault location;
- (3) Ticket Writer Station to where the funds are being transferred;

- (4) amount of each denomination being transferred;
- (5) total amount of the transfer;
- (6) written or digital signature of the preparer of the transfer;
- (7) written or digital signature of the manager verifying and issuing the funds; and
- (8) written or digital signature of the Ticket Writer verifying and receiving the funds.

(i) If funds are transferred from the Ticket Writer to a vault, a two-part writer transfer-In form shall be prepared in a manner outline in the Operator's Internal Controls. Upon completion of the form, the original shall be retained by the Ticket Writer and the duplicate shall be immediately returned with the funds to the vault. The form shall include the:

- (1) date and time of the transfer;
- (2) designation of the vault location to where the funds are being transferred;
- (3) Ticket Writer Station from which the funds are being transferred;
- (4) amount of each denomination being transferred;
- (5) total amount of the transfer;
- (6) written or digital signature of the Ticket Writer verifying and sending the funds to the vault; and
- (7) written or digital signature of the manager verifying and receiving the funds.

(j) At the conclusion of a Ticket Writer's shift, the Ticket Writer's drawer and its contents shall be transported directly to the vault or to a location in the Wagering Window approved by the Director where the Ticket Writer shall count the contents of the drawer and record on the Wagering inventory slip the:

- (1) date, time, and shift of preparation;
- (2) denomination of currency and coupons in the drawer;
- (3) total amount of each denomination of currency and coupons in the drawer;
- (4) total of the writer transfer-out forms;
- (5) total of the writer transfer-in forms;
- (6) total amount in the drawer; and
- (7) written or digital signature of the Ticket Writer.

(k) The Wagering manager shall compare the Ticket Writer closing balance to the Wagering inventory slip total, record over or short amounts, and sign the Wagering inventory slip.

(l) If the Wagering Inventory Slip lists an overage or shortage, the Ticket Writer and the Wagering manager shall attempt to determine the cause of the discrepancy in the count. If the discrepancy cannot be resolved, a discrepancy shall be reported to surveillance personnel and the Wagering manager or supervisor in charge at

the time. Discrepancies in excess of five hundred dollars (\$500.00) shall be reported to the Commission. This report shall include the:

- (1) date on which the discrepancy occurred;
- (2) shift during which the discrepancy occurred;
- (3) name of the Ticket Writer;
- (4) name of the Wagering manager;
- (5) Ticket Writer Station number; and
- (6) amount of the discrepancy.

(m) If funds are transferred from the vault to the cashier's cage, the Wagering manager responsible for the vault shall prepare a two-part vault transfer-out form. On completion of the form, the original shall be retained by the vault manager and the duplicate shall be transferred with the funds to the cashier's cage. The form shall include the:

- (1) date and time of the transfer;
- (2) designation of the vault location;
- (3) designation of the cage location;
- (4) amount of each denomination being transferred;
- (5) total amount of the transfer;
- (6) written or digital signature of the preparer of the transfer;
- (7) written or digital signature of the vault manager verifying and issuing the funds; and
- (8) written or digital signature of the cage cashier verifying and receiving the funds.

(n) If funds are transferred from the cashier's cage to a vault, a two-part vault transfer-in form shall be prepared. On completion of the form, the original shall be retained by the cage cashier and the duplicate shall be transferred with the funds to the vault. The form shall include the:

- (1) date and time of the transfer;
- (2) designation of the vault location to which the funds are being transferred;
- (3) cashier location from which the funds are being transferred;
- (4) amount of each denomination being transferred;
- (5) total amount of the transfer;
- (6) written or digital signature of the cage cashier verifying and sending the funds to the vault; and
- (7) written or digital signature of the vault manager verifying and receiving the funds.

(o) In lieu of separate Wagering Windows with live Ticket Writers, cage personnel may write and Cash Tickets.

November 7, 2023

Blue Text = *not* open for public comment

Blue Text = open for public comment

Black Text = open for public comment

Black Text = open for public comment

**Rule 1H-008 Wrong Ticket Claims.**

Subject to a Ticket Writer's discretion, a claim by a Player that they have been issued a Wagering Ticket other than that requested shall be made before the Player has left the Wagering Window or before the Ticket Writer has initiated a transaction with another Player.

Proposed

**Rule 1H-009 Acceptance of Tips.**

A tip wager is a cash payment, voucher, a posted wager, or an unposted wager to be determined by a Ticket Writer that is given as a gratuity. A Wagering Ticket may be received as a tip wager by an employee of a Wagering Facility so long as:

- (1) the receiver of tip Wager did not solicit the Wagering Ticket;
- (2) the receiver did not participate in the selection of the Wager;
- (3) the Wagering Ticket is placed into a tip pool; and
- (4) tip Wagers are recorded in an auditable log.

Proposed

### **Rule 1H-010 Wagering Kiosks.**

A Wagering Facility may use Wagering Kiosks for Wagering Transactions in a location approved by the Director.

A Wagering Kiosk shall be established and operated as follows:

- (1) All aspects of a Wagering Kiosk, including the computer and related hardware, software, or related devices, shall be submitted to an Independent Testing Laboratory and approved by the Commission prior to use by a Wagering Facility. The Commission may require additional testing or field inspection of the Wagering Kiosk prior to or after approval;
- (2) Wagering Kiosks shall be configured not to:
  - (a) issue a Wagering Ticket with a Wager in excess of ten thousand dollars (\$10,000);
  - (b) redeem a winning Wagering Ticket with a value in excess of ten thousand dollars (\$10,000) or other limits set by the Internal Revenue Service (IRS);
  - (c) issue or redeem a Wagering Voucher with a value in excess of ten thousand dollars (\$10,000) or other limits set by the Internal Revenue Service (IRS); or
  - (d) distribute Cash or Cash Equivalents.
- (3) All Wagering Kiosks shall have a sign permanently affixed to the Kiosk notifying the public that Players shall not be Underage Persons;
- (4) On a schedule approved by the Director, authorized employees shall remove the drop boxes in the Wagering Kiosks. The drop boxes shall be monitored and recorded by surveillance. The Wagering Facility shall submit the Wagering Kiosk drop schedule to the Director;
- (5) The Wagering Facility shall reconcile the Wagering Kiosks on a schedule approved by the Director pursuant to Internal Controls. Variances of five hundred dollars (\$500.00) or more shall be documented by the accounting department and reported in writing to the Director within five Days after drop and count of Wagering Kiosks. The report shall state the cause of the variance and shall contain documentation required to support the stated explanation; and
- (6) In locations where Wagering Kiosks do not allow for redemption, the Wagering Facility shall display prominently the methods of paying out or cashing out winning Wagering Tickets and Vouchers near the Wagering Kiosks.

**Rule 1H-011 Drop and Count.**

- (a) The Wagering Facility shall have a count room whose physical access shall be limited to count team employees, designated staff, Commission staff, and other Persons authorized by the Operator. The count room shall remain locked unless entry and exit is required by authorized Persons.
- (1) Count team employees shall not exit or enter the count room during the count except for emergencies or scheduled breaks.
  - (2) Surveillance staff shall be notified if count room employees exit or enter the count room during the count.
  - (3) The Internal Controls shall include a count team policy that shall address the transportation of extraneous personal items including personal belongings, toolboxes, or beverage containers, into or out of the count room.
- (b) Security of the count and the count room shall be ensured to prevent unauthorized access, misappropriation of funds, forgery, theft, or fraud.
- (1) All counts shall be performed by two or more employees.
  - (2) At no time during the count shall there be fewer than two count team employees in the count room until responsibility for the drop proceeds has been accepted by cage or vault personnel.
  - (3) Count team employees shall be independent of the department being counted. A cage or vault employee may be used if they are not the sole recorder of the count and do not participate in the transfer of drop proceeds to the cage or vault. An accounting employee may be used if there is an independent audit of count documentation.
  - (4) Items brought into a count room shall be transported or packaged in transparent wrappers or containers.
- (c) Currency cassettes and drop boxes shall be securely removed from Wagering Kiosks.
- (1) Surveillance shall be notified prior to the currency cassettes or drop boxes being accessed in a Kiosk.
  - (2) Two or more employees shall be involved in the collection of currency cassettes and drop boxes from Kiosks and one or more of those employees shall be independent of Kiosk accountability.
  - (3) Currency cassettes and drop boxes shall be secured in a manner that restricts access to only employees authorized by the Operator.
  - (4) If applicable, redeemed Vouchers collected from the Kiosk shall be secured and delivered to the appropriate department, for example, cage or accounting, for reconciliation.

- (5) The Internal Controls for the Wagering Facility shall ensure that currency cassettes contain the correct denominations and have been properly installed.
- (6) Access to stored full currency cassettes and drop boxes shall be restricted to:
  - (A) employees authorized by the Operator; and
  - (B) in an emergency, additional wagering facility personnel authorized for the resolution of a problem.
- (7) The Kiosk count shall be performed in a secure area, including the cage or count room.
- (8) If counts from Kiosks and other areas requiring counts occur simultaneously in the count room, Internal Controls shall be in effect that prevent the commingling of funds from the Kiosks with other areas requiring counts.
- (9) The Kiosk currency cassettes and drop boxes shall be individually emptied and counted so as to prevent the commingling of funds between Kiosks until the count of the Kiosk contents has been recorded.
- (10) Internal Controls shall be implemented to ensure that corrections to the count documentation are permanent and identifiable, and that the original, corrected information remains legible. Corrections shall be verified by two employees.

### **Rule 1H-012 Winning Wagers and Vouchers.**

The requirements of this Rule only apply for Wagers and payouts not associated with a Wagering Account:

- (1) Payment on valid Wagering Tickets shall be made only if presented and validated within one year following the settling of the Wagering Event, or, in the event of a parlay, following the last-in-time Wagering Event to settle on the Ticket.
- (2) Payment on valid Wagering Vouchers shall be made only if presented and validated within one year following the date of issuance.
- (3) Failure to present a Wagering Ticket or Voucher for redemption prior to the applicable one-year deadline shall constitute a waiver of the right to receive payment on the Ticket or Voucher.
- (4) Whenever there is an amount of time in which a Player is not afforded the ability to redeem a winning Ticket or Voucher due to Wagering Facility closure the one-year time period is tolled.
- (5) Any unclaimed funds from expired Wagering Tickets or Vouchers shall be presumed abandoned and shall be treated in accordance with Chapter 116B of the General Statutes.
- (6) The Wagering Facility shall establish Wagering Ticket and Voucher payout procedures within the Internal Controls that:
  - (a) Include a process to audit final transfers upon Wager settlement;
  - (b) Detail the rules and due diligence required prior to making a decision on payout for a lost, stolen, or damaged Ticket or Voucher;
  - (c) Detail the procedure with regard to inquiries into the validity of claims;
  - (d) Include a procedure with regard to late or last-minute payouts; and
  - (e) Address whether or not a winning Ticket may be redeemed by mail and, if so, the procedures for such redemption.
- (7) The Wagering Facility shall not satisfy claims on lost, mutilated, or altered Wagering Tickets or Vouchers without authorization of the Director.

### **Rule 1H-013 Cashiers, Windows, and Cages**

- (a) The Wagering Facility shall have within or immediately adjacent to the Wagering Lounge a physical structure known as a cashiers' cage (cage) to house the cashiers. A Wagering Facility may also have within or immediately adjacent to the Wagering Lounge, one or more satellite cages.
  
- (b) A cage or satellite cage shall be fully enclosed and shall, at a minimum:
  - (1) perform financial transactions related to Sports Wagering or Pari-Mutuel Wagering;
  - (2) be designed and constructed to provide maximum security for the materials stored and the activities performed therein. This design and construction shall be approved by the Commission;
  - (3) include openings at one or more numbered cashier windows, each of which shall contain a cashier's drawer and through which financial transactions related to Sports Wagering or Pari-Mutuel Wagering will be conducted;
  - (4) include manually triggered silent alarm systems, which shall be connected directly to the surveillance and the facility security monitoring rooms;
  - (5) provide for surveillance equipment capable of accurate visual monitoring and recording of activities; and
  - (6) include a mantrap if the cage or satellite cage secure assets, including, but not limited to, currency having a value greater than an amount established by the Director. The outer door of the mantrap shall be controlled by facility security personnel and the inner door shall be controlled by accounting personnel or another department personnel approved by the Director that are not the same as the personnel controlling the outer door. The doors of the mantrap shall have separate and distinct locking mechanisms on doors of the double door entry and exit system. The mantrap shall be subject to continuous surveillance coverage.
  
- (c) A cage or satellite cage may have one or more service windows to serve as a location in the facility to conduct financial transactions. These windows shall be designed and constructed in accordance with this Rule, and access shall be controlled by an accounting supervisor.
  
- (d) If approved paperless systems are not in use, the Internal Controls shall require that documents regarding the funds stored in cages shall be transported between cages in a secure manner approved by the Commission and with facility security personnel.
  
- (e) A Wagering Facility shall have on hand in the cage, or readily available including in a restricted bank account or by bond, a reserve of Cash to pay winning Players.

- (f) A cashiers' cage and any satellite cage shall be segregated by personnel so that no single Person has both control and approval for any aspects of cage operations is maintained.
  
- (g) A qualified supervisor may perform the functions of a cashier provided that the functions are not incompatible with proper separation of duties outlined in Internal Controls . A supervisor shall not operate from another cashier or supervisor's imprest inventory.
  
- (1) The assets for which a general cashier is responsible shall be maintained on an imprest basis. A general cashier shall not permit another Person to access their imprest inventory. General cashier functions shall include, but are not limited to:
  - (A) Performing check consolidations, total or partial redemptions, or substitutions for Players;
  - (B) Receiving Cash, authorized Cash Equivalents and authorized electronic transfers from Players in exchange for currency or Wagering Vouchers;
  - (C) Performing deposit and withdrawal transactions for Wagering Accounts, where supported;
  - (D) Processing exchanges with cashiers, supported by documentation with written or digital signatures thereon, for the effective segregation of functions in the cashiers' cage;
  - (E) Receiving Wagering Tickets or Vouchers from Players or authorized employees in exchange for Cash;  
and
  - (F) Exchanging and reconciling imprest funds used by attendants, including imprest change/pouch payout funds.
  
- (1) The Wagering Facility may consolidate the cashier functions if the cashier is qualified to perform functions and performs no functions incompatible with proper separation of duties outlined in Internal Controls.

### **Rule 1H-014 Surveillance System and Procedures**

The Wagering Facility shall install, maintain, and operate a Surveillance System that has the capability to monitor and record continuous unobstructed views of Wagering and financial transactions as well as dynamic displays of Wagering information. In addition, Internal Controls shall ensure there is general surveillance coverage for other areas of the Wagering Facility in a manner approved by the Director with exclusions for areas where Player privacy is expected including bathrooms and changing rooms.

- (1) The Surveillance System shall:
  - (a) have the capability to display camera views on a monitor;
  - (b) record camera views; and
  - (c) time stamp all recordings with the current local time which shall be synchronized to the official United States Naval Observatory Master Clock.
  
- (2) The Surveillance System shall be maintained and operated from a Surveillance Operation Room or, when authorized by the Commission, a secured location, including a locked cabinet.
  - (a) The Surveillance Operation Room shall be secured to prevent unauthorized entry.
  - (b) The location of the Surveillance Operation Room shall ensure that the interior is not visible to the public or other employees who do not work in the surveillance room.
  - (c) Access to the Surveillance Operation Room shall be limited to surveillance personnel, the Commission, and other authorized Persons.
  - (d) Surveillance Operation Room access logs shall be maintained, recording entries and exits.
  - (e) Personal recording devices are not permitted in the Surveillance Operation Room. This includes, but is not limited to, cameras, video recorders, and mobile phones.
  - (f) Surveillance Operation Room equipment shall have total override capability over other satellite surveillance equipment.
  
- (3) In the event of power loss to the Surveillance System, alternative facility security procedures, including additional supervisory or facility security personnel, shall be implemented immediately.
  
- (4) The Surveillance System shall record an accurate date and time stamp on recorded events. The displayed date and time shall not significantly obstruct the recorded view.
  
- (5) All surveillance employees shall be trained in the use of the equipment and about the Wagering Rules.

(6) A periodic inspection of the Surveillance Systems shall be conducted. When a dedicated camera stops providing coverage in the Wagering Lounge, the coverage failure and required repairs shall be documented, and repairs initiated within seventy-two hours.

(a) If a dedicated camera stops providing coverage, alternative facility security procedures, including additional supervisory or facility security personnel, shall be implemented immediately.

(b) The Commission shall be notified in writing of a coverage failure for more than twenty-four hours and whenever the alternative facility security measures are implemented.

(7) Surveillance coverage shall be provided for the following areas as follows:

(a) For public entrances to the Wagering Facility:

(i) Entrances shall have sufficient coverage that two or more cameras shall be able to positively identify a Person entering.

(ii) Facility security check-in points at the entrances shall have a dedicated camera to capture an unobstructed facial view of Persons entering the Wagering Facility.

(b) For non-public entrances to the Wagering Facility, including loading docks and emergency exits:

(i) Entrances shall have sufficient surveillance coverage such that there are two or more cameras with sufficient image quality to be able to positively identify a Person entering.

(ii) Employee entrances shall be secured either via the use of digitally controlled access systems or by in-person verification conducted by facility security personnel.

(iii) Internal Controls shall be in place requiring that employees entering the Wagering Facility be identifiable and of sufficient quality to positively identify a Person entering.

(c) For restricted areas of the Wagering Facility:

(i) All restricted areas shall have surveillance coverage sufficient that Persons in the area can be clearly identified.

(ii) All restricted areas shall have sufficient coverage and resolution such that controlled equipment and currency and currency equivalents are identifiable.

(iii) All restricted areas shall have additional camera coverage sufficient to provide asset protection as approved by the Commission.

(iv) Access to coverage of the Surveillance Operation Room is limited to senior management and the Commission.

(d) For Wagering Lounges:

- (i) The Surveillance System shall monitor and record general activities, to include the Ticket Writer and cashier areas, with Sufficient Clarity to identify the personnel performing the different functions.
  - (ii) All Wagering Lounges shall have sufficient coverage that a Player may be tracked throughout the entirety of the Wagering Lounge.
- (e) For Ticket Writer Stations:
- (i) All Ticket Writer Stations shall have sufficient coverage to identify currency amounts.
  - (ii) Ticket Writer Stations that may be used for placing Wagers shall have surveillance coverage sufficient to identify the Player and employee involved in the transaction.
  - (iii) Surveillance personnel shall have access to the Ticket Writer Stations to access transaction amounts.
- (f) For all exits from the Wagering Facility:
- (i) Exits shall have sufficient coverage that two or more cameras shall be able to positively identify a Person exiting.
- (g) For Wagering Kiosks, the Surveillance System shall monitor and record a general overview of activities occurring at the Kiosks with accurate time stamps and Sufficient Clarity to identify the activity and the Individuals performing it, including maintenance, drops or fills, and redemption of Wagering Tickets or Vouchers.
- (h) For the cage and vault:
- (i) The Surveillance System shall monitor and record a general overview of activities occurring in the cage and vault areas with accurate time stamps and Sufficient Clarity to identify Individuals within the cage and Players and staff members at the window areas and to confirm the amount of Cash transactions;
  - (ii) Cashier stations shall be equipped with one dedicated overhead camera covering the transaction area; and
  - (iii) The cage or vault area in which exchange and transfer transactions occur shall be monitored and recorded by a dedicated camera or motion activated dedicated camera that provides coverage with Sufficient Clarity to identify the amounts on the exchange and transfer documentation. Amounts provided by a computerized exchange and transfer system constitute an adequate alternative to viewing the amounts on the exchange and transfer documentation.
- (i) For count rooms, the Surveillance System shall:

November 7, 2023

Blue Text = *not* open for public comment

Blue Text = open for public comment

Black Text = open for public comment

Black Text = open for public comment

- (i) Monitor and record with Sufficient Clarity a general overview of areas where Cash or Cash Equivalents may be stored or counted; and
  - (ii) Provide coverage of count equipment with Sufficient Clarity to view attempted manipulations of the recorded data.
- 
- (j) All machines capability of dispensing Cash shall have sufficient coverage to view the transition and the currency amount being dispensed and the Individuals at the machine.

Proposed

### **Rule 1H-015 Facility Security Procedures**

- (a) The Internal Controls shall include appropriate facility security procedures to enable a suitable response to a security issue within the Wagering Lounge and prevent a Person from tampering with or interfering with the operation of Sports Wagering or Pari-Mutuel Wagering.
- (b) The Wagering Facility shall establish provisions describing the duties and operation of its facility security department, which shall include details relative to the design, construction, and location of primary and secondary armored car routes, including provisions for the security of these routes.
- (c) The Wagering Facility shall use an incident reporting system to document incidents and activities within the Wagering Facility.
- (1) Facility security procedures approved by the Directors shall be implemented for reporting:
- (A) an Individual engaged in, attempting to engage in, or suspected of cheating, theft, embezzlement, or other illegal activities;
- (B) an Individual possessing a firearm, electronic control device, dangerous weapon, or other device or object prohibited under the Act and these Rules;
- (C) an Individual in the Wagering Lounge who is a prohibited Person, impaired due to alcohol or other substance ingestion, or a potential victim of human trafficking;
- (D) all camera, system or recording outages;
- (E) routine tasks accomplished by facility security or surveillance personnel at the request of another team; and
- (F) suspicious incidents observed.
- (2) Violations of the Act or these Rules shall be identified in the incident reporting system.
- (3) The Commission and the Director shall have real-time read-only access to the incident reporting system.
- (4) The incident reporting system shall be capable of generating reports that detail incident types and these reports shall be delivered to the Commission or Director on request or as required on a schedule set by the Commission or Director.
- (5) The incident reporting system shall be in an electronic format equipped with software that prevents modification of an entry after it has been initially entered into the system.
- (6) The incident reporting system shall document the:

- (A) assignment number of the incident;
- (B) incident category or type;
- (C) date and time;
- (D) name and position of the Individual(s) documenting and responding to the incident;
- (E) nature of the incident; and
- (F) resolution of the incident.

(7) All recordings required by this Rule shall be retained for a minimum retention period of thirty Days. Suspected crimes, recordings of Player disputes subject to Rule 1D-021, illegal activity, or detentions by facility security personnel discovered within the initial retention period shall be copied and retained for a period not less than five years.

(8) At minimum, all security video recordings shall be retained for a minimum of 15 days.

PROPOSED

**Rule 1H-016 Controlled Keys.**

- (a) The Wagering Facility shall implement Internal Controls to safeguard the use, access, and security of Wagering Facility keys.
- (b) Custody of all keys involved in the drop and count shall be maintained by a department independent of the drop and count employees as well as those departments being dropped and counted.
- (c) Each of the following requires a separate and unique key lock or alternative secure access method:
- (1) Count room keys;
  - (2) Storage racks and carts;
  - (3) Wagering Kiosk keys;
  - (4) Currency cassette release;
  - (5) Currency cassette contents;
  - (6) Drop box release;
  - (7) Drop box contents; and
  - (8) Surveillance room.
- (d) Access to and return of keys or equivalents shall be documented with the date, time, and written or digital signature of the employee accessing or returning the keys.
- (1) Two or more drop team employees are required to be present to access and return keys.
  - (2) Two or more count team employees are required to be present at the time count room and other count keys are issued for the count.
- (e) Documentation of all keys, including duplicates, shall be maintained, including:
- (1) Unique identifier for each Individual key;
  - (2) Key storage location;
  - (3) Number of keys made, duplicated, and destroyed; and
  - (4) Authorization and access.
- (f) Other than the count team, no employee may have access to the currency cassette or drop box content keys while in possession of storage rack keys or release keys.
- (g) Other than the count team, only employees authorized to remove currency cassettes or drop boxes are allowed access to currency cassette or drop box release keys.

- (h) Any use of keys at times other than the scheduled drop and count shall be properly authorized and documented.
  
- (i) Emergency manual keys, such as an override key, for computerized, electronic, and alternative key systems shall be maintained in accordance with the following:
  - (1) Access to the emergency manual keys used to access the box containing the drop and count keys requires the physical involvement of at least three employees. The custody of the emergency manual keys requires the presence of two employees from separate departments from the time of the keys' issuance until the time of their return.
  - (2) Routine physical maintenance, that requires access to the emergency manual keys and does not involve accessing the drop and count keys, only requires the presence of two employees from separate departments.
  - (3) The date, time, and reason for accessing the emergency manual keys shall be documented with the written or digital signatures of all participating employees signing the keys out and in.

PROPOSED

## **Subchapter I – Advertising and Marketing**

### **Rule 11-001 Advertising and Marketing Generally.**

- (a) The Operator shall ensure that its Advertisements, marketing, branding, and other promotional materials published, aired, displayed, disseminated, or distributed by or on behalf of any Operator:
- (1) disclose the identity of the Operator and its brand.
  - (2) contain a statement that Underage Persons are not allowed to Wager, or open or have access to Wagering Accounts.
  - (3) do not include or depict:
    - (i) Underage Persons, except live footage or images of professional athletes who may be Underage Persons in permitted Wagering Events;
    - (ii) college students or those wearing collegiate-affiliated apparel;
    - (iii) schools or colleges; or
    - (iv) school or college settings.
  - (4) do not state or imply endorsement or participation by:
    - (i) Underage Persons, other than professional athletes who may be Underage Persons;
    - (ii) colleges; or
    - (iii) college athletic associations.
  - (5) do not target Underage Persons, other Ineligible Persons, Individuals with gambling problems, or other vulnerable Individuals.
  - (6) if sent via phone, mail, email, or other electronic communication, include a means for the receiver to opt out of a phone, mail, email, or other electronic communication advertising or marketing distribution list, where the advertising and marketing was sent directly to the recipient using these lists.
- (b) Incidental depiction of nonfeatured Persons, locations, settings, or organizations listed in Subparagraph (a)(3) of this Rule does not violate this Rule.

**Rule 11-002 Advertising to Underage Persons Prohibited**

- (a) Advertising, marketing, branding, and other promotional materials published, aired, displayed, disseminated, or distributed by or on behalf of any Operator shall state that Players shall be twenty-one years of age or older to participate.
- (b) No Operator shall allow, conduct, or participate in any advertising, marketing, or branding for Wagering that is aimed at Underage Persons.
- (c) No advertising, marketing, branding, and other promotional materials published, aired, displayed, disseminated, or distributed by or on behalf of any Operator shall contain images, symbols, celebrity or entertainer endorsements, music, or language that have been used in connection with media or other programming specifically targeted at Underage Persons.
- (d) No advertising, marketing, branding, and other promotional materials published, aired, displayed, disseminated, or distributed by or on behalf of any Operator shall be placed, published, aired, displayed, disseminated, or distributed:
  - (1) in media outlets, including social media platforms, that are used primarily by Underage Persons;
  - (2) at events aimed at Underaged Persons or where twenty-five percent or more of the audience is reasonably expected to be Underaged Persons;
  - (3) at any elementary, middle, or high school, or at any sports venue exclusively used for such schools; or
  - (4) on any college or university campus, or in college or university news outlets such as school newspapers and college or university radio or television broadcasts.
- (e) Operator-owned websites and profiles that include Wagering content, including social media platforms, shall include a message regarding the legal age for Wagering in the State.
- (f) No Wagering Advertisements, including logos, trademarks, or brands, shall be used, or licensed for use, on products, clothing, toys, games, or game equipment designed or intended for Underage Persons.
- (g) The knowing use of Wagering brands, Advertisements, logos, or trademarks is prohibited on products that are sold in North Carolina and intended primarily for Underage Persons.

November 7, 2023

Blue Text = *not* open for public comment

Blue Text = open for public comment

Black Text = open for public comment

Black Text = open for public comment

**Rule 11-003 No Direct Advertising to Voluntarily Excluded Players**

- (a) No Operator shall allow, conduct, or participate in any advertising, marketing, or branding for Wagering that is aimed at Persons who have enrolled in the Voluntary Exclusion Program pursuant to G.S. 18C-922.
  
- (b) No Operator shall direct mail, text, or electronic messages or unsolicited pop-up Advertisements on the Internet to an Individual in the Voluntary Exclusion Program or shall allow any employee or agent of the Operator, or Affiliated entity or a third party pursuant to contract, to take such actions.

Proposed

**Rule 11-004 Disclosure of Operator; Operator Ultimately Responsible**

- (a) Advertisements, promotions, and marketing messages used by an Operator or disseminated for the benefit of an Operator shall disclose the identity of the Operator.
- (b) Each Operator shall be responsible for the content and conduct of any and all advertising, marketing, or branding done on its behalf or to its benefit whether conducted by the Operator, an employee or agent of the Operator, or an Affiliated entity or a third party pursuant to contract, regardless of whether such party is also required to be Licensed.
- (c) Each Operator shall provide a copy of the regulations contained herein to all advertising, marketing, branding and promotions personnel, contractors, agents, and agencies retained by the Operator or its agents and shall ensure and require compliance herewith.
- (d) Where an Operator or its agent engages a third-party Individual or entity to create or distribute social media content to advertise, market, or promote the Operator, social media messages or posts shall disclose the existence of the business relationship.
- (e) Each Operator shall be responsible for the content and conduct of any and all advertising, marketing, and branding done on its behalf or to its benefit, whether conducted by such Operator, an employee or agent of such Licensee, or an Affiliated entity or agent of such Operator pursuant to contract or agreement.
- (f) No Operator shall advertise forms of illegal gambling in the State, unless the Advertisement disclaims conspicuously that the Wagering offerings are not available in the State.
- (g) No Operator may enter into an agreement with a third party to conduct advertising, marketing, or branding on behalf of, or to the benefit of, such Operator when compensation for such services is dependent on, or related to, the volume of Players, Wagers placed or the outcome of Wagers.

**Rule 11-005 Information to Promote Responsible Gaming.**

- (a) Advertising, marketing, branding, and other promotional materials published, aired, displayed, disseminated, or distributed by or on behalf of any Operator shall include a link to and phone number for the North Carolina Problem Gambling Helpline using language provided by the Commission and such other information regarding responsible gaming as required by the Commission (“Responsible Gaming Messaging”).
  
- (b) Such advertising, marketing, branding and other promotional materials shall not use a font, type size, location, lighting, illustration, graphic depiction, or color obscuring conditions or limiting factors associated with the Advertisement of such Problem Gambling Helpline information. If an Advertisement is of insufficient size or duration to provide the information required, the Advertisement shall refer to a website or application that prominently includes this information.
  
- (c) For digital billboards, Responsible Gaming Messaging shall be visible for the entire time the rest of the Advertisement is displayed

PROPOSED

November 7, 2023

Blue Text = *not* open for public comment

Blue Text = open for public comment

Black Text = open for public comment

Black Text = open for public comment

**Rule 11-006 Limitation on Representations about Winnings.**

An Operator shall only make representations concerning Winnings that are accurate, not misleading to a reasonable person, and capable of substantiation at the time of the representation. For purposes of this Rule, an Advertisement is misleading to a reasonable person if it makes representations about average Winnings without equally prominently representing the average net Winnings of Players.

Proposed

**Rule 11-007 False or Misleading Advertising**

- (a) An Operator shall not allow, conduct, or participate in any unfair or deceptive advertising, marketing, branding, or other promotional materials for Wagering. Advertising, marketing, or branding that is unfair or deceptive includes, but is not limited to, advertising, marketing, or branding that would reasonably be expected to confuse or mislead Players in order to induce them to engage in Wagering or a particular type of wagering.
  
- (b) An Operator shall not obscure or fail to disclose any material fact about an offer or a condition of an offer in its advertising, marketing, branding or other promotional materials for Wagering or use any type, size, location lighting, illustration, graphic, depiction or color resulting in the obscuring of or failure to disclose any material fact in any advertising, marketing, or branding.
  
- (c) All wagering advertisements, marking, branding, and other promotional materials shall clearly convey the conditions under which Wagering is being offered, including information about the cost to participate and the nature of any promotions or information to assist Players in understanding the odds of winning. Any material conditions or limiting factors shall be clearly and conspicuously specified in the Advertisement, marketing, branding, and other promotional materials.
  
- (d) No advertising, marketing, branding, and other promotional materials published, aired, displayed, disseminated, distributed, or conducted by or on behalf of any Operator shall:
  - (1) Promote irresponsible or excessive participation in Wagering;
  - (2) Suggest that social, financial, or personal success is guaranteed by engaging in Wagering;
  - (3) Encourage Players to “chase” losses or re-invest Winnings;
  - (4) Suggest that betting is a means of solving or escaping from financial, personal, or professional problems;
  - (5) Portray, suggest, condone or encourage Wagering behavior as a rite of passage or signifier of reaching adulthood or other milestones;
  - (6) Portray, suggest, condone or encourage Wagering behavior that is socially irresponsible or could lead to financial, social, professional, or emotional harm;
  - (7) State or imply that the chances of winning increase with increased time spent on Wagering or increased money Wagered; or
  - (8) Be placed on any website or printed page or medium devoted primarily to responsible gaming.
  
- (e) Advertising, marketing, branding, or other promotional materials that creates an integrity issue, the potential for an integrity issue, or the appearance of an integrity issue with respect to a Wagering Event or a Wagering type is prohibited.

**Rule 11-008 Opt-Out from Direct Marketing**

- (a) Each direct Advertisement, marketing, branding, or other promotional materials about Wagering shall clearly and conspicuously describe a method by which an Individual may opt out of receiving future direct Advertisements.
- (b) An Operator shall honor any request to opt out as soon as practicable and, in any event, no later than ten Days from the date of such request. If a direct Advertisement is sent via electronic mail, the described opt-out method shall include either an electronic mail address that will accomplish such opt-out or a link to an online website address at which such opt-out may be accomplished as simply as practicable.
- (c) A direct Advertisement sent other than by electronic mail shall include at least one of the following methods to opt out:
- (1) telephone;
  - (2) regular United States mail;
  - (3) online website address or mobile application at which such opt-out may be accomplished as simply as practicable; or
  - (4) electronic mail.

November 7, 2023

Blue Text = *not* open for public comment

Blue Text = open for public comment

Black Text = open for public comment

Black Text = open for public comment

**Rule 11-009 Retention of Advertising Materials.**

The Operator shall retain and maintain, in a manner consistent with this Rule, any materials used to advertise, market, publicize, brand, or otherwise promote Wagering in this State for two years from the end of the advertising, marketing, branding, promotional, or publicity campaign. If an Affiliate marketer advertises, markets, brands, publicizes, or otherwise promotes Wagering on behalf of the Operator, those records shall be retained and maintained by either the Affiliate marketer or the Operator for the same two-year period.

Proposed

## Chapter 2 - Sports Wagering

### Subchapter A – General Provisions

#### Rule 2A-001 Definitions

In addition to defined terms in G.S. 18C-901 and G.S. 18C-1001, and Rule 1A-001, the following definitions apply in this Chapter 2 of the Rules Manual:

- (1) “Amateur Sports” has the meaning provided in G.S. 18C-901(1).
- (2) “Card” means the list of ~~sporting events~~ **Sporting Events** and Wager types **Types** from which a Player may make selections for a given ~~pool~~ **Pool**.
- (3) “College Sports” has the meaning provided in G.S. 18C-901(3).
- (4) “Collegiate Sporting Event” means a sport or athletic event offered or sponsored by, or played in connection with, a public or private institution that offers educational services beyond the secondary level.
- (5) “Collegiate Tournament” means a series of ~~college sports~~ **College Sports** or athletic events involving four or more collegiate teams that make up a single unit of competition.
- (6) “Covered Services” has the meaning provided in G.S. 18C-901(4).**
- (7) “Data Source” means a ~~supplier~~ **Supplier** that sells league or event data, participant **data or statistics**, or team statistics required to enable Sports Wagering.
- (8) “eSports” or “Electronic Sports” has the meaning provided in G.S. 18C-901(5).
- (9) “eSports Competition” means leagues, competitive circuits, tournaments, or similar competitions where ~~individuals~~ **Individuals** or teams play video games, typically for spectators, either in-person or online, for the purpose of prizes, money, or entertainment.
- (10) “eSports Competition Operator” means a Person ~~or entity~~ which sanctions, regulates, or organizes an ~~esports competition~~ **eSports Competition**.

- (11) "Exchange Wagering" means a form of ~~wagering~~ **Wagering** in which two or more Persons place identically opposing ~~wagers~~ **Wagers** in a given market, allowing Players to ~~wager~~ **Wager** on both winning and non-winning outcomes in the same event.
- (12) "Geofencing" has the meaning provided in G.S. 18C-901(6).
- (13) "GLI-CMP Guide" means the Gaming Laboratories International, GLI-CMP: Change Management Program Guide, Version 1.0, Published May 6, 2020, including amendments or subsequent editions.
- (14) "GLI-33 Standards" means the Gaming Laboratories International, GLI-33: Standards for Event Wagering Systems, Version: **1.1**, and its appendices, Revised May 14, 2019, including amendments or subsequent editions.
- (15) "Gross Wagering Revenue" has the meaning provided in G.S. 18C-901(7).
- (16) "High School Sporting Event" means a ~~sporting event~~ **Sporting Event** participated in or offered or sponsored by a public or private institution that offers educational services at the secondary level.
- (17) "~~In-game~~ **In-Game** Wagering" means placing a Sports Wager after a ~~sporting event~~ **Sporting Event** has started.
- (18) "Layoff Wager" means a ~~sports~~ **Sports** Wager placed by a Sports Wagering Operator with another Sports Wagering Operator to offset Sports Wagers.
- (19) "Motorsports Facility" has the meaning provided in G.S. 18C-103(10d).
- (20) "Official League Data" has the meaning provided in G.S. 18C-901(11).
- ~~"Pari-Mutuel Wager" has the meaning provided in G.S. 18C-901(12).~~
- (21) "Pool" means an offering where Players may make selections of outcomes on a set number of ~~sporting events~~ **Sporting Events** and Wager ~~type~~ **Types** on a Card to enter for a chance to win the Prize Pool or a portion thereof.
- (22) "Prize Pool" means the prizing available for an ~~individual~~ **Individual** tournament, contest, or ~~pool~~ **Pool**.

- (23) “Professional Golf Tournament” has the meaning provided in G.S. 18C-103(12d).
- (24) “Professional Sports” has the meaning provided in G.S. 18C-901(13). Professional ~~sports~~ **Sports** do not encompass or include **any** Amateur Sports, Colleges Sports, Youth Sports, or High School Sporting Events.
- (25) “Professional Sports Team” has the meaning provided in ~~G.S. 18C-901(13d)~~ **18C-901(10d)**.
- (26) **“Rake” means the fee that is deducted by an Operator from a Wager made for Exchange Wagering or other peer-to-peer Wagering, or entry fees paid by Players who participate in a tournament, contest, or Pool.**
- (27) **“Rake Adjustment” means an adjustment made by an Operator to account for shortfalls in connection with Exchange Wagering or other peer-to-peer Wagering, tournament, contest, or Pool.**
- (28) “Registered Player” has the meaning provided in G.S. 18C-901(14).
- ~~“Service Provider” has the meaning provided in G.S. 18C-901(15).~~
- (29) “Service Provider License” means a License issued by the Commission to a ~~service provider~~ **Service Provider** for Sports Wagering under G.S. 18C-906.
- (30) “Shared Liquidity Pool” means a tournament, contest, or ~~pool~~ **Pool** offering **being offered** in North Carolina and one or more other jurisdictions.
- (31) “Sporting Event” has the meaning provided in G.S. 18C-901(16).
- ~~“Sports Governing Body” has the meaning provided in G.S. 18C-901(18).~~
- (32) “Sports Wagering Brand” has the meaning provided in G.S. 18C-901(20).
- (33) “Sports Wagering Network” means the offering of Exchange Wagering or other peer-to-peer ~~wagering~~ **Wagering** through the linking of Players:
- (a) of one or more Sports Wagering Operators in the State; or

- (b) that Players may be pooled from multiple Sports Wagering Operators or from a single Sports Wagering Operator in multiple jurisdictions, pursuant to Commission approval.

~~“Sports Wagering Operator” in this Chapter of the Rules Manual means an interactive Sports Wagering operator as defined in G.S. 18C-901(9).~~

- (34) “Sports Wagering Platform” has the meaning provided in G.S. 18C-901(21).

- (35) “Sports Wagering System” means the hardware, software, firmware, Communication Technology, and other equipment used in connection with a Sports Wagering Platform, as well as procedures implemented to allow Player participation in Sports Wagering, and, if supported, the corresponding equipment related to the display of the Wager outcomes, and other similar information required to facilitate Player participation, including Sports Wagering Platforms themselves.

~~“Supplier” or “Sports Wagering Supplier” has the meaning provided in G.S. 18C-901(22).~~

- (36) “Supplier License” or “Sports Wagering Supplier License” means a License issued by the Commission to a Supplier under G.S. 18C-907.

- (37) “Tier One Sports Wager” has the meaning provided in G.S. 18C-901(23).

- (38) “Tier Two Sports Wager” has the meaning provided in G.S. 18C-901(24).

- (39) “Virtual Sporting Event” means a ~~sporting event~~ **Sporting Event** where elements of the event, including the results, are generated by a ~~Random Number Generator~~ **random number generator**.

- (40) “Wagering Account” or “Account” means an ~~interactive account~~ **Interactive Account** as defined in G.S. 18C-901(8).

- (41) “Youth Sports” has the meaning provided in G.S. 18C-901(26).

- (42) “Written Designation Agreement” means the written, executed, and complete contractual agreement between an (i) Interactive Sports Wagering Operator or Interactive Sports Wagering Operator Applicant and (ii) a non-Operator party eligible to enter such agreement, pursuant to G.S. 18C-905(a). A Written

November 7, 2023

Blue Text = *not* open for public comment

~~Blue Text~~ = open for public comment

**Black Text** = open for public comment

Black Text = open for public comment

Designation Agreement includes all written contracts (~~+~~) executed by and between these parties and (~~+~~) executed by and between the parties' respective Affiliates.

Proposed

### Rule 2A-002 Incorporation by Reference

(a) For the purpose of the Rules in this Subchapter, the following Rules, standards and other requirements are hereby incorporated by reference, including subsequent amendments and editions:

- (1) Gaming Laboratories International, GLI-33: Standards for Event Wagering Systems, Version 1.1, and its appendices, Revised May 14, 2019; and
- (2) Gaming Laboratories International, GLI-CMP: Change Management Program Guide, Version 1.0, Published May 6, 2020.

(b) The Rules, standards, and other requirements incorporated by reference in Paragraph (a) of this Rule ~~are~~ shall be made available for inspection. Copies of the Rules, standards, and other requirements incorporated by reference in Paragraph (a) of this Rule are available at no charge at [www.gaminglabs.com](http://www.gaminglabs.com) and the Commission's website.

PROPOSED

## Subchapter B – Licensing Provisions

### Rule 2B-001 Sports Wagering Operator Licensing

- (a) The Director shall issue a Sports Wagering Operator License after finding that the Applicant meets the requirements of the Act and these Rules.
- (b) It shall be unlawful for any Person to offer or accept Sports Wagers in this State without a valid Sports Wagering Operator License issued under G.S. 18C-904 and Chapter 1, Subchapter B of these Rules.
- (c) Except as provided in G.S. 18C-928, the Commission shall only license Sports Wagering Operators who have a Written Designation Agreement in accordance with G.S. 18C-905 to offer and accept Sports Wagers on Sporting Events.
- (d) If an Applicant for a Sports Wagering Operator License is a Sports Facility or team that is a member of a league, association, or organization that prevents the Sports Facility or team from being subject to the regulatory control of the Commission or from otherwise operating under a Sports Wagering Operator License, the Sports Facility or team may contractually appoint a designee approved by the Commission **to be responsible** for all aspects of Commission oversight and operation.
- (e) The holder of a Sports Wagering Operator License shall be deemed also to hold a Service Provider License and Supplier License under the Act and these Rules for services, goods, software, or components provided in-house.

November 7, 2023

Blue Text = *not* open for public comment

~~Blue Text~~ = open for public comment

**Black Text** = open for public comment

~~Black Text~~ = open for public comment

### Rule 2B-002 Service Provider Licensing

- (a) The Director shall issue a Service Provider License after finding that ~~the~~ **an** Applicant meets the requirements of the Act and these Rules.
  
- (b) It shall be unlawful for any Person to offer or provide Covered Services to a Sports Wagering Operator in this State without a valid Service Provider License issued under G.S. 18C-906 and Chapter 1, Subchapter B of these Rules.
  
- (c) The holder of a Service Provider License shall be deemed also to hold a Supplier License under the Act and these Rules for services, goods, software, or components provided in-house.

Proposed

November 7, 2023

Blue Text = *not* open for public comment

Blue Text = open for public comment

Black Text = open for public comment

Black Text = open for public comment

### Rule 2B-003 Supplier Licensing

- (a) The Director shall issue a Supplier License after finding that ~~the~~ **an** Applicant meets the requirements of the Act and these Rules.
  
- (b) It shall be unlawful for any Person to offer or provide services, goods, software, or components to a Sports Wagering Operator or Service Provider in this State without a valid Supplier License issued under G.S. 18C-907 and Chapter 1, Subchapter B, of these Rules.

Proposed

### Rule 2B-004 Provisional Supplier License

(a) The Director may issue a Provisional Supplier License to an Applicant whose submitted application facially contains all required information and materials such that the application may be deemed administratively sufficient.

(b) To be eligible to receive a Provisional Supplier License, an Applicant shall:

- (1) Note its request for a Provisional Supplier License in its application.
- (2) Provide in its application written attestations that the Applicant, its Key Persons, and current employees subject to ~~background investigations~~ **Background Investigations** have not been convicted in any jurisdiction of a felony, any gambling offense, a criminal offense involving moral turpitude or obstruction of justice, or any criminal offense involving dishonesty or breach of trust within ten years of application.

(c) A Provisional Supplier License shall not be awarded to an Applicant that:

- (1) Has been subject to sanction, enforcement, or civil penalties by a ~~sports wagering~~ **Sports Wagering** or gaming regulatory body ~~or~~ **of** another state;
- (2) If a corporate entity, is not registered to do business in the State and in good standing;
- (3) Is subject to delinquent federal, state, or local taxes;
- (4) Is in bankruptcy proceedings;

(d) The Director shall provide a date certain for the expiration of a Provisional Supplier License. The expiration date shall be the sooner of:

- (1) One hundred and eighty Days from the date of the issuance of the provisional License; or
- (2) The date the Director approves or denies the Application after completion of the Background Investigation.

(e) After the denial of an application, a Provisional Supplier License shall not be valid during the pendency of an Applicant's request for reconsideration or during the pendency of any appeal.

(f) The holder of a Provisional Supplier License is subject to all Rules and **other Commission** requirements as if fully-Licensed, including all enforcement-related provisions.

### Rule 2B-005 Payment of License Application Fee; Expenses for Denied License Application

(a) Upon filing of an application for a License or renewal, ~~the~~ **an** Applicant shall pay by wire transfer of funds the applicable License application fee:

- (1) One million dollars (\$1,000,000) for an Operator License;
- (2) Fifty thousand dollars (\$50,000) for a Service Provider License; or
- (3) Thirty thousand dollars (\$30,000) for a Supplier License.

(b) An Applicant whose licensure application is denied will have its License application fee returned to it, less five percent for administrative expenses incurred by the Commission to conduct the application review.

(c) **If a licensure application is denied, remittance** ~~Remittance~~ of the Applicant's licensing or application fee, less five percent, for administrative ~~costs~~ **expenses incurred by the Commission**, will issue after the period to seek reconsideration ends or upon the Director's receipt of a signed written statement from the Applicant stating that it will not seek reconsideration or an appeal of the licensing decision. The Commission will retain the License fee of an unsuccessful Applicant during the pendency of any reconsideration or appeal period and during any legal proceeding arising from or related to the denial of the Applicant's licensing application.

(d) If an Applicant voluntarily elects to withdraw its application before the Director denies the application or takes other action that does not constitute an approval of the application, the Director may:

- (1) treat such withdrawal as a *de facto* denial of the application and retain the License application review fee pursuant to Paragraph (b) of this Rule, or
- (2) allow the Applicant to withdraw its application and refund the entire License application fee.

(e) The Director shall not have discretion to return the entire License application review fee for a withdrawn application if the Applicant is discovered to have made a materially fraudulent misrepresentation or omission in its submission(s) to the Commission.

### Rule 2B-006 Written Designation Agreement

(a) In order to qualify for a Sports Wagering Operator License, the Applicant shall enter into and maintain a Written Designation Agreement with a Persons or Persons enumerated under G.S. 18C-905(a).

(b) The Applicant or Sports Wagering Operator shall submit an executed copy of the Written Designation Agreement with its application for licensure or renewal as a Sports Wagering Operator.

- (1) All related and ancillary agreements between and among the signatory parties and their respective Affiliates shall be considered part of the Written Designation Agreement, regardless of how such agreements are denominated.
- (2) Failure to include all related and ancillary agreements between the parties and their Affiliates with the application for licensure or renewal may be grounds for summary denial of the application or renewal application.
- (3) A letter of intent to enter a ~~into~~ Written Designation Agreement is not a substitute for an executed Written Designation Agreement.

(c) The Written Designation Agreement shall meet the following minimum requirements:

- (1) The agreement shall be executed by duly authorized ~~individual~~ **Individual(s)**.
- (2) The agreement shall state a clear contract term length, with any option to renew being contingent on the renewal of the Sports Wagering Operator's License.
- (3) The agreement shall be governed by North Carolina law, with express consent of the parties to submit to the jurisdiction of the North Carolina court system to resolve any disputes.
- (4) The agreement shall require any place of public accommodation be operated solely by the ~~licensed~~ **Licensed** Sports Wagering Operator, in accordance with G.S. 18C-905(c).
- (5) The agreement shall not authorize the non-Operator party to the Written Designation Agreement to engage in any regulated activity requiring a License under the Act unless it independently obtains a ~~license~~ **License** and only engages in activities authorized by such License.
- (6) The agreement shall be terminated if the ~~licensed~~ **Licensed** Sports Wagering Operator has its ~~license~~ **License** revoked or the non-Operator party loses its authority to enter a Written Designation Agreement under G.S. 18C-905. The agreement shall require that the non-Operator party's employees be prohibited from Sports Wagering in accordance with G.S. 18C-902(i) and receive appropriate and applicable training about ~~persons~~ **Persons** prohibited from engaging in Sports Wagering.
- (7) The agreement shall be marked "confidential."

(f) The Commission may deny an application for a Sports Wagering Operator License or suspend or revoke a Sports Wagering Operator License if at any time it finds that the Written Designation Agreement would be

disadvantageous to the interests of the ~~state~~ **State** of North Carolina. A Written Designation Agreement may, without limitation, be considered disadvantageous to the interests of the State if:

- (1) The Commission determines that the Written Designation Agreement would cause a violation of any of the applicable considerations set forth in the Act, Commission Rules, or ~~state~~ **State**, ~~or federal,~~ **or local** law;
- (2) The Written Designation Agreement fails to meet **one or more of** the requirements in Paragraph (c) of this Rule; or
- (3) The parties to the Written Designation Agreement fail to fulfill **one or more of** the requirements in Paragraph (c) of this Rule.

Proposed

November 7, 2023

Blue Text = *not* open for public comment

Blue Text = open for public comment

Black Text = open for public comment

Black Text = open for public comment

### Rule 2B-007 Written Designation Agreement Breach, Discontinuance, or Other Cessation

(a) A Sports Wagering Operator shall promptly report to the Commission as soon as practicable, but **at a minimum within** ~~in no event longer than~~ seventy-two hours of the following with respect to the Written Designation Agreement:

- (1) Any modifications, changes, or alterations; or
- (2) Any breach, discontinuance, or other cessation.

(b) As contemplated by G.S. 18C-908(a), a Sports Wagering Operator's five-year License shall expire upon the earlier of five years or **a** breach, discontinuance, or other cessation of the Written Designation Agreement required under G.S. 18C-905. In the event the License expires for reason of breach, discontinuance, or other cessation, the Sports Wagering Operator shall engage in timely and complete efforts to wind up its operations and ensure payments and refunds are provided to ~~interactive account holders~~ **Registered Players**.

PROPOSED

November 7, 2023

Blue Text = *not* open for public comment

Blue Text = open for public comment

Black Text = open for public comment

Black Text = open for public comment

**Rule 2B-008 Duties of the Operator and Service Providers**

The Operator and its Service Providers shall make commercially reasonable efforts to meet G.S. 18C-910(a).

Proposed

## **Subchapter C – Standards for Sports Wagering**

### **Rule 2C-001 Authorized and Prohibited Sporting Events and Wager Types**

(a) Sporting events that may be Wagered on include those listed in G.S. 18C-904(a). Of those events, only those categories of Sporting Events and their Wager Type authorized by the Commission and posted on the Commission’s website may be offered for Sports Wagering by an Operator.

(b) Wagers of Wager Types approved by the Commission, on Sporting Events sanctioned by a Sports Governing Body or equivalent that is approved by the Commission, which comply with the following criteria, and do not involve criteria listed in Paragraph (c) of this Rule are generally approved and do not need specific approval subject to Rule 2C-002 prior to being offered by an Operator:

- (1) The wager is based on statistical results which may be verified by a Data Source, box score, aggregation of box scores, or other statistical analysis;
- (2) The wager is based on the performance of a single or group of rostered or otherwise registered participants; and
- (3) The wager is based on the result of an outcome on the field of play, including the virtual field of play for eSports Competitions.

(c) An Operator shall not offer Wagering on:

(1) eSports Competitions that:

- (A) are not sanctioned by an approved Sports Governing Body or equivalent; or
- (B) have not been endorsed by the Commission pursuant to the Rules set forth in Rule 2C-002;

(2) Virtual Sporting Events unless:

- (A) a Random Number Generator (RNG), certified by an Independent Testing Laboratory, is used to determine the outcomes;
- (B) a visualization of the Virtual Sporting Event is offered to Players which displays an accurate representation of the results of the Virtual Sporting Event; and
- (C) the Virtual Sporting Event is approved pursuant to the Rules set forth in Rule 2C-002;

(3) occurrences of injuries or penalties;

(4) whether officiating decisions will be upheld or reversed after replay review;

(5) disciplinary proceedings against a participant in a Sporting Event;

(6) High School Sporting Events or other Youth Sports;

(7) Fantasy Contests;

(8) Sporting Events or Wager Types in which the outcome has already been determined and is publicly known;

November 7, 2023

Blue Text = *not* open for public comment

Blue Text = open for public comment

Black Text = open for public comment

Black Text = open for public comment

(9) Pari-Mutuel Wagering; and

(10) other categories of Sporting Event or Wager Type until the Sporting Event or Wager Type has been approved by the Commission in accordance with Rule 2C-002.

Proposed

**Rule 2C-002 Petition for a Category of Sporting Event or Wager Type**

(a) The Director shall have authority to review and approve proposed Wager Types and categories of Sporting Events before an Operator is permitted to offer the Wager to the public. A petitioner may petition the Director for approval of a new category of Sporting Event or Wager Type.

(b) A proposed new Sporting Event or Wager Type may be a variation of an authorized Sporting Event or Wager Type, a composite of authorized Sporting Events or Wager Type, or a new Sporting Event or Wager Type.

(c) A petition for a proposed new Sporting Event or Wager Type shall be in writing and shall include the following information:

(1) the names and addresses of petitioners;

(2) the name of the Sporting Event or Wager Type;

(3) whether the Sporting Event or Wager Type is a variation of an authorized Sporting Event or Wager Type, a composite of authorized Sporting Events or Wager Type, or a new Sporting Event or Wager Type;

(4) the name of the Operator serving as a sponsor of the proposed Sporting Event or Wager Type petition;

(5) a complete and detailed description of the Sporting Event or Wager Type for which approval is sought, including:

(A) a summary of the Sporting Event or Wager Type and how Sports Wagers would be placed and winning Sports Wagers would be determined;

(B) a draft of the proposed Wagering Rules, including a description of technology that would be used to offer the Sporting Event or Wager Type;

(C) Rules or voting procedures related to the Sporting Event or Wager Type, or existing Wagering Rules that would apply;

(D) assurance that the Sporting Event or Wager Type meets the requirements of Paragraph (d) of this Rule;

(6) For the approval of an eSports Competition, complete information about:

(A) the proposed locations of the eSports Competition;

(B) the video game used for the eSports Competition, including, without limitation, the key role of game publishers as creators of the underlying video game;

(C) the eSports Competition Operator, whether the eSports Competition Operator is approved to host events by the video game publisher, and whether the eSports Competition Operator has an affiliation with the video game publisher;

(D) how the eSports Competition is conducted by the eSports Competition Operator, including, without limitation, eSports Competition rules;

(E) an explanation on how the eSports Competition meets the event integrity requirements of the Commission;

(7) the name of the Sports Governing Body or equivalent;

(8) to the extent known by the Operator, a description of its policies and procedures regarding event integrity; and

(9) other information or material requested by the Director.

(d) The Sporting Event or Wager Type being requested shall meet the following criteria before the request may be approved:

(1) The outcome may be verified;

(2) The outcome may be generated by a reliable and independent process;

(3) The Sporting Event generating the outcome is conducted in a manner that ensures sufficient Integrity Monitoring controls exist so that the outcome may be trusted;

(4) The outcome is not likely to be affected by a Sports Wager placed; and

(5) The Sporting Event is conducted in conformity with applicable laws.

(e) The Director shall approve or reject requests of categories of Sporting Events and wager types not later than fourteen Days after the request is made. The Director will consider the request, materials and relevant input from the Sports Governing Body or equivalent, or the conductor of the Sporting Event , prior to authorizing a Sporting Event or Wager Type.

(f) The Director may require an appropriate test or experimental period before granting final approval to a Sporting Event or Wager Type. The Director may subject technology that would be used to offer a Sporting Event or Wager Type to testing, investigation, and approval.

(g) The Director may grant, deny, limit, restrict, or condition a request made pursuant to this Rule. The Director may issue an order revoking, suspending, or modifying an approval of a Sporting Event or Wager Type granted under this Rule for a cause the Director considers reasonable.

(h) The Director shall notify Operators of additions, deletions, or changes regarding authorized Sporting Events and Wager Types. Once a particular category of Sporting Event or Wager Type is approved for its first use, it may be used on multiple events without further approval. The Commission may issue general approval for Operators to offer Wagers on enumerated categories of Sporting Events and Wager Types. Publishing an update to the Commission’s Event Catalog on the Commission’s website shall suffice for notice purposes.

(i) The Commission and Director reserve the right to prohibit the acceptance of Sports Wagers and may order the cancellation of Sports Wagers and require refunds on a Sporting Event or Wager Type for which Wagering would be contrary to the public policies of the State.

(j) If it is determined that an Operator has offered an unauthorized or prohibited Sporting Event or Wager Type, the Operator shall immediately cancel and refund Sports Wagers associated with the unauthorized or Prohibited Sporting Event or Wager Type. The Operator shall notify the Commission promptly after canceling and refunding the Sports Wagers. This notice shall include, without limitation, which Sports Wagers were canceled or refunded and the reasons for the cancellations or refund.

(k) The Director may use information it considers appropriate, including, but not limited to, information received from a Sports Governing Body or equivalent, to determine whether to authorize or prohibit Wagering on a particular Sporting Event or Wager Type.

(l) The Director may restrict, limit, or exclude Wagering on a Sporting Event or Wager Type if the Director determines that the restriction, limitation, or exclusion is required to ensure the integrity of the Operator.

**Rule 2C-003 Limitations on Certain Sports Wagering for Good Cause.**

A Sports Governing Body or equivalent may submit to the Director in writing a request to restrict, limit, or exclude a certain type, form, or category of Sports Wagering with respect to Sporting Events of the body, if the Sports Governing Body or equivalent believes that the type, form, or category of Sports Wagering with respect to Sporting Events of the body may undermine the integrity or perceived integrity of the body or Sporting Events of the body.

(1) The request shall be submitted in the form and manner prescribed by the Director and shall include:

- (a) the identity of the Sports Governing Body or equivalent and contact information for an Individual who will be the primary point of contact for questions related to the request;
- (b) a description of the Sports Wagering information, Sporting Event , or Wager Type that is the subject of the request;
- (c) information explaining why granting the request is required to protect the integrity of the event, or public confidence in the integrity of the event, that is the subject of the request. This may include, but is not limited to, information regarding credible threats to the integrity of the event that are beyond the control of the Sports Governing Body or equivalent to preemptively remedy or mitigate; and
- (d) other information required by the Director.

(2) To ensure proper consideration, the request shall be sent to the Director at least fourteen Days before the particular Sporting Event . At any time, however, a Sports Governing Body or equivalent may report information to the Director if it causes or results in allegations of Event Corruption, Match Fixing, the manipulation of an event, misuse of inside information, or other prohibited activity.

(3) Regarding requests received under this Rule, the Director shall review and seek comments from the Operators. The notification shall include the date by which written comments shall be submitted.

(4) After giving due consideration to comments received, the Director shall, after a demonstration of good cause from the requestor that the type, form, or category of Sports Wagering is likely to undermine the integrity or perceived integrity of the body or Sporting Events of the body, grant the request.

(5) The Director shall respond to a request concerning a particular event before the start of the event, or if it is not feasible to respond before the start of the event, not later than seven Days after the request is made.

November 7, 2023

Blue Text = *not* open for public comment

Blue Text = open for public comment

Black Text = open for public comment

Black Text = open for public comment

(6) If the Director determines that the requestor is more likely than not to prevail in successfully demonstrating good cause for its request, the Director may provisionally grant the request of the Sports Governing Body or equivalent.

(7) Absent a provisional grant by the Director, Operators may continue to offer Sports Wagering on Sporting Events that are the subject of a request during the pendency of the Director's consideration of the applicable request.

(8) The Director may reconsider its decision if there is a material change in the circumstances related to the original request.

Proposed

**Rule 2C-004 Data Sources for Sports Wagering.**

- (a) An Operator shall report to the Commission and Director the Data Sources that it uses to resolve Sports Wagers. The Commission may disapprove of a Data Source for any reason.
- (b) Data Sources shall be subject to the following conditions:
- (1) The Data Source and corresponding data shall be complete, accurate, reliable, timely, and available.
  - (2) The Data Source shall be appropriate to settle the category of Sporting Events and Wager Types for which it is used.
  - (3) The proprietor or manager of a Data Source that provides data directly to an Operator shall be Licensed by the Commission as a Supplier.
  - (4) The Data Source and corresponding data shall meet other conditions set by the Commission.
- (c) Operators are not required to use Official League Data for determining:
- (1) the results of Tier One Sports Wagers on Sporting Events of an organization whether headquartered in the United States or elsewhere; or
  - (2) the results of Tier Two Sports Wagers on Sporting Events of organizations that are not headquartered in the United States.
- (d) A Sports Governing Body headquartered in the United States may notify the Commission that it desires Operators to use Official League Data to settle Tier Two Sports Wagers on Sporting Events of the Sports Governing Body. Notification shall be made in the form and manner as the Commission may require and shall include:
- (1) identification information for the Sports Governing Body;
  - (2) identification and contact information for an Individual who will be the primary point of contact for issues related to the provision of Official League Data and compliance with the Act and these Rules;
  - (3) identification and contact information for designees that are or will be expressly authorized by the Sports Governing Body to provide Official League Data in North Carolina;
  - (4) copies of contracts relevant to the provision of Official League Data in North Carolina, including:

- (A) copies of contracts between the Sports Governing Body and designees that are or will be expressly authorized by the Sports Governing Body to provide Official League Data in North Carolina; and
  - (B) copies of contracts between the Sports Governing Body or its designees and Sports Wagering Operators in North Carolina;
  - (C) a description of the Official League Data the Sports Governing Body desires to provide; and
  - (5) other information required by the Commission.
- (e) A Sports Governing Body may not submit a notification under Paragraph (d) of this Rule unless the Commission has authorized Operators to accept Tier Two Sports Wagers on athletic events of the Sports Governing Body.
- (f) The Director shall notify Operators of a Sports Governing Body's notification within five Days of the Commission's receipt of the notification. If a Sports Governing Body does not so notify the Commission, an Operator is not required to use Official League Data for determining the results of Tier Two Sports Wagers on Sporting Events of that Sports Governing Body.
- (g) Within sixty Days of the Commission notifying Operators of a Sports Governing Body notification to the Commission, or longer period as may be agreed between the Sports Governing Body and the applicable Operator, Operators shall use only Official League Data to determine the results of Tier Two Sports Wagers on Sporting Events of that Sports Governing Body, unless:
- (1) The Sports Governing Body or its designee cannot provide a data feed of Official League Data to determine the results of a particular type of Tier Two Sports Wager, in which case Operators are not required to use Official League Data for determining the results of the applicable Tier Two Sports Wager until a data feed becomes available from the Sports Governing Body on commercially reasonable terms and conditions;
  - (2) An Operator demonstrates to the Commission that the Sports Governing Body or its designee will not provide a data feed of Official League Data to the Operator on commercially reasonable terms and conditions; or
  - (3) The designee of the Sports Governing Body does not obtain a Supplier License from the Commission to provide Official League Data to Operators to determine the results of Tier Two Sports Wagers, if and to the extent required by law.

(h) During the pendency of the Commission's determination as to whether a Sports Governing Body or its designee will provide a data feed of Official League Data on commercially reasonable terms, an Operator is not required to use Official League Data for determining the results of Tier Two Sports Wagers. The Commission's determination shall be made within sixty Days of the Operator providing the Commission with documentation that the Operator believes demonstrates that the Sports Governing Body or its designees will not provide a data feed of Official League Data to the Sports Wagering Operator on commercially reasonable terms. The following is a non-exclusive list of factors the Commission may consider in evaluating whether Official League Data is being offered on commercially reasonable terms and conditions for purposes of this Rule:

- (1) the extent to which Operators have purchased the same or similar Official League Data on the same or similar terms, particularly in jurisdictions where a purchase was not required by law, or was required by law, but only if offered on commercially reasonable terms.
- (2) the nature and quantity of the Official League Data, including its speed, accuracy, reliability, and overall quality, as compared to comparable non-official data.
- (3) the quality and complexity of the process used to collect and distribute the Official League Data as compared to comparable non-official data.
- (4) the availability of a Sports Governing Body's Tier Two Official League Data to an Operator from more than one authorized source.
- (5) market information, including price and other terms and conditions, regarding the purchase by Operators of comparable data to settle Sports Wagers in this State and other jurisdictions.
- (6) the extent to which Sports Governing Bodies or their designees have made data used to settle Tier Two Sports Wagers available to Operators and terms and conditions relating to the use of that data.
- (7) other information the Commission considers relevant.

(i) At any time, a Sports Governing Body may give written notification to the Commission and Operators to which the Sports Governing Body or its designee provides Official League Data that the Sports Governing Body intends to stop providing Official League Data. The written notification shall specify in the date on which the Sports Governing Body shall stop providing Official League Data. The date shall be no fewer than seven Days later than the date of the written notification. On receipt of the written notification, an Operator may use any Data Source that meets the requirements of Paragraph (b) of this Rule to determine the results of Tier Two Sports Wagers on athletic events of the Sports Governing Body.

(j) A Sports Governing Body on whose Sporting Events Sports Wagering is authorized may enter into commercial agreements with Operators or other entities in which the Sports Governing Body may share in the amount bet from Sports Wagering on Sporting Events of the Sports Governing Body. A Sports Governing

November 7, 2023

Blue Text = *not* open for public comment

Blue Text = open for public comment

Black Text = open for public comment

Black Text = open for public comment

Body is not required to obtain a License or another approval from the Commission to lawfully accept these amounts.

Proposed

**Rule 2C-005 Cooperation with Investigations; Confidentiality of Certain Reported Information.**

(a) The Commission and Responsible Parties shall cooperate with investigations conducted by law enforcement agencies, Sports Governing Bodies or the equivalent, using commercially reasonable efforts to provide or facilitate the provision of Account-level Sports Wagering information. Disclosures under this Rule are subject to a Responsible Party's obligations to comply with federal, state, and local laws and regulations, including those relating to privacy and Personal Information.

(b) If a Sports Governing Body or the equivalent notifies the Commission that real-time information sharing for Wagers placed on its Sporting Events is required and desirable, Operators shall share with that Sports Governing Body or the equivalent or its designee in real-time, at the Account level:

- (1) anonymized information regarding an Individual who places a Wager;
- (2) the amount and Wager Type;
- (3) the time the Wager was placed;
- (4) the location of the Wager, including the Internet Protocol address if applicable;
- (5) the outcome of the Wager; and
- (6) records of Abnormal Wagering Activity.

(c) For purposes of Paragraph (b) of this Rule, "real-time information sharing" means the sharing of information at a commercially and technologically reasonable periodic interval of not less than once every seventy-two hours.

(d) A Sports Governing Body or the equivalent may use the information described by Paragraph (b) of this Rule solely for Sports Wagering integrity purposes.

(e) An Operator shall maintain the confidentiality of information provided by a Sports Governing Body or the equivalent to the Operator unless disclosure is required by this Chapter, the Commission, Director, law, or court order.

(f) The Commission, Director, Sports Governing Bodies or the equivalent, and Operators shall maintain the confidentiality of information relating to conduct described in Paragraph (b) of this Rule unless disclosure is required by these Rules, other law, or court order, or as authorized by the relevant Sports Governing Body or equivalent.

November 7, 2023

Blue Text = *not* open for public comment

Blue Text = open for public comment

Black Text = open for public comment

Black Text = open for public comment

(g) The Commission shall maintain the confidentiality of information provided by Responsible Parties for compliance purposes unless disclosure is required by these Rules, other law, or court order.

(h) The Commission, Director, and Responsible Parties may disclose confidential information to another Responsible Party, a Sports Governing Body or the equivalent, a Sports Wagering regulating entity, a law enforcement entity, or other party to prevent or investigate potential Event Corruption.

PROPOSED

### **Rule 2C-006 Contents of Wagering Rules.**

The Wagering Rules, required by Rule 1E-001, shall address the following items regarding Wagers:

- (1) types of Wagers accepted;
- (2) minimum and maximum Wagers;
- (3) the method for calculation and payment of winning Wagers;
- (4) the effect of schedule changes for a Wagering Event;
- (5) the method of notifying Players of odds or proposition changes;
- (6) acceptance of Wagers at terms other than those posted;
- (7) circumstances under which the Operator will void a Wager; and
- (8) treatment of errors, late bets, and related contingencies;
- (9) description of the process for handling incorrectly posted Wagering Events, odds, Wagers, or results;
- (10) procedures related to pending winning Wagers;
- (11) method of contacting the Operator for questions and disputes;
- (12) description of Ineligible Persons;
- (13) methods of funding a Wager;
- (14) maximum payouts; however, limits shall only be established through limiting the amount of a Wager and cannot be applied to reduce the amount paid to a Player as a result of a winning Wager;
- (15) a policy, in accordance with Rule 2C-007, by which the Operator may cancel Wagers for obvious errors pursuant to the Operator's Internal Controls, which shall include a definition and procedures for obvious errors;
- (16) parlay Wager related rules;
- (17) what is to occur when an event or a component of an event on which Wagers are accepted is canceled, including the handling of Wagers with multiple selections, for example parlays, where one or more of these selections is canceled; and
- (18) other rule and related information the Commission or Director determines is required.

**Rule 2C-007 Canceled or Voided Wagers.**

(a) Wagers shall not be canceled or voided without prior approval of the Director, unless the Wagers are canceled or voided by an authorized supervisory employee of the Operator, in accordance with this Rule or as provided for in an Operator's approved Internal Controls or Wagering Rules.

(b) Cancellation of an otherwise validly placed Wager by an Operator shall be nondiscretionary. An Operator may cancel or void a Wager without prior authorization of the Director only as provided for in an Operator's approved Internal Controls, Wagering Rules, or under the following circumstances:

(1) A Wager where after a Player has placed a Wager, the Wagering Event is canceled, postponed or rescheduled to a different date prior to completion of the Wagering Event;

(A) In the case of a Wager on a portion of a Wagering Event, that Wager shall be valid when the event is canceled, postponed, or rescheduled if the outcome of the affected portion was determined prior to the cancellation, postponement, or rescheduling; or

(B) An Operator may establish a timeframe in which an event may be rescheduled or postponed without canceling the Wager. This timeframe shall be tied to specific Wagering Events, subject to the approval of the Commission, and documented in the Wagering Rules;

(2) A change in the venue where a Wagering Event was scheduled to be held occurs after a Player has placed a Wager;

(3) A Wager when an Individual participant fails to participate in a Wagering Event and the outcome of the Wager is solely based on that Individual participant's performance;

(4) A Wager received for an act, or set of acts, to be performed during a Wagering Event when an act or acts does not occur and the ability to Wager on the non-occurrence of the event was not offered;

(5) A Wager received on whether a team will qualify to participate in post-season competitions when the number of teams allowed to participate in the post-season changes after a Player has placed a Wager;

(6) Changes to rules by a Sports Governing Body or equivalent regarding the format or number of participants scheduled to participate in a defined phase of a Wagering Event or in the event that a defined phase is not played at all;

(7) When, prior to the start of the Wagering Event, a Player requests a Wager be canceled or voided due to an error in communicating the type, amount or parameters of the Wager; or

(8) When authorized or ordered by the Commission pursuant to this Rule.

(c) Where the Operator has a reasonable basis to believe there was an obvious error in the placement or acceptance of the Wager, the Operator may use its discretion to cancel the Wager without prior authorization

from the Director. Obvious errors shall be defined in the Operator's Wagering Rules. Such errors include, but are not limited to:

- (1) human error in the placement of the Wager;
- (2) the Ticket does not correctly reflect the Wager; or
- (3) equipment failure rendering a Ticket unreadable.

(d) An Operator may cancel or void a Wager for a material change in circumstances for a given Wagering Event or Wager Type occurs, provided:

- (1) the Director approves the material change;
- (2) the Operator documents the material change in its Wagering Rules; and
- (3) the Operator displays what constitutes a material change to a Player at the time of placement of the Wager.

(e) Any cancellation of Wagers under this Rule shall be reported to the Director.

(f) For circumstances that are not set forth in Paragraphs (b) - (d) of this Rule, an Operator may request that the Director authorize the cancellation or voiding of Wagers of a specific type, kind, or subject. An Operator shall submit its request to cancel or void the Wager in writing, and the request shall contain:

- (1) a description of the type, kind, or subject of Wager the Operator is requesting to cancel or void;
- (2) a description of facts relevant to the request; and
- (3) an explanation why cancelling or voiding the Wager is in the best interests of the State or ensures the integrity of the Sports Wagering industry.

(g) When an Operator requests that the Director authorize the cancellation or voiding of one or more wagers, wagers related to the request shall be placed in a pending status until the Director rules on the request.

(h) The Operator shall provide any additional information requested by the Director to review and approve a request to cancel or void one or more wagers.

(i) The Director shall issue a written order granting or denying the request to cancel or void the Wager. In determining whether to grant or deny the request, the Director shall consider relevant factors, including whether:

- (1) the alleged facts or other information provided to the Director implicate the integrity of the Wagering Event subject to the Wager or the Sports Wagering industry;

- (2) the alleged facts or other information provided to the Director implicate possible illegal activity relating to the Wagering Event or the Sports Wagering industry;
  - (3) allowing the Wager would be unfair to Players; or
  - (4) allowing the Wager is contrary to public policy.
- (j) No Wager subject to the request to cancel or void shall be redeemed, canceled, or voided, until the Director issues an order granting or denying the request to cancel.
- (k) If the Director grants the request to cancel or void, the Operator shall make commercially reasonable efforts to notify Players of the cancellation or voiding of the Wager.
- (l) The Director has discretion to order Operators to cancel or void Wagers on a specific Wagering Event or Wagers of a specific type or kind on a specific Wagering Event. In exercising its discretion, the Director shall apply the same factors described in Paragraphs (b) - (d) of this Rule.
- (m) A Player may request that the Director review Wagers declared canceled or voided by an Operator. If the Director concludes there is no reasonable basis to believe there was obvious error in the placement or acceptance of the Wager, and the reason for cancellation is not otherwise set out in Paragraphs (b) - (d) of this Rule, the Director may order the Operator to honor the Wager.
- (n) A Wager shall not be declared canceled or voided without the approval of an authorized supervisory employee of the Operator, unless the Director has issued an order requiring the Wager to be canceled or voided.
- (o) If a Wager is declared canceled or voided, the Wager shall be refunded to the Player and that amount shall be deducted from the Gross Wagering Revenue.

**Rule 2C-008 Tournaments, Contests, and Pools.**

(a) No Sports Wagering tournament, contest, or Pool shall be conducted unless the Operator, before the first time a tournament, contest, or Pool type is offered, files written notice with the Director of its intent to offer that tournament, contest, or Pool type and obtains approval from the Director.

(b) The Operator's request shall provide a detailed description of the tournament, contest, or Pool type and shall include the rules of the tournament, contest, or Pool, the requirements for entry, the entry fees, the Rake, and potential payouts. The request shall also indicate whether the proposed type involves a Shared Liquidity Pool available to Players in North Carolina and other jurisdictions with the Prize Pool being comprised of entry fees collected from Players in multiple jurisdictions.

(c) The request shall be submitted to the Director in writing via electronic mail. Requests shall be submitted at least fourteen Days prior to start date of the tournament, contest, or Pool.

(d) Once an Operator receives approval to offer a tournament, contest, or Pool type the Operator shall not be required to seek additional approvals from the Director for subsequent types of tournament, contest, or pool offerings that differ from the approved request only with respect to the size, number of entries permitted, entry fee, or prize structure, or other minor variations as allowed by the Director.

(e) The Operator shall maintain a record of tournaments, contests, or Pools it offers, which shall address the:

- (a) name or identification of the tournament, contest, or Pool;
- (b) date and time the tournament, contest, or Pool occurred or will occur, if known;
- (c) Sporting Events and Wager Type;
- (d) rules concerning tournament, contest, or Pool play and participation; and
- (e) for participating Players:
  - (i) unique Player identification;
  - (ii) amount of entry fee collected, including promotional or bonus credits, and the date collected;
  - (iii) Player scorings or rankings; and
  - (iv) amount of payouts paid, including promotional or bonus credits, and the date paid;
- (f) total amount of entry fees collected, including promotional or bonus credits;
- (g) total amount of payouts paid to Players, including promotional or bonus credits;
- (h) total Rake, takeout, or fees collected;
- (i) funding source amount or amounts comprising the Prize Pool;

November 7, 2023

Blue Text = *not* open for public comment

Blue-Text = open for public comment

Black Text = open for public comment

Black Text = open for public comment

- (j) prize structure on payout;
- (k) methodology for determining winner or winners; and
- (l) current status of the tournament, contest, or Pool.

(1) The Operator shall be responsible for determining the Rake. The Operator's Rake collected from Players that enter a contest, tournament, or Pool while located in the State less any Rake Adjustment, if applicable, shall be considered, without any other deductions, Gross Wagering Revenue and is subject to tax requirements outlined in the Act and these Rules.

- (i) At no time shall the calculation resulting from a Rake or Rake Adjustment be negative.
- (ii) For a contest, tournament, or Pool which uses shared liquidity available to Players in North Carolina and other jurisdictions, the Rake rate shall be the same for each of the jurisdictions participating.

PROPOSED

November 7, 2023

Blue Text = *not* open for public comment

Blue Text = open for public comment

Black Text = open for public comment

Black Text = open for public comment

### **Rule 2C-009 Managing Risk**

An Operator may use systems that offset loss or manage or layoff risk in the operation of Sports Wagering pursuant to the Act and these Rules, including through liquidity pools, exchanges, or similar mechanisms in another approved jurisdiction in which the Operator, or an Affiliate or other third-party also holds a License or the equivalent, if adequate protections are continuously maintained to ensure sufficient funds are available to pay Winnings.

Proposed

**Rule 2C-010 Layoff Wagers**

An Operator may accept Layoff Wagers placed by other Operators and place Layoff Wagers with other Operators to offset Sports Wagers.

- (1) The Operator placing a Layoff Wager shall inform the Operator accepting the Wager that the Wager is being placed by an Operator and shall disclose their identity.
- (2) The Operator may decline to accept a Layoff Wager in its sole discretion.
- (3) Layoff Wagers shall be reported in writing to the Director within 72 hours.

Proposed

### **Rule 2C-011 Exchange Wagering and Other Peer-to-Peer Wagering**

Prior to offering Exchange Wagering or other peer-to-peer Wagering, an Operator shall obtain approval from the Director.

(1) The Rake taken on these Wagers shall be considered, without any deductions therefrom, Gross Wagering Revenue and is subject to tax requirements outlined in the Act and these Rules.

(2) One or more Operators may, with prior approval of the Commission , participate in a Sports Wagering Network in accordance with a written agreement that has been executed by the Operators. The agreement shall:

- (a) designate the party responsible for the operation and administration of the network;
- (b) identify and describe the role, authority, and responsibilities of the participating Operators;
- (c) include a description of the process by which significant decisions that affect the operation of the network are approved and implemented by the participating Operators; and
- (d) allocate the Gross Wagering Revenue and tax liability between the participating Operators to ensure the accurate reporting thereof.

(3) Parties to an agreement to participate in a Sports Wagering Network as set forth in Paragraph (2) of this Rule shall be jointly and severally liable for acts or omissions in violation of the Act, these Rules, or the policies of the Commission.

November 7, 2023

Blue Text = *not* open for public comment

Blue Text = open for public comment

Black Text = open for public comment

Black Text = open for public comment

**Rule 2D-012 Daily Summary.**

The Operator shall provide to the Director a daily summary of Sports Wagering Activity within the State, detailing transactions processed through the Sports Wagering System, provided in a format required by the Director, at the close of the Gaming Day.

Proposed

## **Subchapter D – Technical Requirements and Oversight**

### **Rule 2D-001 Sports Wagering Standards.**

An Operator shall use a Sports Wagering System to offer, conduct, or operate Sports Wagering in accordance with applicable laws and these Rules. Only an Operator may process, accept, offer, or solicit Sports Wagers.

(1) The Operator shall comply with, and the Commission adopts and incorporates by reference, the GLI-33 Standards. The GLI-33 Standards are intended to supplement rather than supplant other technical standards and requirements under these Rules.

(2) A Sports Wagering System for use to conduct Sports Wagering shall meet the specifications set forth in these Rules or other technical specifications as prescribed by the Commission. Failure to comply with the approved specifications, Internal Controls, or technical specifications may result in Disciplinary Action by the Commission.

PROPOSED

**Rule 2D-002 Testing Certification, and Approval of Sports Wagering System.**

Prior to conducting Sports Wagering, and annually thereafter, the Sports Wagering System shall be submitted to an Independent Testing Laboratory. An operator shall not offer or use a Sports Wagering System to conduct sports wagering until after laboratory certification and Director approval. The Operator or Service Provider is responsible for costs associated with testing and obtaining certifications and approval.

(1) Unless otherwise authorized by the Commission or Director, the Independent Testing Laboratory shall be provided access to the Sports Wagering System’s critical controlled software source code along with the means to verify compilation of the source code. The result of the compiled source code shall be identical to that in the software submitted for evaluation.

(2) If the Sports Wagering System meets or exceeds the specifications set forth in the Act, these Rules, and other technical specifications as prescribed by the Commission and Director, the Independent Testing Laboratory shall certify the Sports Wagering System. Operators and Service Providers are prohibited from offering Sports Wagering in North Carolina without certification.

(3) An Operator or its Service Provider may submit to the Director an alternative certification report of an Independent Testing Laboratory of a system in operation in another jurisdiction in the United States where the Operator or its Service Provider is Licensed or permitted, provided the following requirements are met:

(a) The alternative certification report shall certify the system to either the GLI-33 Standards, or, at the discretion of the Director, a standard considered to be the equivalent of the GLI-33 Standards.

(b) This alternative certification report shall include a list of critical files and associated signatures and an appendix which lists the differences of controlled items or processes required to be certified in North Carolina which were not certified in the jurisdiction in which the report was issued.

(c) On review of the alternative certification report, the Director will decide on whether to accept the certification or require additional information or documentation or testing.

(d) Where an alternative certification report is accepted by the Director:

(i) field testing of geolocation as described by Rule 2D-005 shall still be conducted prior to commencing operations in North Carolina; and

(ii) certification against the specifications set forth in the Act, these Rules, and other technical specifications as prescribed by the Commission shall be required within ninety Days after commencing operations in North Carolina.

**Rule 2D-003 Integration Requirements.**

- (a) The Operator shall be responsible for the Sports Wagering realized through other Service Providers and Suppliers, and other Operators where applicable.
  
- (b) The servers and other equipment of Service Providers and Suppliers critical to the Operator's sports wagering platform and operations will be considered as part of the Operator's Sports Wagering System and shall comply with the specifications provided in these Rules.
  
- (c) The Operator shall guarantee that an integration with the critical servers and other equipment of another Operator is realized in a way that complies with the specifications provided in these Rules.
  
- (d) An Independent Testing Laboratory shall conduct integration testing and certification for the critical servers and other equipment with the Operator's Sports Wagering System prior to its deployment and as requested by the Commission or Director.

PROPOSED

**Rule 2D-004 Change Management Processes.**

- (a) The Operator shall submit change management processes to the Director for approval. Documented change management processes shall describe evaluation procedures for identifying the criticality of updates and determining the updates that the Operator shall submit to an Independent Testing Laboratory for review and certification. These change management processes shall be:
- (1) developed in accordance with the GLI-CMP Guide;
  - (2) approved by the Commission prior to their deployment; and
  - (3) audited at an annual interval by an Independent Testing Laboratory.
- (c) The Operator shall submit quarterly change reports to the Independent Testing Laboratory for review to ensure risk is being assessed according to the change management processes and that documentation for changes is complete.
- (d) At least once annually, the Operator shall have their products operating under the approved change management processes evaluated by an Independent Testing Laboratory. In order for the Operator to continue to offer the products as described above, the Operator's products shall be fully certified to the specifications set forth in these Rules and other technical specifications as prescribed by the Commission or Director and with formal certification documentation from the Independent Testing Laboratory. For good cause, the Operator shall be allowed to seek approval for extension beyond the annual approval if hardship is demonstrated. Whether to grant a hardship extension is in the sole discretion of the Director.

### **Rule 2D-005 Geolocation Requirements.**

Sports Wagers shall be initiated, received, and otherwise placed in the authorized geographic boundaries within the State of North Carolina and may not be intentionally placed or routed outside the State. The authorized geographic boundaries shall be made available by the Director and shall not include Indian Lands. Consistent with the intent of the United States Congress as articulated in the Unlawful Internet Gambling Enforcement Act of 2006, 31 U.S.C. § 5361, the intermediate routing of electronic data relating to intrastate Sports Wagering authorized under the Act and these Rules shall not determine the location in which Sports Wagers are initiated and received.

(1) The Operator shall use geolocation services to

- (a) ensure that the Registered Player is located in the authorized geographic boundaries within the State of North Carolina when placing a Sports Wager;
- (b) monitor and block unauthorized attempts to place Sports Wagers when an Individual or Player is physically outside the authorized geographic boundaries within the State of North Carolina at the time the Sports Wager is placed; and
- (c) provide the Director with access to real-time geofence data, including any equipment or software necessary to view the real-time geofence data. The method, format, and equipment to access the real-time geofence data shall be approved by the Director.

(2) The Operator shall trigger:

- (a) a geolocation check prior to the placement of the first Wager after login or after a change of IP address;
- (b) recurring periodic geolocation checks prior to the placement of Wagers as follows:
  - (i) for static connections, at least every twenty minutes or five minutes if within one mile of the border of the authorized geographic boundaries; and
  - (ii) for mobile connections, at intervals to be based on a Player's proximity to the border of the authorized geographic boundaries with an assumed travel velocity of seventy miles per hour or a demonstrated average velocity of a roadway or path. This interval shall not exceed twenty minutes.

(3) Mechanisms shall be in place to detect software, programs, virtualization, and other technology that may obscure or falsify the Player's physical location to place Sports Wagers.

(4) The geolocation services used by an Operator shall be certified by an Independent Testing Laboratory, including applicable field testing, before its deployment.

November 7, 2023

Blue Text = *not* open for public comment

Blue Text = open for public comment

Black Text = open for public comment

Black Text = open for public comment

(5) At least every ninety Days, an Operator shall review the functionality of the geolocations services to ensure the system detects and mitigates existing and emerging location fraud risks.

(6) Neither the location of the Registered Player nor the location of the Registered Player's device shall be checked or tracked when the Registered Player is not attempting to access an Operator's website or mobile application.

Proposed

**Rule 2D-006 Records of Sports Wagers.**

- (a) For three years after a Sporting Event occurs, the Operator shall maintain records on all of the following for each Sports Wager as logged by the Sports Wagering System:
- (1) The identity of the Registered Player placing the Sports Wager, if known; and
  - (2) The amount, type, time, location, and outcome of the Sports Wager, including the IP address, if available.
- (b) The Operator shall disclose the records described in Paragraph (a) of this Rule to the Commission upon request.

Proposed

**Rule 2D-007 Location of Servers, Security, and Cloud Storage.**

Unless otherwise approved by the Director in writing, an Operator shall place servers or other information technology equipment directly related to the placement or resolution of a Sports Wager, other than back-up servers, in secure locations within the authorized geographic boundaries of the State of North Carolina on land that is not Indian Lands.

(1) The location of other technology and servers used by an Operator in connection with Sports Wagering shall be approved by the Director.

(2) For good cause shown, the Director may approve of the use of Internet or cloud-based hosting of duplicate data or data not related to transactional Wagering data upon written request of an Operator.

(3) Upon request, an Operator shall make accessible to the Commission, the Director, the Department of Revenue, and law enforcement its servers and other information technology equipment, whether or not the equipment is in North Carolina or another location out of state.

PROPOSED

**Rule 2D-008 Integrity and Security Assessments.**

Operators shall, within ninety Days after commencing operations in North Carolina, and annually thereafter, have integrity and security assessments of the Sports Wagering System conducted by a third-party contractor experienced in security procedures, including, without limitation, computer security and systems security. The third-party contractor shall be selected by the Operator and shall be subject to approval by the Director.

(1) Integrity and security assessments shall include a review of network vulnerability, application vulnerability, website vulnerability, wireless security, security policy and processes, security and privacy program management, technology infrastructure and security controls, security organization and governance, and operational effectiveness.

(2) The scope of the integrity and security assessments is subject to approval of the Director and shall include:

- (a) a vulnerability assessment of digital platforms, Internet websites, mobile applications, internal, external, and wireless networks with the intent of identifying vulnerabilities or potential vulnerabilities of devices, the Sports Wagering System, and applications transferring, storing, or processing Personal Information or other Sensitive Information connected to or present on the networks;
- (b) a penetration test of digital platforms, Internet websites, mobile applications, and internal, external, and wireless networks to confirm if identified vulnerabilities of devices, the Sports Wagering System, and applications are susceptible to compromise;
- (c) a review of the firewall rules to verify the operating condition of the firewall and the effectiveness of its security configuration and rule sets performed on the perimeter firewalls and the internal firewalls;
- (d) a security control assessment against the provisions adopted in these Rules, including those standards adopted in the technical security controls of the GLI-33 Standards, with generally accepted professional standards and as approved by the Director;
- (e) if a cloud Service Provider is in use, an assessment performed on the access controls, account management, logging and monitoring, and over security configurations of their cloud tenant;
- (f) an evaluation of information security services, payment services, geolocation services, and other services which may be offered directly by the Operator or involve the use of Service Providers or Suppliers; and
- (g) other specific criteria or standards for the documented system security testing as prescribed by the Commission.

(3) To qualify as a third-party contractor, the third-party contractor shall:

- (a) have relevant education background or in other ways provide relevant qualifications in assessing Sports Wagering Systems;
- (b) obtain and maintain certifications sufficient to demonstrate proficiency and expertise as a network penetration tester by recognized certification boards, either nationally or internationally;
- (c) three or more years' experience performing integrity and security assessments on Sports Wagering Systems; and
- (d) meet other qualifications as prescribed by the Director.

(4) The full third-party contractor's security audit report containing the overall evaluation of Sports Wagering in terms of aspects of security shall be presented to the Director not later than thirty Days after the assessment is conducted and shall include:

- (a) scope of review;
- (b) name and company affiliation, contact information, and qualifications of the Individual or Individuals who conducted the assessment;
- (c) date of assessment;
- (d) findings, including identified or potential vulnerabilities;
- (e) recommended corrective action, if applicable; and
- (f) the Operator's response to the findings and recommended corrective action.

(5) It is acceptable for the audit report to leverage the results of prior assessments within the past year conducted by the same third-party contractor against standards, for example, ISO/IEC 27001, ISO/IEC 27017, ISO/IEC 27018, the NIST Cybersecurity Framework (CSF), the Payment Card Industry Data Security Standards (PCI-DSS), or the equivalent. This leveraging shall be noted in the third-party contractor's security audit report. This leveraging does not include critical components of a Sports Wagering System unique to the State which will require fresh assessments.

(6) If the third-party contractor's security audit report recommends corrective action, the Operator shall provide the Director with a remediation plan and risk mitigation plans which detail the Operator's actions and schedule to implement the corrective action.

- (a) The remediation and risk mediation plans shall be presented within a time period prescribed by the Director, which shall be based on:
  - (i) the severity of the problem to be corrected;
  - (ii) the complexity of the problem to be corrected; and
  - (iii) the risks associated with the problem to be corrected.

November 7, 2023

Blue Text = *not* open for public comment

~~Blue Text~~ = open for public comment

**Black Text** = open for public comment

~~Black Text~~ = open for public comment

- (b) The Director may require suspension of an Operator's operations until implementation of critical corrective actions.
- (c) Once any corrective action has been completed, the Operator shall provide the Director with documentation evidencing completion.

Proposed

**Rule 2D-009 Quarterly Vulnerability Scans.**

(a) Either a qualified employee of the Operator or a qualified third-party contractor selected by the Operator and subject to approval of the Director shall run internal and external network vulnerability scans at least quarterly and after significant changes to the Sports Wagering System or network infrastructure.

(b) Testing procedures shall verify that four quarterly internal and external scans took place in the past twelve months and that re-scans occurred until “High Risk” or “Critical” vulnerabilities were resolved or accepted via a formal risk acceptance program.

(1) The Operator shall submit their documented vulnerability management program that describes their risk acceptance program to the Director.

(2) Internal scans shall be performed from an authenticated scan perspective. External scans may be performed from an uncredentialed perspective.

(c) Verification of scans shall be submitted to the Director on a quarterly basis and within thirty Days of running the scan. The scan verifications shall include a remediation plan and risk mitigation plans for those vulnerabilities not able to be resolved. The severity of the vulnerabilities may be adjusted by the Operator if adhering to a formal, accepted vulnerability management plan.

(d) The Commission or Director may impose Disciplinary Action in the event of critical unresolved vulnerabilities or vulnerabilities that continue unabated.