

PROPOSED RULEMAKING

PENNSYLVANIA GAMING CONTROL BOARD

[58 PA. CODE CHS. 421a, 423a, 425a, 427a, 429a,
431a, 433a, 435a, 437a, 440a, 441a, 461a, 465a,
609a, 623a, 633a, 643a AND 645a]

Licensing; Slot Software; Count Room Characteristics; Credit; Table Game Rules

In accordance with 4 Pa.C.S. Part II (relating to gaming), the Pennsylvania Gaming Control Board (Board), under the general authority in 4 Pa.C.S. § 1202(b)(9)—(23) (relating to general and specific powers) and the specific authority in 4 Pa.C.S. §§ 1205, 1206(f) and (g), 1207(1) and (2), 1208(1)(iii), 1209(b), 1212, 1213, 13A11, 13A12, 13A13, 13A14, 13A15 and 1802 and 4 Pa.C.S. Chapter 13 proposes to amend Chapters 421a, 423a, 425a, 427a, 429a, 431a, 433a, 435a, 437a, 440a, 441a, 461a, 465a, 609a, 623a, 633a, 643a and 645a to read as set forth in Annex A.

Purpose of the Proposed Rulemaking

This proposed rulemaking is a comprehensive amendment package addressing 13 chapters in Subpart B (relating to licensing, permitting, certification and registration). This proposed rulemaking should provide clarity, delete redundant provisions, decrease the number of copies of applications required, allow for an increase in ownership of licensees by institutional investors and ensure that a background investigation is completed on nongaming employees every 4 years.

Explanation

General revisions

The Board is referenced throughout Subpart B. However, many of the provisions currently listed as Board functions are functions associated with a specific bureau within the Board. To provide some clarity to the regulated community, “Board” is proposed to be replaced, when relevant, with a specific bureau.

Additionally, all references to the Board’s web site are proposed to be deleted. The definition of “Board web site” in § 401a.3 (relating to definitions) is applicable to Part VII (relating to Gaming Control Board) and eliminates the need to revise references should the address change again in the future.

Chapter 421a. General provisions

In § 421a.1 (relating to general requirements), references to “approval” are proposed to be replaced with “authorization” to reflect that gaming service providers (GSP) may receive an authorization to conduct business prior to being certified or registered with the Board.

In subsection (b), the reference to the type of investigation conducted is proposed to be deleted. Investigations are addressed in § 421a.3 (relating to investigations; supplementary information).

Proposed subsection (e)(2) requires applicants for and holders of licenses, permits, registrations, certifications or qualifications to report changes in circumstances that may render the applicant or holder unsuitable or ineligible to continue to apply for or hold a license, permit, certification, registration or qualification. This require-

ment is not new, simply proposed to be moved, without revisions, from Chapter 435a (relating to key, gaming and nongaming employees; Board-issued credentials). It is necessary to move these provisions into this section because Chapter 435a is applicable to key, gaming and nongaming employees; however, this standard is applicable to anyone with a license, permit, registration, certification or qualification.

Language in subsection (f) is redundant with proposed subsection (e)(2) and therefore is proposed to be deleted. Language in subsection (h) also is proposed to be deleted as redundant with language in subsection (a).

In accordance with 4 Pa.C.S. Part II, applicants for and holders of a license, permit, registration or certification have an ongoing duty to report information to the Board that may impact the applicant or holder’s suitability or eligibility to hold a license, permit, registration or certification. If applicants or holders do not maintain suitability or eligibility, the Board may revoke, suspend or not issue or renew a license, permit, registration or certification. Proposed language in subsection (i) is added to reiterate that any person regulated by the Board has an ongoing duty to maintain suitability and eligibility in accordance with 4 Pa.C.S. Part II and the Board’s regulations.

Language also is proposed to be deleted from subsection (i). The Board does not believe this language provides specificity as to which parties might be jointly and severely liable for conduct. The chapters on management companies, GSPs, manufacturer designees, and the like address joint and several liability with slot machine licensees.

Subsection (j) is proposed to be deleted. This provision is a requirement of the Board not the regulated entities. It is a statutory requirement of 4 Pa.C.S. Part II and is therefore unnecessary to recite in the regulations.

Section 421a.2(a)(4) (relating to disqualification criteria) is proposed to be amended. The Board believes proposed language in this section provides a clearer standard regarding the circumstances under which the Board may deny, suspend or revoke an applicant for or holder of a license, permit, registration or certification.

Proposed subsection (a)(6) is existing language moved from § 435a.1(o) (relating to general provisions). As previously stated, Chapter 435a relates to key, gaming and nongaming employees and this requirement is applicable to all individuals applying for a license (including principals), permit, registration or certification. Proposed language in subsections (b)—(e) is existing language which is also moved from § 435a.1(e)—(j).

Proposed § 421a.3(c) requires applicants to reimburse the Board for actual expenses incurred in conducting background investigations. This is existing language moved from §§ 427a.2(c), 429a.2(c), 431a.2(c) and 435a.2(d). Because applicants are required to reimburse the Board for actual expenses it made logical sense to include this provision in the general requirements applicable to all applicants.

The provisions on presuitability determinations in § 421a.4 (relating to presuitability determination) are proposed to be amended to delete the requirement that a request for the presuitability determination be made by petition to the Board. Typically if a presuitability determination were conducted, the Bureau of Investigations and Enforcement (BIE) would already be investigating

the applicant's eligibility and suitability in conjunction with an underlying application for a license or in conjunction with a petition for change of control or ownership. Requiring an additional petition for a presuitability determination would therefore be redundant and unnecessary. Instead, a request may now be made directly to the BIE.

The provisions regarding presuitability determinations in § 421a.4 are applicable to licensees but have not been applied to GSPs that are registered or certified. The reference to certification or registration in subsection (c) is therefore proposed to be deleted.

Section 421a.5(a) (relating to undue concentration of economic opportunities and control) is proposed to be amended to replace "other" license with "principal" license. Principals, specifically, are those individuals and entities that have ownership interest in or control over a licensee.

Language is proposed to be added to subsection (c)(1)(iii)—(v) to reflect the legalization of table games. Subsection (c)(1)(vi) is proposed to be deleted as this provision would not be applicable in making a determination as to whether there was an undue concentration of economic control of a slot machine licensee. Gross terminal revenue, not ticket-in, ticket-out, is indicative of overall play.

Chapter 423a. Applications; statement of conditions; wagering restrictions

Proposed language in § 423a.1(b) (relating to general requirements) reflects that gaming and nongaming employees file applications electronically using the Board's SlotsLink system.

Subsection (c) is proposed to be deleted as redundant. The requirements in this subsection are covered in subsections (b) and proposed subsection (d).

In proposed subsection (c), "Board staff" is proposed to be added because the Bureau of Licensing (BOL) or the BIE may need additional information from an applicant to process an application or complete an investigation.

Proposed subsection (d) is combined with the language in current subsection (f). The remaining subsections are proposed to be renumbered.

Language is proposed to be added to § 423a.2(a)(3) (relating to preliminary submission review). Applicants may be required to execute authorization forms for the release of information from other entities such as credit bureaus or banking institutions. Therefore, "other entities" is proposed to be added.

Subsection (c) is proposed to be deleted as inconsistent with current practice. The Board does not return applications but may deem the application abandoned or denied if an applicant doesn't cure deficiencies.

Section 423a.3(a)(1) and (2) (relating to application processing) is proposed to be deleted. An application is filed when submitted and an applicant will be given an opportunity to cure deficiencies if a part of the application is missing or incomplete. Subsection (a)(1) is proposed to be deleted as unnecessary. Subsection (a)(2) is proposed to be deleted to reflect Board practice. In only a few circumstances, pertaining primarily to the filing of an application for a slot machine license or table game certificate, is the applicant or an attorney for the applicant notified, in writing, that the application has been officially accepted.

Proposed subsection (a)(1) is proposed to be amended to reflect that the Board makes determinations regarding

the information obtained by Board staff during an investigation. The remaining paragraphs are proposed to be renumbered.

Section 423a.5(a) (relating to application withdrawal) is proposed to be amended to reflect that the Board no longer requires the filing of a petition for most individuals requesting to withdraw their applications. Only entities that have applied for a license, certification or registration and individuals who have applied for a principal license or GSP qualification are still required to petition the Board to withdraw. For other individuals (key, gaming and nongaming employees), a request form is submitted to the BOL. Subsection (c) is therefore proposed to be deleted as redundant with the proposed language in subsection (a).

Current subsection (d)(1) and (2) is proposed to be deleted. Provisions regarding restrictions on subsequent application after a withdrawal with prejudice has been granted are already in § 423a.7 (relating to restriction on application after withdrawal with prejudice, denial or revocation).

Subsection (e) is proposed to be deleted to reflect Board practice. If an applicant fails to cure deficiencies with the application before it is officially accepted, the BOL may deem the application abandoned. Alternatively, if the applicant failed to cure deficiencies because the applicant failed to cooperate with an investigation, the Board may deny the application.

Section 423a.6(b) (relating to license, permit, registration and certification issuance and statement of conditions) is proposed to be amended for clarity and to reflect Board practice. GSPs, unlike licensees, are now required to execute a statement of conditions at the time of application because a GSP or gaming related GSP can be given interim authorization to conduct business prior to obtaining registration or certification from the Board.

Proposed § 423a.6a (relating to restriction on wagering after issuance of a license, permit, registration or certification) is language moved from § 435a.1(k)—(n). As previously stated, Chapter 435a is primarily applicable to key, gaming and nongaming employees; however, wagering restrictions are also applicable to principal licensees and qualifiers. For clarity to the regulated community, wagering restrictions are therefore proposed to be moved into a new section.

Section 423a.7(f) is proposed to be deleted as unnecessary. Typically when an individual's petition to reapply is denied, the Board will set a time period in which the person may reapply.

Chapter 427a. Manufacturers

Section 427a.1(d) and (e) (relating to manufacturer general requirements) is proposed to be deleted. Subsection (e) is a provision not applicable to the regulated community but to the Board, both provisions are already in 4 Pa.C.S. Part II and are therefore unnecessary to recite in the regulations. Language similar to subsection (e) is proposed to be deleted from §§ 429a.1(d) and 431a.1(c) (relating to manufacturer designee general requirements; and supplier general requirements).

Section 427a.2(a) (relating to manufacturer license applications and standards) is proposed to be amended to reflect that only one copy of an application is required instead of three. The number of required copies is also proposed to be reduced in Chapters 429a, 431a, 433a, 437a and 441a.

Subsection (a)(5) is proposed to be deleted. Gaming employee applications are not required to be filed with the application for a manufacturer license. Typically the suitability of an employee of a licensee is considered separately from the suitability or eligibility of the licensee and its principals (owners, officers and directors). Similar language is proposed to be deleted in § 431a.2(a)(5) (relating to supplier license applications and standards).

Subsection (a)(6) is also proposed to be deleted. Copies of Securities and Exchange Commission (SEC) filings are no longer required to be submitted as part of the application packet. The BIE, when conducting its investigation, will review all SEC filings for any publicly traded applicant. All SEC filings are available online. If an applicant is publicly traded on a foreign exchange, the BIE may request specific information from the applicant during the investigation if the information is not publicly available through a foreign exchange regulator. Similar language is proposed to be deleted § 429a.2(a)(5) (relating to manufacturer designee license applications and standards) and § 431a.2(a)(6).

Language in subsection (a)(5) is proposed to be deleted for consistency with 4 Pa.C.S. Part II. Similar language is proposed to be deleted in §§ 429a.2(a)(5) and 431a.2(a)(7).

Subsection (b)(1) is proposed to be deleted in this section and other sections in chapters regarding licensing. This is a current requirement of all applicants, as specified in § 421a.1(g) and proposed paragraph (1) requires all applicants to comply with Chapter 421a (relating to general provisions). This provision is proposed to be deleted as redundant with § 421a.3(c).

Proposed amendments to subsection (c) are made for clarity and to delete a reference to key employee suitability. As previously stated, the suitability of an employee of a licensee, in most instances, is not considered at the time the Board evaluates the suitability of an entity or its owners, officers or directors (principals) to hold a license. Similar language is proposed to be deleted in proposed § 429a.2(c) and § 431a.2(c).

Section 427a.5(a)(1) and (2) (relating to responsibilities of a manufacturer) are proposed to be deleted. These paragraphs are proposed to be deleted in sections in other chapters regarding licensing as these provisions are already in Chapter 421a. Subsection (a)(3) is proposed to be deleted and replaced with language in proposed subsection (a)(2). Similar language is proposed to be added in § 429a.5(a) (relating to responsibilities of a manufacturer designee) and proposed § 431a.4(c)(2) (relating to responsibilities of a supplier).

Subsection (b) is proposed to be amended for clarity. Similar amendment are made in proposed §§ 429a.5(b) and 431a.4(d).

Subsections (c) and (d) are proposed to be deleted because they do not relate to the chapter or section heading. Similar language is also proposed to be deleted from § 431a.4(f)—(h).

Proposed § 427a.6 (relating to change of control of a manufacturer licensee) provides guidance to unlicensed companies regarding the proper procedure for acquiring a manufacturer licensee. These requirements will also ensure that the acquiring company and its officers, owners and directors (principals) apply for licensure and are investigated before a manufacturer licensee is acquired. The approval requirement is also applicable to manufacturer designees in proposed § 429a.8 (relating to change of control of a manufacturer designee licensee) and to

supplier licensees in proposed § 431a.6 (relating to change of control of a supplier licensee).

Chapter 429a. Manufacturer designees

Proposed amendments to § 429a.3 (relating to additional manufacturer designee licenses) specify that if a manufacturer designee has already been licensed, it does not need to receive a separate manufacturer designee license to supply or repair gaming equipment on behalf of a different manufacturer. Instead, manufacturer designees submit an abbreviated application (Additional Manufacturer Designee Application and Disclosure Information Form) to receive a subsequent designation.

Proposed amendments to § 429a.3(c) reflect proposed amendment to § 429a.2(b) and (c).

Section 429a.5(b) is proposed to be deleted. This is a statutory requirement applicable to suppliers but is not applicable to manufacturer designees.

Section 429a.7 (relating to manufacturer designee agreements) is proposed to be amended for clarity and to reflect Board practice. When a manufacturer designee enters into an agreement with a manufacturer, the designee, as part of its application for a designee license, is required to submit all agreements for review. The agreements are reviewed as part of the background investigation. Any subsequent agreements, after licensure, are reviewed by Board staff. If there are issues or questions regarding the terms of the agreement, Board staff will notify the parties and request additional information or clarification.

Chapter 431a. Supplier licenses

Section 431a.4(b) is proposed to be deleted. This subsection relates to financial suitability. The information would be included in the application for a supplier license and would be reviewed during the applicant's background investigation. If the applicant is not financially suitable, it would not be awarded a supplier license.

Section 431a.5(c) (relating to supplier log books) specifies that licensed, permitted or registered employees of a supplier are not required to register in the log book. Language is therefore proposed to be added to subsection (b)(5) for clarity.

Chapter 433a. Principal licenses

Section 433a.1 (relating to definitions) is proposed to be amended to delete "principal slot operations officer of a slot machine licensee" from the definition of "officer." Facilities have a slot operations director; the individual is licensed as a key employee not as a principal.

Section 433a.3(a)(3) (relating to interests in licenses held by individuals) is proposed to be amended for clarity and consistency. Similar amendments are proposed to be made to §§ 433a.4(a)(3) and 433a.7(a)(3) (relating to interests in licenses held by entities; and trusts).

Sections 433a.3(d) and (e) and 433a.4(d) and (e) are proposed to be amended or deleted to reflect the requirements in proposed §§ 427a.6, 429a.8 and 431a.6. The remaining subsections are proposed to be renumbered.

Section 433a.5 (relating to institutional investors) is proposed to be amended to allow institutional investors to acquire a greater ownership interest in all licensee without requiring a waiver from the Board.

Previously, institutional investors were capped at a 15% ownership interest in a principal affiliate of a manufacturer, manufacturer designee and supplier licensee and a 10% ownership interest in a principal affiliate of a slot

machine licensee. This proposed amendment will allow institutional investors to acquire less than a 20% interest in all licensees provided the institutional investor files the notice of ownership form and passive investor affirmation. Additionally, before acquiring an interest in a slot machine or management company licensee that is between 10% and 20%, the institutional investor shall provide the BIE with additional information relating to the institutional investor's operations and sources of funds.

Based on the nature of the funds associated with institutional investors, the reporting obligations to the SEC and the permissible ownership interests in other gaming jurisdictions, the Board has determined that increasing the allowable ownership interest to less than 20% would not adversely impact the integrity of gaming. Additionally, allowing institutional investors to acquire an ownership interest of less than 20% would not have other licensing implications related to changes of control or ownership.

Management companies are proposed to be deleted from subsection (a)(1). Management companies act on behalf of a slot machine licensee, are subject to the same requirements as slot machine licensees and therefore the requirements in subsection (a)(2) are applicable.

Subsection (c) and additional language in proposed subsection (d) are proposed to be added to address institutional investor ownership in licensees whose securities are publicly traded on a foreign exchange.

In regard to § 433a.6 (relating to lenders and underwriters), as previously stated, management companies act on behalf of a slot machine licensee and are therefore subject to the same requirements as slot machine licensees. Therefore, for clarity, management companies are proposed to be added to several of the sections throughout this chapter.

In subsection (f), language at the end of the sentence is proposed to be deleted as unnecessary.

Section 433a.7(b) currently requires trusts to notify the Board and submit a complete application prior to possessing any interest in paragraphs (1)–(5). The notification requirement is proposed to be deleted as unnecessary. Submitting applications will serve as notice. Subsection (c) is proposed to be amended for clarity.

Chapter 435a. Key, gaming and nongaming employees; Board-issued credentials

The requirements in § 435a.1(c), (e)–(j) and (o) are applicable to all applicants and holders of a license, permit, registration or certification. However, this chapter is pertinent only to key, gaming and nongaming employees. The requirements in this section are therefore proposed to be moved to §§ 421a.1 and 421a.2.

The wagering restrictions in subsections (k)–(n) are also applicable to holders of a license, permit, registration, certification or qualification and are proposed to be moved to proposed § 423a.6a.

Section 435a.5 (relating to nongaming employee registration) addresses nongaming employee registrations. Currently registrations do not have an expiration date. Nongaming employees do not submit a renewal application and therefore a subsequent background investigation is not conducted beyond initial registration. The Board believes that submission of a renewal application and subsequent background investigation is necessary to protect the integrity of gaming as it will ensure that every nongaming employee remains eligible and suitable to hold a registration.

Additionally, placing an expiration date on nongaming registrations will eliminate unnecessary administrative expenses associated with an ever growing number of individuals who no longer work in the gaming industry. There are currently over 5,500 nongaming employees who remain registered with the Board but have not worked in a position that requires registration for 2 years or more.

The regulation will require that nongaming employee registrations be renewed every 4 years. The application will be submitted electronically through the Board's SlotsLink system. The renewal will cost around \$40 which will cover the cost of fingerprinting with the Pennsylvania State Police and the criminal background check. Regarding the renewal schedule, each Board credential issued to a nongaming employee has a date by which the credential shall be reissued with an updated employee photo. The BOL will use the expiration date on the credential as the renewal date which will ensure that renewals are staggered and will not all occur within the same month or year.

Section 435a.6 (relating to Board credentials) is proposed to be amended for clarity. Specifically, subsection (c) is proposed to be divided in two subsections, with subsection (c) addressing the wearing of Board-issued credentials by State employees and proposed subsection (d) addressing the wearing of credentials by individuals who are not State employees.

Language in proposed subsection (e) reflects that all employees who are on the gaming floor are required to have a Board-issued credential. Current subsection (e) is proposed to be deleted as unnecessary.

The heading of § 435a.8 (relating to temporary credentials) relates to temporary credentials for principal and key employees and the heading of § 435a.9 (relating to temporary credentials for nongaming employees) relates to temporary credentials for nongaming employees. Neither section addresses the issuance of temporary credentials for gaming employees. To reflect the Board practice of issuing temporary credentials to gaming as well as principals, keys and nongaming employees, language is proposed to be added. Both sections, which address the same topic, are proposed to be combined into § 435a.8.

Section 435a.9a(a)(1) (relating to gaming service provider employee temporary access credentials) is proposed to be amended for clarity. Subsection (a)(2) would no longer require an employee from the licensee's security department to escort a GSP employee provided that another employee of the licensee who is authorized to have access to the area escorts the GSP employee and both individuals sign in with the Board's casino compliance representatives. This will ensure that Board staff is aware of who is performing the work in the licensed facility and the individual responsible for supervising that employee.

Proposed language in subsection (c) allows additional flexibility, when circumstances warrant, to extend the time period to allow an employee to complete work beyond 12 days in a 12-month period.

Language in current subsection (d) addresses a prohibition on the issuance of temporary access credentials to manufacturers, designees and suppliers. However, the section heading relates to GSP temporary access credentials. The language is proposed to be deleted as misplaced and unnecessary.

The proposed language in subsection (d) specifies that if an operator is going to use an emergency GSP, any employee providing emergency services shall obtain a

temporary access credential in accordance with this section prior to performing any emergency services at the licensed facility. This section corresponds with proposed amendments to § 437a.10 (relating to emergency gaming service provider).

Section 435a.10 (relating to loss, theft or destruction of credentials) is proposed to be amended to reflect that credentials are obtained from the Board's casino compliance representatives and are not distributed or controlled by a licensee's security department. This subsection is proposed to be amended to reflect that typically the employer not the employee will request replacement credentials from the Board.

Chapter 437a. Gaming service provider certification and registration

The proposed amendments to § 437a.1 (relating to general gaming service provider requirements) are made for clarity and to replace language with defined terms in § 401a.3.

Proposed language in § 437a.2 (relating to gaming service provider registration applications) should provide GSPs with some guidance as to when to file a sponsored versus unsponsored application. If a GSP already has a contract to provide goods or services to a slot machine licensee, the GSP completes a sponsored application. If the GSP does not have a contact with a specific licensee but anticipates that a licensee may utilize the GSP's services in the future, the GSP would complete the unsponsored application.

Proposed language in subsection (d) reflects the requirements in § 435a.3 (relating to occupation permit) and § 435a.5.

Section 437a.3(d)—(f) (relating to gaming service provider certification applications) is proposed to be deleted and added as proposed § 437a.3a (relating to single transaction waiver). This is proposed to be done because the section heading is not pertinent to waivers. Additionally, both registered and certified GSPs may request a single transaction waiver.

Section 437a.5 (relating to construction subcontractors) is proposed to be amended to provide clarity to the regulated community. These provisions are applicable to subcontractors providing goods and services to other subcontractors while the licensed facility is under construction.

Subsection (c) is proposed to be amended to reflect that prior to a casino opening, a licensed facility is, in essence, a construction site. Closer to opening, onsite Board staff will specify a date as to when an area of the licensed facility becomes a live gaming floor. Once designated, only those persons who hold a Board-issued credential are allowed onto the gaming floor.

In 2010, the Board amended the GSP regulations and exempted publicly traded GSPs from the requirements of certification or registration. To be eligible for the exemption, each publicly traded GSP was required to complete an authorization form to be placed on the authorized GSP list. At that time, there was not an expiration placed on exemption. Although the Board believes that publicly traded GSPs should still be exempt from the certification and registration requirements, the Board has placed an expiration date on the exemption. Every 4 years, publicly traded GSPs that are exempt will have to submit the authorization form to verify that the GSP has continued to provide goods and services to licensed facilities and is still eligible for the exemption. Language relevant to the

exemption expiration and renewal is therefore proposed to be added in § 437a.6 (relating to registration and certification term and renewal).

Language is proposed to be added in § 437a.7 (relating to registered, certified and authorized gaming service provider responsibilities) to reflect that the requirements applicable to a GSP that is registered or certified are also applicable to a GSP that is on the authorized list to conduct business prior to obtaining registration or certification.

Subsections (b) and (c) are proposed to be amended for clarity and to utilize terms that are already defined in § 401a.3. The Board also proposed to delete the requirement that offsite supervisors obtain a registration. Language is proposed to be deleted and a cross reference added in subsection (e) as these provisions are already addressed in § 435a.9.

Subsection (f) is proposed to be added to address amendments in proposed rulemaking 125-168 published at 43 Pa.B. 2152 (April 20, 2013), which proposed to delete § 501a.6 (relating to check cashing) and move those requirements to § 465a.20 (relating to personal check cashing). The personal check cashing provisions in § 501a.6 were applicable to licensees and GSPs, while the requirements in Chapter 465a (relating to accounting and internal controls) are applicable only to slot machine and management company licensees unless otherwise specified. Subsection (f) is necessary to ensure that requirements of personal check cashing are the same regardless of whether a licensee or a GSP acting on the licensee's behalf, are performing those functions.

Section 437a.10 is proposed to be amended to no longer require an emergency GSP that is not already registered or certified to file for registration or certification after providing emergency services. An employee of the emergency GSP will be required to obtain a temporary access credential before providing services. The BOL will review the explanation for use of the emergency GSP to ensure that this provision is not used to circumvent the registration and certification requirements.

Chapter 440a. Management companies

Section 440a.1 (relating to general requirements) is proposed to be amended to reflect current practice. Many of the applicants for the available Category 2 slot machine license have contracted with a management company to manage the licensed facility should the slot machine applicant be awarded the license. The management company has filed an application with the Board and if the slot machine applicant were awarded the license, the management company would be licensed at that time as well.

Section 440a.2 (relating to applications) is proposed to be amended to reflect that there is only one application for all categories of slot machine license. Additionally, if a management company is going to act on behalf of the slot machine applicant/licensee, the management company is required to complete the same application as the slot machine applicant.

Section 440a.3 (relating to management company license term and renewal) is proposed to be amended to reflect that a management company acts as the slot machine licensee and neither a slot machine license or a management company license is transferrable.

A portion of § 440a.5(c) (relating to management contracts) is proposed to be moved into subsection (d) and amended for clarity. The language in current subsection

(d) is proposed to be deleted as the business plan is essentially addressed in the requirements in subsection (f). Subsection (f) is proposed to be amended to address the management of table game operations.

Chapter 441a. Slot machine licenses

Terms are proposed to be added to § 441a.1 (relating to definitions). The use of these terms is explained in the provisions proposed to be added in §§ 441a.11a, 441a.20a and 441a.24—441a.26.

Section 441a.2(a) (relating to slot machine application deadlines) is proposed to be deleted for consistency with 4 Pa.C.S. Part II. Subsection (c) is proposed to be deleted as unnecessary. The handling of deficiencies in applications is addressed generally in § 423a.2 and in § 441a.3 (relating to slot machine license application).

Section 441a.3 is proposed to be amended to no longer require applications from key employees at the time the slot machine applicant submits an application for licensure. In most instances, key employees have not yet been identified at the time a slot machine applicant submits its application for licensure nor do most applicants hire employees unless and until the Board awards the applicant a slot machine license. The language regarding application requirements is proposed to be deleted as unnecessary as application requirements for keys and principals is in Chapter 433a (relating to principal licenses) and Chapter 435a.

In subsection (a)(5), language is proposed to be added to recognize that an authorized designee can sign on behalf of a chief executive officer to legally bind a slot machine applicant. Subsection (a)(6) is proposed to be amended to reflect the proposed provisions for approval of a licensee's initial or modified plan of development in proposed § 441a.20a (relating to changes to a slot machine licensee's initial or modified plan of development).

As specified in § 423a.1(g), once submitted to the Board, applications and related materials will not be returned to the applicant. The inconsistent language in subsection (b) is proposed to be deleted.

Subsection (d) is proposed to be amended to correct conflicting requirements. This subsection currently requires that the local impact report be submitted to the Board with the application and simultaneously to the municipality. Licensees were also required to submit proof that the municipality was served at the time the application was submitted to the Board. The language is proposed to be amended and still requires licensees to submit the local impact report simultaneously to the municipality and the Board (with the application) but provides that the applicant submit proof that the municipality was served within 5 days after the application is submitted to the Board. Subsection (e) is in § 421a.3 and therefore is proposed to be deleted.

Section 441a.5(e) (relating to license fee payment bond or letter of credit requirements) is proposed to be amended to reflect that a slot machine license will not be issued until the license fee has been paid. The Board or Board staff, typically the BOL, will specify the date by which the fee shall be paid.

Most of the proposed amendments to § 441a.7 (relating to licensing hearings for slot machine licenses) are made for clarity. Language in subsections (i) and (n) is proposed to be amended to reflect that 4 Pa.C.S. § 1206(a) (relating to Board minutes and records) was deleted. Confidential information may be presented not in closed delibera-

tions but during executive session in accordance with 65 Pa.C.S. § 708(a)(5) (relating to executive sessions).

Section 441a.11 (relating to notification of new financial sources) is proposed to be deleted and replaced with the more detailed provisions in §§ 441a.24—441a.26 (relating to notification of equity securities offering; approval of material debt transactions; and notification of refinancing transaction).

Section 441a.11a (relating to duty to maintain financial suitability; notification of change in financial status) is proposed to be added. Subsection (a) reflects requirements in 4 Pa.C.S. Part II. Subsection (b) is proposed because a material change in financial status, as defined in § 441a.1, is directly related to a licensee's overall financial suitability. If a licensee or any of its intermediaries, subsidiaries or holding companies defaults on any provision of its loan agreements, immediate notification to the Board is required.

Section 441a.15(b)(2) (relating to slot machine license issuance bond requirement) is proposed to be deleted. Board staff reviews submitted payment bonds. If there are issues with the payment bond, the BOL notifies the applicant that was awarded the license if corrections are necessary or if additional information about the surety is required. The slot machine license will not be issued until all information is received and any necessary corrections are made.

Section 441a.17(b)—(e) (relating to change in ownership or control of slot machine licensee and multiple slot machine license prohibition) is proposed to be deleted. The proposed language should provide clarity and specificity to the regulated community regarding the procedure to acquire an interest in a slot machine licensee which would trigger the change in control or ownership provisions of 4 Pa.C.S. Part II. The remaining subsections are proposed to be renumbered.

Minor revisions are proposed to be made to § 441a.18(b)(2) and (c) (relating to employee status report). Subsection (b)(2) is proposed to be deleted because applicants for a slot machine license do not typically have employees and are therefore not required to submit an employee status report to the Board. Subsection (c) is proposed to be amended to reflect that a signature on an electronically submitted employee status report is not required.

Proposed § 441a.20a provides further detail on a requirement that is already in § 441a.3(a)(6). A licensee may change its approved plan of development is not required with approval of the Board.

In proposed § 441a.24, if a licensee or its holding company is going to issue a class of securities, the licensee shall notify the Board in writing prior to the offering. Board approval of these transactions is not required; however, licensees will be required to submit all documents associated with the offering which will be reviewed by Board staff.

Section 441a.25 is proposed to be added. If a licensee is going to incur additional debt, those transactions will require the approval of the Board if the incurrence of debt is greater than \$25 million for privately held entities and \$50 million for publicly traded entities. The incurrence of additional debt may impact the licensee's overall financial suitability. Therefore the Board believes approval of these transactions is necessary. If the licensee is borrowing on

an already approved line of credit, those transactions will not require additional approval of the Board.

Proposed § 441a.26 requires licensees to provide documents to Board staff if the licensee is refinancing its existing debt. These transactions will not require Board approval unless Board staff after reviewing the documents determines that approval is necessary. If a licensee or its holding company incurs additional debt in conjunction with a refinance, § 441a.25 would apply.

Subpart E. Slot machines and associated equipment; accounting and internal controls

Specificity is proposed to be added in § 461a.7 (relating to slot machine minimum design standards) regarding how the Bureau of Gaming Laboratory Operations will calculate the theoretical payout percentage for slot machines.

A minor revision is proposed to be made in § 465a.24(b)(1) (relating to count room characteristics) to clarify that the alarm device does not need to signal both security and surveillance. The licensee can designate which department will receive the audible alarm signal. The language at the end of the sentence is proposed to be deleted as unnecessary. Every time the count room door is opened the audible alarm signal should be sent to security or surveillance. In subsection (b)(2), the language requiring exits door to contain locks is proposed to be deleted. Only entrances require dual key control. Proposed subsection (b)(3) addresses exiting the count room and requires that licensees specify what type of door device will be used.

Subpart K. Table games

Language is proposed to be added in § 609a.4 (relating to approval of credit limits) to reflect the statutory requirement that any increase in credit, whether temporary or permanent, requires reverification of a patron's credit information.

Proposed amendments to § 609a.5 (relating to derogatory information; reduction or suspension of credit) clarify the following: if derogatory information is received, the licensee's credit department shall reverify the patron's casino credit information; if a patron's check is returned, the patrons credit privileges must be suspended; and if a patron's credit has been suspended, the licensee is required to reverify the patron's casino and consumer credit information before reinstating credit.

Proposed amendments to §§ 623a.4 and 623a.5 (relating to making and removal of wagers; and payout odds) add clarity regarding the paying of wagers and the collection of vigorish.

The payout procedure in § 633a.7(i) (relating to procedure for dealing the cards; completion of each round of play) is proposed to be amended to allow operators to either payout immediately when a player has a Blackjack or in accordance with the current regulation. Section 633a.9 (relating to surrender) is proposed to be amended to allow operators to collect a surrendered hand immediately or in accordance with the current regulation.

In § 643a.12(b) (relating to payout odds; payout limitation), a new payout table is proposed to be added for the Five Card Bonus Wager.

Section 645a.5(i)(3) (relating to shuffle and cut of the cards; procedures for determining the starting position for dealing cards) is proposed to be deleted as unnecessary.

Fiscal Impact

Commonwealth. The Board does not expect that this proposed rulemaking will have a substantial fiscal impact

on the Board or other Commonwealth agencies. Although nongaming employees and publicly traded GSPs will be required to submit renewals, the renewals are conducted once every 4 years and will not occur at the same time. Additionally, the Board may see some administrative cost savings associated with nongaming employees who no longer work in the gaming industry. Currently there are over 5,600 nongaming employees under the Board's jurisdiction who have not worked in a position that requires a registration in 2 years or more.

Political subdivisions. This proposed rulemaking will not have fiscal impact on political subdivisions of this Commonwealth.

Private sector. All individuals and entities that apply for a license, permit, registration, certification or authorization will be required to comply with the requirements in this proposed rulemaking. Most of the amendments in this proposed rulemaking will not have a fiscal impact on the regulated community with two exceptions: nongaming employees and GSPs.

Nongaming employees will be required to renew their registration once every 4 years. The renewal fee will be approximately \$40 to cover the cost of fingerprinting and a criminal background check with the Pennsylvania State Police. There are approximately 4,000 individuals who hold a registration.

Publicly traded GSPs will also be required to renew their exemption from the certification and registration requirements once every 4 years. The renewal fee is \$250. There are approximately 85 publicly traded GSPs that are currently not required to comply with the certification and registration requirements.

Additionally, GSPs that provide services to slot machine licensees on an emergency basis will no longer be required to complete an application for certification or registration, a cost savings of at least \$2,500. It is unclear how many emergency GSPs will benefit from this proposed rulemaking.

General public. This proposed rulemaking will not have fiscal impact on the general public.

Paperwork Requirements

This proposed rulemaking will eliminate the requirement that applicants for and holders of a slot machine, management company, manufacturer, manufacturer designee or supplier license file copies of SEC filings with the Board. A one-page notification is required. Additionally, applicants will no longer be required to submit three copies of applications, only an original and one copy.

Although nongaming employees will be required to renew their registration, the application is submitted electronically through the Board's Slots Link system and a paper submission typically is not required.

For publicly traded GSPs that will be required to renew their exemption, the application is approximately three pages long and is available on the Board's web site.

Regarding institutional investors, the Institutional Investor Notice of Ownership form and Passive Investor Affirmation, which are required under § 433a.5, is a single page, plus instructions and affirmation.

The Notification of Financial Transaction form which slot machine licensees would be required to complete in conjunction with a securities offering, a material debt transaction or when refinancing debt (§§ 441a.24—441a.26) will provide to Board staff an overview of a contemplated transaction.

Effective Date

This proposed rulemaking will effective upon final-form publication in the *Pennsylvania Bulletin*.

Public Comments

Interested persons are invited to submit written comments, suggestions or objections regarding the proposed rulemaking, within 30 days after the date of publication in the *Pennsylvania Bulletin*, to Susan A. Yocum, Assistant Chief Counsel, Pennsylvania Gaming Control Board, P.O. Box 69060, Harrisburg, PA 17106-9060, Attention: Public Comment on Regulation # 125-175.

Contact Person

The contact person for questions about this proposed rulemaking is Susan Yocum, Assistant Chief Counsel, (717) 346-8300.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on November 4, 2013, the Board submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Gaming Oversight Committee and the Senate Community, Economic and Recreational Development Committee. A copy of this material is available to the public upon request and is available on the Board's web site at www.gamingcontrolboard.pa.gov.

Under section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections must specify the regulatory review criteria which have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Department, the General Assembly and the Governor of comments, recommendations or objections raised.

WILLIAM H. RYAN, Jr.,
Chairperson

Fiscal Note: 125-175. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART VII. GAMING CONTROL BOARD

Subpart B. LICENSING, PERMITTING, CERTIFICATION AND REGISTRATION

CHAPTER 421a. GENERAL PROVISIONS

§ 421a.1. General requirements.

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

(b) By filing an application with the Board, an applicant consents to an investigation, **to the extent deemed appropriate by the Bureau**, of the applicant's general suitability, financial suitability, character, integrity and ability to engage in, or be associated with, gaming activity in this Commonwealth [**to the extent deemed appropriate by the Board**]. [**The investigation may include a background investigation of the appli-**

cant, employees of the applicant, all persons having a controlling interest in the applicant and other persons as determined by the Board.]

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

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

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

(3) Execute all releases requested by [**the**] **Board staff**, including releases whereby the applicant consents to the release of information that may be requested by the individual under **section 1** of the Freedom of Information Act (5 [**U.S.C.**] **U.S.C.A.** § 552) [**to the Board**].

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

(e) An applicant for or holder of a license, permit, certification [**or**], registration **or authorization** shall have a **continuing** duty to inform the Bureau of [**an**]:

(1) **An** action which the applicant for or holder of a license, permit, certification [**or**], registration **or authorization** believes would constitute a violation of the act. A person who so informs the Bureau may not be discriminated against by an applicant for or holder of a license, permit, certification [**or**], registration **or authorization** for supplying the information.

(2) **A change in circumstances that may render the applicant for or holder of a license, permit, certification, registration or authorization ineligible, unqualified or unsuitable to hold a license, permit, certification, registration or authorization under the act and this part including an arrest, charge, indictment or conviction for:**

(i) **An offense involving moral turpitude.**

(ii) **An offense under 18 Pa.C.S. (relating to Crimes Code).**

(iii) **An offense under 75 Pa.C.S. (relating to Vehicle Code) which is punishable by 1 year or more.**

(iv) **An offense under section 13(a) of The Controlled Substance, Drug, Device and Cosmetic Act (35 P. S. § 780-113(a)), regarding prohibited acts and penalties.**

(v) **A felony offense.**

(vi) **A comparable offense in other states or foreign jurisdictions.**

(f) An applicant for **or holder of** a license, permit, certification [**or**], registration **or authorization** shall have a continuing duty to inform the [**Board**] **Bureau**

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

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

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

(i) A person holding a license, permit, certification [**or**], registration **or authorization** issued by the Board [**who violates a provision of the act or this part may be held jointly or severally liable for the violation**] shall have a continuing duty to maintain suitability and eligibility in accordance with the act and this part.

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

§ 421a.2. Disqualification criteria.

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

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

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

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

(4) The applicant for or holder of a license, permit, certification [**or**], registration **or authorization** has [**materially departed from a representation made**] **misrepresented, falsified or omitted a fact** in the application for licensure or renewal.

(5) The applicant for or holder of a license, permit, certification [**or**], registration **or authorization** has failed to comply with Federal [**or**], state **or local** laws or regulations.

(6) The applicant for or holder of a license, permit, certification, registration or authorization is not current or is in arrears on a financial obligation owed to the Commonwealth or a subdivision thereof, including court-ordered child support payments.

(b) An individual will be disqualified from obtaining or holding:

(1) A principal or key employee license if the individual has been convicted of a:

(i) Felony offense in any jurisdiction.

(ii) Misdemeanor gambling offense in any jurisdiction, unless 15 years have elapsed from the date of conviction for the offense.

(2) A permit if the individual has been convicted of a felony or misdemeanor gambling offense in any jurisdiction unless 15 years have elapsed from the date of conviction for the offense.

(c) When considering an application for registration from an individual who has been convicted of a felony or misdemeanor gaming offense in any jurisdiction, a permit from an individual who has been convicted of a felony or misdemeanor gaming offense in any jurisdiction when 15 years have elapsed from the date of the conviction for the offense or a license from an individual who has been convicted of a misdemeanor gaming offense in any jurisdiction when 15 years have elapsed from the date of the conviction for the offense, the Board will consider:

(1) The nature and duties of the applicant's position with the licensed entity.

(2) The nature and seriousness of the offense or conduct.

(3) The circumstances under which the offense or conduct occurred.

(4) The age of the applicant when the offense or conduct was committed.

(5) Whether the offense or conduct was an isolated or a repeated incident.

(6) Evidence of rehabilitation, including good conduct in the community, counseling or psychiatric treatment received and the recommendation of persons who have substantial contact with the applicant.

(d) For purposes of this section, a felony offense is any of the following:

(1) An offense punishable under the laws of the Commonwealth by imprisonment for more than 5 years.

(2) An offense which, under the laws of another jurisdiction, is either:

(i) Classified as a felony.

(ii) Punishable by imprisonment for more than 5 years.

(3) **An offense under the laws of another jurisdiction which, if committed in this Commonwealth, would be subject to imprisonment for more than 5 years.**

(e) **An individual may not be employed in this Commonwealth by an applicant for or holder of a license, certification or registration under this part in any capacity unless the individual is a citizen of the United States or can demonstrate that he holds a current and valid work authorization and is not restricted from working in the capacity for which employment is sought or held. Authorization to work in the United States may be demonstrated by submitting one of the following:**

- (1) **A permanent resident alien card.**
- (2) **A temporary employment authorization card.**
- (3) **An employment authorization number and expiration date.**
- (4) **A document which the Bureau deems to be sufficient evidence or authorization.**

[(b)] (f) **A denial of an application or nonrenewal, suspension or revocation of a license, permit, certification or registration may be made for a sufficient cause consistent with the act and the public interest.**

§ 421a.3. Investigations; supplementary information.

(a) The [Board] **Bureau** may make an inquiry or investigation concerning an applicant for or holder of a license, permit, certification [or], registration **or authorization** or any affiliate, intermediary, subsidiary or holding company of the applicant for or holder of a license, permit, certification [or], registration **or authorization** as it may deem appropriate either at the time of the initial application or at any time thereafter.

(b) It shall be the continuing duty of applicants and a holder of a license, permit, certification [or], registration **or authorization** to provide full cooperation to the [Board] **Bureau** in the conduct of an inquiry or investigation and to provide supplementary information requested by the [Board] **Bureau**.

(c) **An applicant for an initial or renewal license, permit, registration, certification or authorization will be required to reimburse the Board for additional costs, based on the actual expenses incurred, in conducting the background investigation.**

§ 421a.4. Presuitability determination.

(a) Upon request from an eligible applicant for or holder of a license and upon receipt of an application and appropriate fees, the [Board] **Bureau** will make an inquiry or investigation of a potential purchaser of an applicant for or holder of a license[, **certification or registration**] as if the purchaser were an eligible applicant. The eligible applicant for or holder of a license may [**petition the Board, on behalf of the purchaser, for a Statement of Investigation under § 493a.4 (relating to petitions generally)**] **request that the Bureau conduct a presuitability determination investigation.**

(b) The eligible applicant for or holder of a license making the request shall reimburse the costs associated with the inquiry or investigation.

(c) This inquiry or investigation does not replace the application process required under the act and this part which is a requirement for licensure[, **certification or registration**].

§ 421a.5. Undue concentration of economic opportunities and control.

(a) In accordance with section 1102(5) of the act (relating to legislative intent), a slot machine license, management company license or [**other**] **principal** license may not be issued to or held by a person if the Board determines that the issuance or holding will result in the undue concentration of economic opportunities and control of the licensed gaming facilities in this Commonwealth by that person.

* * * * *

(c) In determining whether the issuance or holding of a license by a person will result in undue concentration of economic opportunities and control of the licensed gaming facilities in this Commonwealth, the Board will consider the following criteria:

(1) The percentage share of the market presently controlled by the person in each of the following categories:

- (i) Total number of slot machine licenses available under section 1307 of the act (relating to number of slot machine licenses).
- (ii) Total gaming floor square footage.
- (iii) Number of slot machines **and table games**.
- (iv) Gross terminal **and table game** revenue.
- (v) Net terminal **and table game** revenue.
- (vi) [**Total amount of money, vouchers and electronic money transfers through the use of a cashless wagering system made to slot machines.**
- (vii)] Number of persons employed by the licensee.

* * * * *

CHAPTER 423a. APPLICATIONS; STATEMENT OF CONDITIONS; WAGERING RESTRICTIONS

§ 423a.1. General requirements.

(a) For the purposes of this section, a reference to an applicant includes the applicant's affiliates, intermediaries, subsidiaries and holding companies.

(b) An application shall be submitted on forms **or in an electronic format** supplied or approved by the Board, contain the information and documents required by the Board and include the applicable fees.

(c) [**The applicant shall file with the application all supplemental forms required by the Board. The forms require full disclosure of all details relative to the applicant's suitability to conduct business in this Commonwealth under the act.**

(d)] Upon request of the Board **or Board staff**, the applicant shall further supplement information provided in the application. The applicant shall provide requested documents, records, supporting data and other information within the time period specified in the request, or if no time is specified, within 30 days of the date of the request. If the applicant fails to provide the requested information within the required time period as set forth in the request, the Board may deny the application.

[(e) **Information provided to the Board must be true and complete.**] (d) **The application, and**

amendments thereto, and other specific documents designated by the Board shall be sworn to or affirmed by the applicant before a notary public. If there is any change in the information provided to the Board or Board staff, the applicant shall promptly file a written amendment.

[(f)] The application and amendments thereto and other specific documents designated by the Board shall be sworn to or affirmed by the applicant before a notary public.

[(g)] (e) The Board will deny the application of an applicant that refuses to submit to a background investigation or provide requested information as required under the act.

[(h)] (f) An applicant that submits a document to the Board which is in a language other than English shall also submit an English translation of the non-English language document. At its discretion, the Board may accept an English summary of a document in lieu of a complete translation of the document. The summary or translation must include the signature, printed name, address and telephone number of the translator and a verification by the translator of the truth and accuracy of the summary or translation.

[(i)] (g) An application [that has been accepted for filing] and related materials that have been submitted to the Board will become the property of the Board and will not be returned to the applicant.

§ 423a.2. Preliminary submission review.

(a) Upon receipt of an application submission, the [Board] Bureau of Licensing will review the submission to [insure] ensure that it contains:

- (1) The applicable application fee.
- (2) The applicable application forms and additional information and accompanying documentation required by the act or the Board's regulations governing the specific type of application.
- (3) Completed authorization forms for release of information from [Federal and state] governmental agencies and other entities required for the specific type of application.
- (4) For slot machine license applications only, a bond or letter of credit as required by section 1313(c) of the act (relating to slot machine license application financial fitness requirements).

(b) If an application submission fails to include one or more of the items in subsection (a), the applicant will be notified [that the application has not been accepted for filing and the applicant will be] and given an opportunity to cure the [insufficiency] deficiency.

[(c) If the applicant fails or is unable to cure the insufficiency within the time period set by the Board, the submission and related materials will be returned to the applicant.]

§ 423a.3. Application processing.

(a) Upon a determination that an application is required and the prerequisites for filing have been met, the [Board] application will be accepted for filing and Board staff, if applicable, will:

- (1) [Accept the application for filing.

(2) Notify the applicant or the applicant's attorney, if any, in writing of the fact that the application has been accepted for filing and the date of the acceptance for filing. The Board will also notify the applicant that the acceptance for filing of the application will not constitute evidence that any requirement of the act has been satisfied.

(3) [Obtain [and evaluate] information as may be necessary to determine the qualifications of the applicant and any matter relating to the application.

[(4) Request the Bureau to promptly] (2) Promptly conduct an investigation and provide the information necessary to determine the qualifications of the applicant and any matter relating to the application.

[(5)] (3) Request the Pennsylvania State Police to provide a criminal history background investigation report, determine employee eligibility consistent with § 435a.1 (relating to general provisions), conduct fingerprinting, photograph applicants and perform other related duties in accordance with the act.

[(6)] (4) Request the Department to promptly conduct a tax clearance review.

[(7)] (5) Request the Department of Labor and Industry to perform an Unemployment Compensation Tax clearance review and a Workers Compensation Tax clearance review.

[(8)] (6) Request any agencies, entities or persons to conduct investigations or evaluations or to provide information to the Board as deemed necessary by the Board.

(b) The Board will keep and maintain a [list] record of all applicants under this part together with a record of all actions taken with respect to applicants.

(c) An application submitted under this part and information obtained by [the] Board staff relating to the application shall be part of the evidentiary record [of the licensing proceeding]. The Board's decision to issue or deny a license, permit, registration or certification will be based solely on the evidentiary record before the Board.

§ 423a.5. Application withdrawal.

(a) A request for withdrawal of an application [for a license, permit, certification or registration] may be made [by petition to the Board filed] at any time prior to the Board taking action on the application[.] in accordance with the following requirements:

(1) A request for withdrawal of an entity applying for a license, certification or registration, or an individual applying for a principal license or a qualifier of an entity applying for a license or certification shall be made by filing a petition with the Board in accordance with § 493a.4 (relating to petitions generally).

(2) A request for withdrawal of an individual applying for a key employee license, a permit or registration shall be made on a form supplied by the Bureau of Licensing. If Board staff objects to the request for withdrawal, the person filing the form will be notified and required to file a petition for withdrawal with the Board in accordance with § 493a.4.

(b) The petition or form must set forth the reasons for the withdrawal.

(c) [An applicant may petition for the withdrawal of its application or an application submitted by one of its affiliates, intermediaries, subsidiaries or holding companies or persons or entities required to be qualified under section 1311 of the act (relating to additional slot machine license requirements), or both.

(d)] When rendering a decision on a petition for withdrawal, the Board may set the conditions of withdrawal and may deny or grant the request with or without prejudice.

[(1) If a petition for withdrawal is granted with prejudice, the person or entity whose application has been withdrawn will not be eligible to apply for a license, permit, certification or registration with the Board until after expiration of 5 years from the date of the withdrawal.

(2) If a petition for withdrawal is granted without prejudice the Board may, in the order granting the petition, impose restrictions on when the person or entity whose application has been withdrawn will be eligible to apply for a license, permit, certification or registration.

(e) The Board may convert an application with deficiencies that an applicant fails to cure under § 423a.4(a) (relating to deficient applications) to a petition for withdrawal.

(f)] (d) Unless the Board otherwise directs, fees or other payments relating to the application will not be refundable by reason of the withdrawal. Additionally, fees and costs owed to the Board related to the [application] investigation shall be paid prior to granting a petition to withdraw.

§ 423a.6. License, permit, registration and certification issuance and statement of conditions.

* * * * *

(b) *Statement of conditions.*

(1) For the purposes of this subsection, the term “executive officer” means the individual holding the highest ranking management position within the entity and who is authorized to [contract on behalf of] legally bind the entity. If the entity elects to designate another competent individual with a direct reporting relationship to its executive officer to execute the statement of conditions required in this section and otherwise legally bind the entity, the entity shall adopt a resolution identifying and authorizing the individual to act on behalf of both the entity and its executive officer. A copy of the resolution shall be provided to the Bureau of Licensing and attached to the Statement of Conditions.

(2) If the Board approves an entity’s application for or renewal of a license[, certification or registration, or for the renewal of a license, certification or registration, the Board may require] the executive officer of the entity [whose application has been approved], or other competent individual designated by the entity in accordance with paragraph [(3), to] (1), shall execute a Statement of Conditions in the manner and form required by the Board. Execution of the Statement of Conditions constitutes the acceptance of each provision contained in the Statement of Conditions by both the entity and the executive officer. The executive

officer shall ensure that the entity fully complies with each provision contained in the statement of conditions.

(3) [Prior to the issuance of a license, certification or registration to an entity, the entity shall determine whether the entity will designate its executive officer or another competent individual with a direct reporting relationship to its executive officer to execute the statement of conditions on behalf of both the entity and its executive officer. If the entity elects to designate another competent individual with a direct reporting relationship to its executive officer to execute the statement of conditions on behalf of the entity and its executive officer, the entity shall adopt a resolution identifying the individual so designated, authorizing that individual to execute the statement of conditions on behalf of both the entity and its executive officer, and evidencing the executive officer’s concurrence in that individual’s designation. A copy of the resolution, certified as true and correct, shall be provided to the Board and attached to the statement of conditions.] At the time of application for registration or certification, the executive officer, or other competent individual designated by the applicant in accordance with paragraph (1), of a gaming service provider or gaming related gaming service provider shall execute a Statement of Conditions in the manner and form required by the Board. The execution of the Statement of Conditions constitutes the acceptance of each provision in the Statement of Conditions by both the entity and the executive officer. The executive officer shall ensure that the entity fully complies with each provision in the Statement of Conditions.

(4) [If the Board approves an individual’s application for] An individual who has been approved for the issuance or renewal of a license, permit, certification or registration[, or for the renewal of a license, permit, certification or registration, the Board may require the individual whose application has been approved to] shall execute a statement of conditions in the manner and form required by the Board. The execution of the Statement of Conditions constitutes the acceptance of each provision contained in the statement of conditions [by the individual]. [The individual shall fully comply with each provision contained in the Statement of Conditions.]

(5) Failure to fully comply with any provision contained in an executed Statement of Conditions constitutes a violation [of the Statement of Conditions] and may result in [the imposition of] Board-imposed administrative sanctions, up to and including revocation, against the individual or entity to whom the license, permit, certification or registration was issued[, and, in the case of an entity, against the entity and its executive officer or other designee under paragraph (3)].

(Editor’s Note: The following section is new and printed in regular type to enhance readability.)

§ 423a.6a. Restriction on wagering after issuance of a license, permit, registration or certification.

(a) An individual who holds a license, permit or registration and is currently employed by or is a principal of a slot machine licensee may not wager at any slot machine or table game in the licensed facility in which the licensee, permittee or registrant is currently employed or

associated. The licensed, permitted or registered individual shall wait at least 30 days following the date that the individual is no longer employed in a position that requires a license, permit or registration before the individual may wager at the licensed facility.

(b) An employee of a slot machine licensee who is not required to obtain a license, permit or registration may not wager in the licensed facility in which the employee is currently employed.

(c) An individual who holds a license, permit or registration and is currently employed by a manufacturer, manufacturer designee, supplier or gaming related gaming service provider may not wager at a slot machine or table game in the licensed facility in which the individual is servicing or installing table games, table game devices, slot machines or associated equipment while the individual is at the licensed facility in the performance of the individual's job duties.

(d) An individual who is a qualifier of a gaming junket enterprise or an individual who is employed as a gaming junket representative may not wager at a slot machine or table game in the licensed facility in which the gaming junket enterprise has an ongoing contractual agreement.

§ 423a.7. Restriction on application after **withdrawal with prejudice**, denial or revocation.

(a) A person whose application has been **withdrawn with prejudice**, denied or whose license, permit, registration or certification has been revoked, may not apply for a license, permit, certification or registration for 5 years from the date that the application was **withdrawn with prejudice**, denied or the license, permit, certification or registration was revoked.

(b) The 5-year restriction in subsection (a) will not apply:

(1) To applicants for a slot machine license if the denial was for reasons other than unsuitability.

(2) If the denial or revocation was based on pending charges for a disqualifying offense under section 1213 or section 1518 of the act (relating to license or permit prohibition; and prohibited acts; penalties), 18 Pa.C.S. (relating to crimes and offenses) or the criminal laws of any other jurisdiction and the pending charges [**do**] **did** not result in conviction of the disqualifying offense.

(c) Two years from the date that the application was **withdrawn with prejudice**, denied or the license, permit, certification or registration was revoked, a person may file a petition for permission to apply for a license, permit, certification or registration before the expiration of the 5-year period.

(d) A petition filed under subsection (c) shall be filed in accordance with § 493a.4 (relating to petitions generally).

(e) Petitions filed under subsection (c) must contain:

(1) An explanation of how the conditions that were the basis for **withdrawal with prejudice**, denial or revocation have been corrected or no longer exist.

(2) Supporting materials that demonstrate that the person meets the requirements for a license, permit, certification or registration.

(3) If the **withdrawal with prejudice**, denial or revocation was the result of a conviction, the petition must include evidence of rehabilitation, such as:

* * * * *

[(f) If a petition filed under subsection (c) is denied, a person may not file another petition under subsection (c) for 1 year from the date of the denial of the petition.]

CHAPTER 425a. LICENSED ENTITY REPRESENTATIVES

§ 425a.1. Registration.

* * * * *

(c) The Board will maintain a list of licensed entity representatives. The registration list will be available for public inspection at the offices of the Board and on the Board's [**website (www.pgcb.state.pa.us)**] **web site**.

CHAPTER 427a. MANUFACTURERS

§ 427a.1. Manufacturer general requirements.

(a) A manufacturer seeking to manufacture slot machines, **table game devices** and associated equipment for use in this Commonwealth shall apply to the Board for a manufacturer license.

(b) In accordance with section 1317.1 of the act (relating to manufacturer licenses), an applicant for or the holder of a manufacturer license or any of the applicant's or holder's affiliates, intermediaries, subsidiaries or holding companies, may not apply for or hold a slot machine license or supplier license.

(c) A licensed manufacturer [**or a licensed**], manufacturer designee **or supplier** may supply or repair any slot machine or associated equipment manufactured by the licensee.

[(d) A licensed manufacturer may contract with a licensed supplier to supply or repair slot machines or associated equipment manufactured by the manufacturer licensee.

(e) Limitations will not be placed on the number of manufacturer licenses issued or when an application for a manufacturer license may be filed.]

§ 427a.2. Manufacturer license applications and standards.

(a) An applicant for a manufacturer license shall submit:

(1) An original and [**three copies**] **one copy** of the Manufacturer Application and Disclosure Information Form for the applicant and each of the applicant's principal affiliates.

(2) The nonrefundable application fee posted on the Board's [**website (pgcb.state.pa.us)**] **web site**.

(3) A diversity plan as set forth in section 1325(b) of the act (relating to license or permit issuance) and Chapter 481a (relating to diversity).

(4) An application from every key employee under § 435a.2 (relating to key employee license) and principal under Chapter 433a (relating to principal licenses) as specified by the Manufacturer Application and Disclosure Information Form and other persons as determined by the Board.

(5) [**A Gaming Employee Application and Disclosure Information Form for each of the manufacturer's known gaming employees.**

(6) **If applicable, copies of all filings required by the SEC during the 2 immediately preceding fiscal years, including annual reports filed with the SEC,**

under section 13 or 15D of the Securities Exchange Act of 1934 (15 U.S.C.A. §§ 78m and 78o-6), quarterly reports filed with the SEC, under section 13 or 15D of the Securities Exchange Act of 1934, current reports filed with the SEC, under section 13 or 15D of the Securities Exchange Act of 1934, and proxy statements issued by the applicant.

(7)] An affirmation that neither the applicant nor any of its affiliates, intermediaries, subsidiaries or holding companies is **an applicant for or holder of** a slot machine [licensee] license; and that the applicant has neither applied for nor holds a supplier license. [**In applying this provision to an applicant for a manufacturer license, the Board will not include interests that are held by individuals in any of the following manners:**

(i) **In mutual funds when the value of the interest owned does not exceed 1% of the total fair market value of the applicant or licensee and provided that the mutual fund is not a nondiversified fund invested primarily in entities operating in, or connected with, the gaming industry.**

(ii) **Through defined benefit pension plans.**

(iii) **Through deferred compensation plans organized and operated under section 457 of the Internal Revenue Code of 1986 (26 U.S.C.A. § 457).**

(iv) **In blind trusts over which the holder does not exercise managerial control or receive income during the time period the holder is subject to these provisions.**

(v) **Through tuition account plans organized and operated under section 529 of the Internal Revenue Code of 1986 (26 U.S.C.A. § 529).**

(vi) **Through plans described in section 401(k) of the Internal Revenue Code of 1986 (26 U.S.C.A. § 401(k)).**

(vii) **An interest held by a spouse if an action seeking a divorce and dissolution of marital status has been initiated in any jurisdiction by either party to the marriage.**

(8)] (6) A sworn or affirmed statement that the applicant has developed and implemented internal safeguards and policies to prevent a violation of section 1513 of the act (relating to political influence) and a copy the safeguards and policies.

(b) In addition to the materials required under subsection (a), an applicant for a manufacturer license shall:

(1) [**Promptly provide information requested by the Board relating to the manufacturer's application or regulation and cooperate with the Board in investigations, hearings, and enforcement and disciplinary actions.**

(2)] Comply with the general application requirements in Chapters 421a and 423a (relating to general provisions; and applications).

[(3)] (2) Demonstrate that the applicant has the ability to manufacture, build, rebuild, repair, fabricate, assemble, produce, program, design or otherwise make modifications to slot machines, **table game devices** or associated equipment which meet one or more of the following criteria:

(i) Are specifically designed for use in the operation of a slot machine **or table game device.**

(ii) Are needed to conduct an authorized game.

(iii) Have the capacity to affect the outcome of the play of a game.

(iv) Have the capacity to affect the calculation, storage, collection or control of gross terminal revenue.

(c) [**An applicant for a manufacturer license will be required to reimburse the Board for any additional costs, based on the actual expenses incurred by the Board, in conducting the background investigation.**

(d)] In determining whether an applicant is suitable to be licensed as a manufacturer under this section, the Board will consider the following:

(1) The financial fitness, good character, honesty, integrity and responsibility of the applicant.

(2) If all principals of the applicant [**individually qualify**] are **eligible and suitable** under the standards of section 1317.1 of the act (relating to manufacturer license).

(3) The integrity of all financial backers.

(4) The suitability of the applicant and the principals [**and key employees**] of the applicant based on the satisfactory results of:

(i) The background investigation of the principals [**and key employees**].

(ii) A current tax clearance review performed by the Department.

(iii) A current Unemployment Compensation Tax clearance review and a Workers Compensation Tax clearance review performed by the Department of Labor and Industry.

§ 427a.4. Alternative manufacturer licensing standards.

(a) If an applicant for a manufacturer license holds a similar license in another jurisdiction in the United States, the applicant may submit a Manufacturer Application and Disclosure Information Form Addendum 1 with its application required under § 427a.2(a) (relating to manufacturer license applications and standards) for the Board to adopt an abbreviated licensing process under section 1319 of the act (relating to alternative manufacturer licensing standards) [**to review a manufacturer license application**].

(b) The Board may use the abbreviated process if:

(1) The Board determines, after investigation, that the licensing standards in the jurisdiction in which the applicant is licensed are similarly comprehensive, thorough and provide equal, if not greater, safeguards as provided in the act and that granting the request is in the public interest.

(2) The applicant has provided a copy of its most recent application or renewal for the similar license in the other jurisdiction and a copy of the license or the order issued by the other jurisdiction granting the license.

(3) The applicant has no administrative or enforcement actions pending in another jurisdiction or the applicant has adequately disclosed and explained the action to the satisfaction of the Board.

(4) There are no pending or ongoing investigations of [**possible material violations by**] the applicant in another jurisdiction **which may render the applicant**

unsuitable or the applicant has adequately disclosed and explained the investigation to the satisfaction of the Board.

(c) This section may not be construed to waive fees associated with obtaining a license through the application process in this Commonwealth.

§ 427a.5. Responsibilities of a manufacturer.

(a) A holder of a manufacturer license shall have a continuing duty to:

[(1) Provide information requested by the Board relating to the manufacturer's licensing or regulation; cooperate with the Board in investigations, hearings, and enforcement and disciplinary actions; and comply with conditions, restrictions, requirements, orders and rulings of the Board in accordance with the act.

(2) Report a change in circumstances that may render the holder of a manufacturer license ineligible, unqualified or unsuitable to hold a license under the standards and requirements of the act and of this part.

(3) Provide a copy of all SEC filings listed in § 427a.2(a)(6) (relating to manufacturer license applications and standards) that are filed after the date of issuance of its license. The copy shall be submitted no later than 30 days after the date of filing with the SEC.]

(1) Comply with the general requirements in Chapters 421a and 423a (relating to general provisions; and applications).

(2) For publicly traded manufacturers, provide notification of all SEC filings or if the manufacturer is publicly traded on a foreign exchange, a copy of all filings submitted to the securities regulator that has jurisdiction over the foreign publicly traded corporation. The notification or copies of the filings shall be submitted to the Bureau of Licensing within 30 days after the date of filing with the SEC or securities regulator that has jurisdiction over the foreign publicly traded corporation.

(b) An employee of a licensed manufacturer [whose duties of employment or incidental activities related to employment require the employee to be on the gaming floor or in a restricted area shall be required to obtain an occupational] who is a gaming or nongaming employee as defined in § 401a.3 (relating to definitions) shall obtain a permit under § 435a.3 (relating to occupation permit) or registration under § 435a.5 (relating to nongaming employee registration).

[(c) A slot machine licensee may service or repair slot machines or associated equipment at its licensed facility.

(d) A slot machine licensee may perform routine maintenance directly related to the availability of slot machines for play, customer service or a clean and gracious playing environment. The routine maintenance includes installation or replacement of the following: batteries; hardware, including hinges, screws, bolts and custom handles; light bulbs; locks on slot machines and slot cash storage boxes, including the rekeying of the locks; printers, exclusive of printer software; and paper stock.

Routine maintenance also includes external cleaning and the clearing of paper, bill and coin jams which do not require removal or dismantling of the mechanisms.]

(Editor's Note: The following section is new and printed in regular type to enhance readability.)

§ 427a.6. Change of control of a manufacturer licensee.

(a) For purposes of this section, a change of control of a manufacturer licensee will be deemed to have occurred when a person or group of persons acquires:

(1) More than 20% of a manufacturer licensee's securities, assets or other ownership interests.

(2) More than 20% of the securities or other ownership interests of a corporation or other form of business entity that owns directly or indirectly at least 20% of the voting or other securities or other ownership interests of the manufacturer licensee.

(3) Any other interest in a manufacturer licensee which allows the acquirer to control the manufacturer licensee.

(b) Prior to acquiring a controlling interest in a manufacturer licensee, the acquirer shall file a petition in accordance with § 493a.4 (relating to petitions generally) requesting Board approval of the acquisition. The petition must include:

(1) A copy of all documents governing the acquisition.

(2) Completed applications for the acquiring company, as required under this chapter, principals as required under Chapter 433a (relating to principal licenses) and key employees as required under § 435a.2 (relating to key employee license).

(3) An affirmation that neither the acquirer nor any of its affiliates, intermediaries, subsidiaries or holding companies is a slot machine licensee and that the acquirer has neither applied for nor holds a supplier license.

(c) A person or group of persons seeking to acquire a controlling interest in a manufacturer licensee shall promptly provide any additional information requested by the Board and Board staff and cooperate with the Bureau in any investigations related to the petition filed under subsection (b).

(d) A person or group of persons may not acquire a controlling interest in a manufacturer licensee until the petition, required under subsection (b), has been approved. A person or group of persons seeking to acquire a controlling interest in a manufacturer licensee and the manufacturer licensee may enter into an agreement of sale that is contingent on Board approval of the petition.

(e) The requirements of this section do not apply to the acquisition of a controlling interest in a manufacturer licensee when the following conditions are met:

(1) The acquirer is an existing licensed manufacturer.

(2) The existing licensed manufacturer has provided the Bureau and the Bureau of Licensing notification and a copy of all documents governing the acquisition at least 60 days prior to the acquisition.

(3) After reviewing the documentation, the Bureau and the Bureau of Licensing determine that the filing of a petition is not required.

CHAPTER 429a. MANUFACTURER DESIGNEES

§ 429a.1. Manufacturer designee general requirements.

(a) A manufacturer designee seeking to supply or repair slot machines, **table game devices** and associated

equipment for use in this Commonwealth shall apply to the Board for a manufacturer designee license.

(b) In accordance with section 1317.1 of the act (relating to manufacturer licenses), an applicant for or the holder of a manufacturer designee license or any of the applicant's or holder's affiliates, intermediaries, subsidiaries or holding companies, may not apply for or hold a slot machine license or supplier license.

(c) A licensed manufacturer designee may supply or repair slot machines, **table game devices** or associated equipment manufactured by a manufacturer with whom the manufacturer designee has an agreement or has executed a contract authorizing the manufacturer designee to do so.

[(d) Limitations will not be placed on the number of manufacturer designee licenses issued or when an application for a manufacturer designee license may be filed.]

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

(a) An applicant for a manufacturer designee license shall submit:

(1) An original and **[three copies] one copy** of the Manufacturer Designee Application and Disclosure Information Form unless otherwise directed by the Board.

(2) The nonrefundable application fee posted on the Board's **[website (pgcb.state.pa.us)] web site**.

(3) A diversity plan as set forth in section 1325(b) of the act (relating to license or permit issuance) and Chapter 481a (relating to diversity).

(4) An application from every key employee under § 435a.2 (relating to key employee license) and principal under Chapter 433a (relating to principal licenses) as specified by the Manufacturer Designee Application and Disclosure Information Form.

(5) [If applicable, copies of all filings required by the SEC during the 2 immediately preceding fiscal years, including all annual reports filed with the SEC, under sections 13 or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C.A. §§ 78m and 78o-6), quarterly reports filed with the SEC, under sections 13 or 15(d) of the Securities Exchange Act of 1934, current reports filed with the SEC, under sections 13 or 15(d) of the Securities Exchange Act of 1934, and proxy statements issued by the applicant.

(6)] An affirmation that neither the applicant nor any of its affiliates, intermediaries, subsidiaries or holding companies [, holds any direct or indirect ownership interest in any applicant for or holder of a slot machine license or supplier license, or employs, directly or indirectly, any person who satisfies the definition of a principal or key employee of a slot machine applicant or licensee or supplier applicant or licensee] is an applicant for or a holder of a slot machine license. [In applying this provision to an applicant for a manufacturer designee license, the Board will not include interests that are held by individuals in any of the following manners:

(i) In mutual funds when the value of the interest owned does not exceed 1% of the total fair market value of the applicant or licensee and provided that the mutual fund is not a nondiversified fund in-

vested primarily in entities operating in, or connected with, the gaming industry.

(ii) Through defined benefit pension plans.

(iii) Through deferred compensation plans organized and operated under section 457 of the Internal Revenue Code of 1986 (26 U.S.C.A. § 457).

(iv) In blind trusts over which the holder may not exercise any managerial control or receive income during the time period the holder is subject to these provisions.

(v) Through tuition account plans organized and operated under section 529 of the Internal Revenue Code of 1986 (26 U.S.C.A. § 529).

(vi) Through plans described in section 401(k) of the Internal Revenue Code of 1986 (26 U.S.C.A. § 401(k)).

(vii) An interest held by a spouse if an action seeking a divorce and dissolution of marital status has been initiated in any jurisdiction by either party to the marriage.

(7)] (6) A sworn or affirmed statement that the applicant has developed and implemented internal safeguards and policies to prevent a violation of section 1513 of the act (relating to political influence) and a copy of the safeguards and policies.

(b) In addition to the materials required under subsection (a), an applicant for a manufacturer designee license shall [:

(1) Promptly provide information requested by the Board relating to its application or regulation and cooperate with the Board in investigations, hearings, and enforcement and disciplinary actions.

(2) Comply] comply with the general application requirements in Chapters 421a and 423a (relating to general provisions; and applications).

(c) [An applicant for a manufacturer designee license will be required to reimburse the Board for any additional costs, based on the actual expenses incurred by the Board, in conducting the background investigation.

(d)] In determining whether an applicant will be licensed as a manufacturer designee under this section, the Board will consider the following:

(1) The financial fitness, good character, honesty, integrity and responsibility of the applicant.

(2) If all principals of the applicant are individually eligible and suitable under the standards in section 1317.1 of the act (relating to manufacturer licenses).

(3) The integrity of all financial backers.

(4) The suitability of the applicant and all principals **[and key employees]** of the applicant based on the satisfactory results of:

(i) A background investigation of all principals **[and key employees or their equivalent in other jurisdictions]**.

(ii) A current tax clearance review performed by the Department.

(iii) A current Unemployment Compensation Tax clearance review and a Workers Compensation Tax clearance review performed by the Department of Labor and Industry.

§ 429a.3. Additional manufacturer designee licenses.

(a) A licensed manufacturer designee whose license is in good standing may [**apply**] **submit** for an additional manufacturer [**designee license**] **designation** for a different licensed manufacturer by submitting:

(1) An original and [**three copies**] **one copy** of the Additional Manufacturer Designee Application and Disclosure Information Form unless otherwise directed by the Board.

(2) The nonrefundable [**application**] **designation** fee posted on the Board's [**website (www.pgcb.state.pa.us)**] **web site**.

(b) [**An applicant for an additional**] **A** manufacturer designee [**license**] **that has requested an additional manufacturer designation** shall also comply with [**§ 429a.2(b)(1), (2) and (c)**] **§ 429a.2(b)** (relating to manufacturer designee license applications and standards).

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

(a) The initial manufacturer designee license will be valid for 1 year from the date of [**issuance**] **approval** of the license by the Board. Renewals of a manufacturer designee license will be valid for 3 years from the date of the approval of the renewal of the license by the Board.

* * * * *

§ 429a.5. Responsibilities of a manufacturer designee.

(a) A holder of a manufacturer designee license shall have a continuing duty to:

[(1) **Provide information requested by the Board relating to licensing or regulation; cooperate with the Board in investigations, hearings, and enforcement and disciplinary actions; and comply with conditions, restrictions, requirements, orders and rulings of the Board in accordance with the act.**

(2) **Report a change in circumstances that may render a holder of a manufacturer or manufacturer designee license ineligible, unqualified or unsuitable to hold a license under the standards and requirements of the act and of this part.**

(3) **Provide a copy of all SEC filings listed in § 427a.2(a)(5) (relating to manufacturer license applications and standards) that are filed after the date of issuance of its license. The copy shall be submitted no later than 30 days after the date of filing with the SEC.]**

(1) **Comply with the general requirements in Chapters 421a and 423a (relating to general provisions; and applications).**

(2) **For publicly traded manufacturer designees, provide notification of all SEC filings or if the manufacturer designee is publicly traded on a foreign exchange, a copy of all filings submitted to the securities regulator that has jurisdiction over the foreign publicly traded corporation. The notification or copies of the filings shall be submitted to the Bureau of Licensing within 30 days after the date of filing with the SEC or securities regulator that has jurisdiction over the foreign publicly traded corporation.**

(b) [**A holder of a manufacturer designee license shall establish a place of business in this Commonwealth.**

(c)] **An employee of a licensed manufacturer designee [whose duties of employment or incidental activities related to employment require the employee to be on the gaming floor or in a restricted area shall be required to obtain an occupation] who is a gaming or nongaming employee as defined in § 401a.3 (relating to definitions) shall obtain a permit under § 435a.3 (relating to occupation permit) or registration under § 435a.5 (relating to nongaming employee registration).**

§ 429a.6. Manufacturer designee as agent.

(a) Notwithstanding any provision to the contrary in a contract between a licensed manufacturer and a licensed manufacturer designee, the licensed manufacturer designee shall be [**deemed to be**] an agent of the licensed manufacturer for the purposes of imposing liability for any act or omission of the licensed manufacturer designee in violation of the act or this part.

* * * * *

§ 429a.7. Manufacturer designee agreements.

(a) **Agreements, and any amendments thereto, between a licensed manufacturer and a licensed manufacturer designee shall be submitted to the Bureau of Licensing for [approval] review. [An agreement between a licensed manufacturer and a licensed manufacturer designee will not become effective and a manufacturer designee license will not be issued until the Bureau of Licensing has reviewed and approved the terms and conditions of the agreement.]**

(b) **Amendments to agreements between a licensed manufacturer and a licensed manufacturer designee shall be submitted to the Bureau of Licensing for [approval] review at least 30 days prior to the effective date of the proposed amendment. [The amendment may not become effective until the Bureau of Licensing has reviewed and approved the terms and conditions of the amendment.]**

(c) **An agreement between a licensed manufacturer and a licensed manufacturer designee submitted for Bureau of Licensing review [and approval] must enumerate with specificity the responsibilities of the licensed manufacturer and the licensed manufacturer designee.**

(d) **Agreements must contain a provision that describes with particularity any terms related to compensation of the licensed manufacturer or the licensed manufacturer designee.**

(Editor's Note: The following section is new and printed in regular type to enhance readability.)

§ 429a.8. Change of control of a manufacturer designee licensee.

(a) **For purposes of this section, a change of control of a manufacturer designee licensee will be deemed to have occurred when a person or group of persons acquires:**

(1) **More than 20% of a manufacturer designee licensee's securities, assets or other ownership interests.**

(2) **More than 20% of the securities or other ownership interests of a corporation or other form of business entity that owns directly or indirectly at least 20% of the voting**

or other securities or other ownership interests of the manufacturer designee licensee.

(3) Any other interest in a manufacturer designee licensee which allows the acquirer to control the manufacturer designee licensee.

(b) Prior to acquiring a controlling interest in a manufacturer designee licensee, the acquirer shall file a petition in accordance with § 493a.4 (relating to petitions generally) requesting Board approval of the acquisition. The petition must include:

(1) A copy of all documents governing the acquisition.

(2) Completed applications for the acquiring company, as required under this chapter, principals as required under Chapter 433a (relating to principal licenses) and key employees as required under § 435a.2 (relating to key employee license).

(3) An affirmation that neither the acquirer nor any of its affiliates, intermediaries, subsidiaries or holding companies is a slot machine licensee and that the acquirer has neither applied for nor holds a supplier license.

(c) A person or group of persons seeking to acquire a controlling interest in a manufacturer designee licensee shall promptly provide any additional information requested by the Board and Board staff and cooperate with the Bureau in any investigations related to the petition filed under subsection (b).

(d) A person or group of persons may not acquire a controlling interest in a manufacturer designee licensee until the petition, required under subsection (b), has been approved. A person or group of persons seeking to acquire a controlling interest in a manufacturer designee licensee and the manufacturer designee licensee may enter into a sales agreement that is contingent on Board approval of the petition.

(e) The requirements of this section do not apply to the acquisition of a controlling interest in a manufacturer designee licensee when the following conditions are met:

(1) The acquirer is an existing licensed manufacturer designee.

(2) The existing licensed manufacturer designee has provided the Bureau and the Bureau of Licensing notification and a copy of all documents governing the acquisition at least 60 days prior to the acquisition.

(3) After reviewing the documentation, the Bureau and the Bureau of Licensing determine that the filing of a petition is not required.

CHAPTER 431a. SUPPLIER LICENSES

§ 431a.1. Supplier general requirements.

(a) A supplier seeking to sell, lease, offer or otherwise provide, distribute or service slot machines, **table game devices** or associated equipment to a slot machine licensee within this Commonwealth [**through a contract with a licensed manufacturer**] shall apply to the Board for a supplier license.

(b) In accordance with sections 1317 and 1317.1 of the act (relating to supplier licenses; and manufacturer licenses), an applicant for or the holder of a supplier license or any of the applicant's or holder's affiliates, intermediaries, subsidiaries or holding companies, may not apply for or hold a slot machine license or a manufacturer license.

[**(c) Limitations will not be placed on the number of supplier licenses issued or when an application for a supplier license may be filed.**]

§ 431a.2. Supplier license applications and standards.

(a) An applicant for a supplier license shall submit:

(1) An original and [**three copies**] **one copy** of the Supplier Application and Disclosure Information Form for the applicant and each of the applicant's [**affiliated entities**] **principal affiliates**.

(2) The nonrefundable application fee posted on the Board's [**website (pgcb.state.pa.us)**] **web site**.

(3) A diversity plan as set forth in section 1325(b) of the act (relating to license or permit issuance) and Chapter 481a (relating to diversity).

(4) An application from every key employee under § 435a.2 (relating to key employee license) and principal under Chapter 433a (relating to principal licenses) as specified by the Supplier Application and Disclosure Information Form and other persons as determined by the Board

(5) [**A Gaming Employee Application and Disclosure Information Form for each of the supplier's known gaming employees.**

(6) **If applicable, copies of all filings required by the SEC during the 2 immediately preceding fiscal years, including all annual reports filed under section 13 or 15D of the Securities Exchange Act of 1934 (15 U.S.C.A. §§ 78a and 78o(d)), quarterly reports filed under section 13 or 15D of the Securities Exchange Act of 1934, current reports filed under section 13 or 15D of the Securities Exchange Act of 1934, and proxy statements issued by the applicant.**

(7) [**An affirmation that neither the applicant nor any of its affiliates, subsidiaries, intermediaries and holding companies [holds any direct or indirect ownership interest in an applicant for or holder of a manufacturer license or slot machine licensee, or employs, directly or indirectly, any person who satisfies the definition of a principal or key employee of a manufacturer or slot machine applicant or licensee] is an applicant for or holder of a slot machine license. [In applying this provision to an applicant for a supplier license, the Board will not include interests that are held by individuals in any of the following manners:**

(i) **In mutual funds when the value of the interest owned does not exceed 1% of the total fair market value of the manufacturer or slot machine applicant or licensee and provided that the mutual fund is not a nondiversified fund invested primarily in entities operating in, or connected with, the gaming industry.**

(ii) **Through defined benefit pension plans.**

(iii) **Through deferred compensation plans organized and operated under section 457 of the Internal Revenue Code of 1986 (26 U.S.C.A. § 457).**

(iv) **In blind trusts over which the holder does not exercise any managerial control or receive income during the time period the holder is subject to these provisions.**

(v) Through tuition account plans organized and operated under section 529 of the Internal Revenue Code (26 U.S.C.A. § 529).

(vi) Through plans described in section 401(k) of the Internal Revenue Code (26 U.S.C.A. § 401(k)).

(vii) An interest held by a spouse if an action seeking a divorce and dissolution of marital status has been initiated in any jurisdiction by either party to the marriage.

(8)] (6) A sworn or affirmed statement that the applicant has developed and implemented internal safeguards and policies to prevent a violation of section 1513 of the act (relating to political influence) and a copy the safeguards and policies.

(b) In addition to the materials required under subsection (a), an applicant for a supplier license shall:

(1) [Promptly provide information requested by the Board relating to the supplier's application or regulation and cooperate with the Board in investigations, hearings, and enforcement and disciplinary actions.

(2)] Comply with the general application requirements in Chapters 421a and 423a (relating to general provisions; and applications).

[(3)] (2) Demonstrate that the applicant has or will establish a principal place of business in this Commonwealth.

(c) [An applicant for a supplier license shall be required to reimburse the Board for any additional costs, based on the actual expenses incurred by the Board, in conducting the background investigation.

(d)] In determining whether an applicant is suitable to be licensed as a supplier under this section, the Board will consider the following:

(1) The financial fitness, good character, honesty, integrity and responsibility of the applicant.

(2) If all principals of the applicant [individually qualify] are eligible and suitable under the standards of section 1317 of the act (relating to supplier licenses).

(3) The integrity of financial backers.

(4) The suitability of the applicant and principals [and key employees] of the applicant based on the satisfactory results of:

(i) A background investigation of principals [and key employees].

(ii) A current tax clearance review performed by the Department.

(iii) A current Unemployment Compensation Tax clearance review and a Workers Compensation Tax clearance review performed by the Department of Labor and Industry.

§ 431a.3. Supplier license term and renewal.

(a) The initial supplier license will be valid for 1 year from the date of [issuance] approval of the license by the Board. Renewals of a supplier license will be valid for 3 years from the date of the approval of the renewal of the license by the Board.

* * * * *

§ 431a.4. Responsibilities of a supplier.

* * * * *

(b) [At the time of licensure, a supplier shall have assets or available lines of credit to support the sale, financing, servicing or repair of all slot machines to be placed in service or repaired by the supplier. The assets and available lines of credit shall be from a source independent of slot machine manufacturers and licensed gaming entities. Notwithstanding the forgoing, a licensed manufacturer may extend financing or payment terms to a licensed supplier, at prevailing market rates and terms, for the acquisition or leasing of slot machines, to be secured by the slot machines sold, leased or transferred.

(c)] A supplier shall submit to the [Board] Bureau of Licensing for review any agreements with a licensed manufacturer or with a slot machine licensee and detailed business plans. The [Board's] review may include, but not be limited to, financing arrangements, inventory requirements, warehouse requirements, warehouse space, technical competency, compensative agreements and other terms or conditions to ensure the financial independence of the licensed supplier from any licensed manufacturer or licensed gaming entity.

[(d)] (c) A holder of a supplier license shall have a continuing duty to:

[(1) Provide information requested by the Board relating to licensing or regulation; cooperate with the Board in investigations, hearings, and enforcement and disciplinary actions; and comply with conditions, restrictions, requirements, orders and rulings of the Board in accordance with the act.

(2) Report a change in circumstances that may render the holder of a supplier license ineligible, unqualified or unsuitable to hold a license under the standards and requirements of the act and of this part.

(3) Provide a copy of the SEC filings listed in § 431a.2(a)(6) (relating to supplier license applications and standards) that are filed after the date of issuance of its license. The copy shall be submitted within 30 days after the date of filing with the SEC.]

(1) Comply with the general requirements in Chapters 421a and 423a (relating to general provisions; and applications).

(2) For publicly traded suppliers, provide notification of all SEC filings or, if the supplier is publicly traded on a foreign exchange, a copy of all filings submitted to the securities regulator that has jurisdiction over the foreign publicly traded corporation. The notification or copies of the filings shall be submitted to the Bureau of Licensing within 30 days after the date of filing with the SEC or securities regulator that has jurisdiction over the foreign publicly traded corporation.

[(e)] (d) An employee of a licensed supplier [whose duties of employment or incidental activities related to employment allow the employee access to slot machines or associated equipment or require the employee to be on the gaming floor or in a restricted area shall be required to obtain an occupation] who is a gaming or nongaming employee as

defined in § 401a.3 (relating to definitions) shall obtain a permit under § 435a.3 (relating to occupation permit) or registration under § 435a.5 (relating to nongaming employee registration).

[(f) A slot machine licensee may service or repair slot machines or associated equipment at its licensed facility.

(g) A slot machine licensee may perform routine maintenance directly related to the availability of slot machines for play, customer service or a clean and gracious playing environment. The routine maintenance includes installation or replacement of the following: batteries; hardware, including hinges, screws, bolts and custom handles; light bulbs; locks on slot machines and slot cash storage boxes, including the rekeying of the locks; printers, exclusive of printer software; and paper stock. Routine maintenance also includes external cleaning and the clearing of paper, bill and coin jams which do not require removal or dismantling of the mechanisms.

(h) A licensed manufacturer or a manufacturer's designee may supply, install, service or repair slot machines or associated equipment manufactured by the licensed manufacturer.]

§ 431a.5. Supplier log books.

* * * * *

(b) The supplier licensee shall record or cause to be recorded in the log book the following:

* * * * *

(5) [If applicable] For individuals who are not employees of the supplier, the individual's Board license, permit, certification or registration number, if applicable.

* * * * *

(Editor's Note: The following section is new and printed in regular type to enhance readability.)

§ 431a.6. Change of control of a supplier licensee.

(a) For purposes of this section, a change of control of a supplier licensee will be deemed to have occurred when a person or group of persons acquires:

(1) More than 20% of a supplier licensee's securities, assets or other ownership interests.

(2) More than 20% of the securities or other ownership interests of a corporation or other form of business entity that owns directly or indirectly at least 20% of the voting or other securities or other ownership interests of the supplier licensee.

(3) Any other interest in a supplier licensee which allows the acquirer to control the supplier licensee.

(b) Prior to acquiring a controlling interest in a supplier licensee, the acquirer shall file a petition in accordance with § 493a.4 (relating to petitions generally) requesting Board approval of the acquisition. The petition must include:

(1) A copy of all documents governing the acquisition.

(2) Completed applications for the acquiring company, as required under this chapter, principals as required under Chapter 433a (relating to principal licenses) and key employees as required under § 435a.2 (relating to key employee license).

(3) An affirmation that neither the acquirer nor any of its affiliates, intermediaries, subsidiaries or holding companies is a slot machine licensee and that the acquirer has neither applied for nor holds a manufacturer license.

(c) A person or group of persons seeking to acquire a controlling interest in a supplier licensee shall promptly provide any additional information requested by the Board and Board staff and cooperate with the Bureau in any investigations related to the petition filed under subsection (b).

(d) A person or group of persons may not acquire a controlling interest in a supplier licensee until the petition, required under subsection (b), has been approved. A person or group of persons seeking to acquire a controlling interest in a supplier licensee and the supplier licensee may enter into a sales agreement that is contingent on Board approval of the petition.

(e) The requirements of this section do not apply to the acquisition of a controlling interest in a supplier licensee when the following conditions are met:

(1) The acquirer is an existing licensed supplier.

(2) The existing licensed supplier has provided the Bureau and the Bureau of Licensing notification and a copy of all documents governing the acquisition at least 60 days prior to the acquisition.

(3) After reviewing the documentation, the Bureau and the Bureau of Licensing determine that the filing of a petition is not required.

CHAPTER 433a. PRINCIPAL LICENSES

§ 433a.1. Definitions.

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

* * * * *

Officer—A president, chief executive officer, chief operating officer, secretary, treasurer, principal legal officer, principal compliance officer, principal financial officer, principal accounting officer, chief engineer or technical officer of a manufacturer, [principal slot operations officer of a slot machine licensee,] senior surveillance and audit executives of a principal affiliate of a slot machine licensee and any person routinely performing corresponding functions with respect to an entity whether incorporated or unincorporated.

* * * * *

§ 433a.3. Interests in licensees held by individuals.

(a) An individual shall apply for and obtain a principal license from the Board prior to possessing any of the following:

(1) A direct ownership interest in a slot machine or management company licensee.

(2) A 1% or greater indirect ownership interest in a slot machine or management company licensee. An ownership interest that is held indirectly by an individual through one or more intervening entities will be determined by successive multiplication of the ownership percentages for each link in the vertical chain.

(3) A right to receive a payment from a slot machine or management company licensee based [**directly or indirectly on the**] or contingent upon a licensee's earnings, profits or receipts from the slot machines, table games and associated equipment for use or play in this Commonwealth.

* * * * *

(d) An individual seeking to acquire a direct or indirect ownership interest of 20% or greater in a licensed manufacturer, licensed supplier or licensed manufacturer designee shall [**submit the following, at least 30 days prior to acquiring the ownership interest:**] comply with the requirements in § 427a.6, § 429a.8 or § 431a.6 (relating to change of control of a manufacturer licensee; change of control of a manufacturer designee licensee; and change of control of a supplier licensee).

[(1) A Notification of a Change in Control of a Licensee Form.

(2) A completed principal application.

(e) Notwithstanding subsection (d), the Board may require an individual to obtain a principal license prior to acquiring a direct or indirect ownership interest of 20% or greater in a licensed manufacturer, licensed supplier or licensed manufacturer designee.

(f) (e) Notwithstanding subsections (a) and (b), an individual whose ownership interest in a licensee consists of less than 5% of the voting securities of a publicly traded corporation will not be required to be licensed as a principal.

(g) (f) Notwithstanding subsections (a) and (b), an individual who indirectly owns less than 5% of the voting securities of a publicly traded corporation through one or more privately held entities will not be required to be licensed as a principal.

(h) (g) Notwithstanding subsections (a) and (b), an individual who indirectly owns less than 5% of the voting securities of a publicly traded corporation through a private investment fund that has been exempted from licensure under § 433a.4(h) (relating to interests in licenses held by entities) will not be required to be licensed as a principal.

(i) (h) Notwithstanding any provision in this section, the Board may require any individual who has any financial interest in a licensee to be licensed as a principal.

§ 433a.4. Interests in licensees held by entities.

(a) An entity shall apply for and obtain a principal license prior to possessing any of the following:

(1) A direct ownership interest in a slot machine or management company licensee.

(2) A 1% or greater indirect ownership interest in a slot machine or management company licensee. An ownership interest that is held indirectly by an entity through one or more intervening entities will be determined by successive multiplication of the ownership percentages for each link in the vertical chain.

(3) A right to receive a payment from a slot machine or management company licensee based [**directly or indirectly on**] or contingent upon the earnings, profits or

receipts from the slot machines, table games and associated equipment for use or play in this Commonwealth.

* * * * *

(d) An entity seeking to acquire a direct or indirect ownership interest of 20% or greater in a licensed manufacturer, licensed supplier or licensed manufacturer designee shall [**submit the following, at least 30 days prior to acquiring the ownership interest:**] comply with the requirements in § 427a.6, § 429a.8 or § 431a.6 (relating to change of control of a manufacturer licensee; change of control of a manufacturer designee licensee; and change of control of a supplier licensee).

[(1) A notification of a change in control of a licensee form.

(2) A completed principal application.

(e) Notwithstanding subsection (d), the Board may require an entity to obtain a principal license prior to acquiring a direct or indirect ownership interest of 20% or greater in a licensed manufacturer, licensed supplier or licensed manufacturer designee.

(f) (e) Notwithstanding subsections (a) and (b), an entity that indirectly owns less than 5% of the voting securities of a publicly traded corporation will not be required to be licensed as a principal.

(g) (f) Notwithstanding subsections (a) and (b), an entity that indirectly owns less than 5% of the voting securities of a publicly traded corporation through one or more privately held entities will not be required to be licensed as a principal.

(h) (g) Notwithstanding subsections (a) and (b), a private investment fund and its related management entities will not be required to be licensed as a principal if the following apply:

* * * * *

(i) (h) The Board may require a subsidiary of a licensee to be licensed as a principal.

(j) (i) Notwithstanding any provision to the contrary in this section, the Board may require any entity that has any financial interest in a licensee to be licensed as a principal.

§ 433a.5. Institutional investors.

(a) An institutional investor may file an Institutional Investor Notice of Ownership Form and **Passive Investor Affirmation** with the Bureau of Licensing in lieu of applying for principal licensure required under this chapter, if:

(1) The institutional investor owns or beneficially owns more than 5% but less than [**15%**] **20%** of the outstanding voting securities of a publicly traded corporation that is a principal affiliate of a manufacturer licensee, manufacturer designee licensee[,] or supplier licensee[, or management company licensee] and has filed and remains eligible to file a statement of beneficial ownership on Schedule 13G with the SEC as a result of the institutional investor's ownership interest in the publicly traded corporation.

(2) The institutional investor owns or beneficially owns more than 5% but less than 10% of the outstanding voting securities of a publicly traded corporation that is a

principal affiliate of a slot machine or management company licensee and has filed and remains eligible to file a statement of beneficial ownership on Schedule 13G with the SEC as a result of the institutional investor's ownership interest in the publicly traded corporation. In addition to filing an Institutional Investor Notice of Ownership Form and Passive Affirmation, if an institutional investor seeks to own 10% or more but less than 20% of the outstanding voting securities of a publicly traded corporation that is a principal affiliate of a slot machine or management company licensee:

(i) The institutional investor seeking to acquire the interest shall promptly provide information requested by the Bureau relating to the institutional investor, its operations and sources of funds. The information provided to the Bureau will be deemed confidential when submitted.

(ii) Within 5 days of receipt of all requested information, the Bureau will issue a written response relating to the proposed acquisition. If the Bureau does not cite an objection, the transaction may thereafter be consummated. If the Bureau objects to the acquisition, the institutional investor shall file a petition with Board in accordance with § 493a.4 (relating to petitions generally) for approval prior to acquiring the interest.

(b) If an institutional investor's purpose for holding an interest in a publicly traded corporation that is a principal affiliate of a slot machine, management company, manufacturer, manufacturer designee or supplier licensee changes from that of a passive investor, whereby the institutional investor files a Schedule 13D with the SEC indicating that its ownership interest is no longer passive, the institutional investor shall notify the Bureau of Licensing, in writing, within 2 days of filing the Schedule 13D with the SEC. The institutional investor shall then apply for licensure as a principal, in accordance with this chapter, within 30 days of filing the Schedule 13D with the SEC.

(c) Notwithstanding the requirements in subsections (a) and (b), if the institutional investor has an ownership interest in a publicly traded corporation, which is a principal affiliate of a licensee, that is listed on a foreign exchange in which a Schedule 13G is not filed, the institutional investor shall file a copy of the corresponding passive investor form filed with the securities regulator that has jurisdiction over the foreign publicly traded corporation.

[(b)] (d) The institutional investor shall file the Institutional Investor Notice of Ownership Form with the Bureau of Licensing within 30 days of the institutional investor filing its Schedule 13G with the SEC or the corresponding passive investor form with the securities regulator that has jurisdiction over the foreign publicly traded corporation.

§ 433a.6. Lenders and underwriters.

(a) Each lender and underwriter of a slot machine, management company, manufacturer or supplier licensee shall be licensed as a principal.

(b) Notwithstanding subsection (a), a lender that is a bank or lending institution which makes a loan to a slot machine, management company, manufacturer or supplier licensee in the ordinary course of business will not be required to be licensed as a principal. The Board may

require a bank or lending institution to provide information or other assurances to verify its eligibility for this exemption.

* * * * *

(e) A person that acquires a debt instrument issued by a licensed supplier, licensed manufacturer, licensed management company, slot machine licensee or principal affiliate of a slot machine licensee in a secondary market shall not be required to be licensed as a principal if:

(1) The person does not have any right or ability to control or influence the affairs of the licensee.

(2) The person's acquisition of the debt instrument is in the ordinary course of business and is not part of a plan or scheme to avoid the requirements of this section.

(f) Notwithstanding any provision to the contrary in this section, the Board may require the licensure of any person that holds a debt instrument issued by a licensee or any principal affiliate or subsidiary of a licensee [if the Board has reason to believe that the person would not satisfy the character requirements of section 1310(a) of the act (relating to slot machine license application character requirements)].

§ 433a.7. Trusts.

(a) A trust or similar business entity shall apply for and obtain a principal license prior to possessing any of the following:

(1) A direct ownership interest in a slot machine or management company licensee.

(2) A 1% or greater indirect ownership interest in a slot machine or management company licensee. An ownership interest that is held indirectly by an individual through one or more intervening entities will be determined by successive multiplication of the ownership percentages for each link in the vertical chain.

(3) A right to receive a payment from a slot machine licensee based [directly or indirectly on the] or contingent upon a licensee's earnings, profits or receipts from the slot machines, table games and associated equipment for use or play in this Commonwealth.

* * * * *

(b) A trust or similar business entity shall [notify the Board and] submit a completed application in accordance with § 433a.8 (relating to principal applications) prior to possessing any of the following:

* * * * *

(c) [Each] If a trust is required to be licensed as a principal in accordance with this section, each trustee, grantor and beneficiary, including a minor child beneficiary, of [a trust required to be licensed as a principal under this section shall be required to] the trust shall also be licensed as a principal.

* * * * *

§ 433a.8. Principal applications.

(a) An individual required to be licensed as a principal, unless otherwise directed by the Board, shall file:

(1) An original and [three copies] one copy of a completed [Multi Jurisdictional] Multi-Jurisdictional Personal History Disclosure Form.

(2) An original and [**three copies**] **one copy** of a completed Principal/Key Employee Form—Pennsylvania Supplement to the [**Multi Jurisdictional**] **Multi-Jurisdictional** Personal History Disclosure Form.

(3) [**Executed releases requested by the Board, including releases whereby the applicant consents to the release of information that may be requested by the individual pursuant to the Freedom of Information Act (5 U.S.C.A. § 552) to the Board.**

(4)] The nonrefundable application fee posted on the Board's web site [(www.pgcb.state.pa.us)].

(b) A principal entity required to be licensed as a principal shall file a completed Principal Entity Form and submit the applicable application fee posted on the Board's web site [(www.pgcb.state.pa.us)].

(c) A principal affiliate shall apply for a principal license as if the principal affiliate were applying for the slot machine license, manufacturer license, manufacturer designee license, supplier license or management company license.

(d) In addition to the materials required under subsections (a) or (b), an applicant for a principal license shall [:

(1) **Promptly provide information requested by the Board relating to the principals' application or regulation and cooperate with the Board in investigations, hearings and enforcement and disciplinary actions.**

(2) **Comply] comply** with the general application requirements in Chapters 421a and 423a (relating to general provisions; and applications).

CHAPTER 435a. **KEY, GAMING AND NONGAMING EMPLOYEES; BOARD-ISSUED CREDENTIALS**

§ 435a.1. **General provisions.**

(a) An individual seeking a key employee license, occupation permit or nongaming employee registration shall apply to the Board as required by this chapter.

(b) In addition to the materials required under §§ 435a.2, 435a.3 and 435a.5 (relating to key employee license; occupation permit; and nongaming employee registration), an applicant shall [:

(1) **Promptly provide information requested by the Board relating to its application or regulation and cooperate with the Board in investigations, hearings, and enforcement and disciplinary actions.**

(2) **Comply] comply** with the general application requirements in Chapters 421a and 423a (relating to general provisions; and applications).

(c) [**An individual who receives a license, permit or registration under this part shall have the continuing duty to report to the Board an arrest, charge, indictment or conviction for:**

- (1) **An offense involving moral turpitude.**
- (2) **An offense under 18 Pa.C.S. (relating to crimes and offenses).**
- (3) **An offense under 75 Pa.C.S. (relating to vehicles) which is punishable by 1 year or more.**
- (4) **An offense under section 13 of The Controlled Substance, Drug, Device and Cosmetic Act (35 P. S. § 780-113(a)) regarding prohibited acts; penalties.**
- (5) **Any felony offense.**

(6) **Comparable offenses in other states or foreign jurisdictions.**

(d)] The holder of a key employee license, occupation permit, or nongaming employee registration shall provide an updated photograph at the request of [**the**] Board staff.

[(e) **An individual may not be employed in this Commonwealth by an applicant for or holder of a license, certification or registration under this part in any capacity unless the individual is a citizen of the United States or can demonstrate that he holds a current and valid work authorization and is not restricted from working in the capacity for which employment is sought or held. Authorization to work in the United States may be demonstrated by submitting one of the following:**

- (1) **A permanent resident alien card.**
- (2) **A temporary employment authorization card.**
- (3) **A document which the Board deems to be sufficient evidence or authorization.**

(f) **A principal or key employee license will not be issued to an individual who has been convicted of a felony offense in any jurisdiction.**

(g) **A principal or key employee license will not be issued to an individual who has been convicted of a misdemeanor gambling offense in any jurisdiction, unless 15 years have elapsed from the date of conviction for the offense.**

(h) **A permit will not be issued to an individual who has been convicted of a felony offense or misdemeanor gambling offense in any jurisdiction unless 15 years have elapsed from the date of conviction for the offense.**

(i) **When considering an application for a registration from an individual who has been convicted of a felony or misdemeanor gaming offense in any jurisdiction, an application for a permit from an individual who has been convicted of a felony or misdemeanor gaming offense in any jurisdiction when 15 years have elapsed from the date of the conviction for the offense, or an application for a license from an individual who has been convicted of a misdemeanor gaming offense in any jurisdiction when 15 years have elapsed from the date of the conviction for the offense, Board will consider:**

- (1) **The nature and duties of the applicant's position with the licensed entity.**
- (2) **The nature and seriousness of the offense or conduct.**
- (3) **The circumstances under which the offense or conduct occurred.**
- (4) **The age of the applicant when the offense or conduct was committed.**
- (5) **Whether the offense or conduct was an isolated or a repeated incident.**

(6) **Evidence of rehabilitation, including good conduct in the community, counseling or psychiatric treatment received and the recommendation of persons who have substantial contact with the applicant.**

(j) **For purposes of this section, a felony offense is any of the following:**

(1) An offense punishable under the laws of this Commonwealth by imprisonment for more than 5 years.

(2) An offense which, under the laws of another jurisdiction, is either:

(i) Classified as a felony.

(ii) Punishable by imprisonment for more than 5 years.

(3) An offense under the laws of another jurisdiction which, if committed in this Commonwealth, would be subject to imprisonment for more than 5 years.

(k) An individual who holds a license, permit or registration and is currently employed by or associated with a slot machine licensee may not wager at any slot machine or table game in the licensed facility in which the licensee, permittee or registrant is currently employed or associated. The licensed, permitted or registered individual shall wait at least 30 days following the date that the individual is no longer employed in a position that requires a license, permit or registration before the individual may wager at the licensed facility.

(l) An employee of a slot machine licensee who is not required to obtain a license, permit or registration may not wager at the licensed facility in which the employee is currently employed.

(m) An individual who holds a license, permit or registration and is currently employed by a manufacturer, manufacturer designee, supplier or gaming related gaming service provider may not wager at any slot machine or table game in the licensed facility in which the individual is servicing or installing table games, table game devices, slot machines or associated equipment while the individual is at the licensed facility in the performance of the individual's job duties.

(n) An individual who is a qualifier of a gaming junket enterprise or an individual who is employed as a gaming junket representative may not wager at any slot machine or table game at the licensed facility at which the gaming junket enterprise has an ongoing contractual agreement.

(o) An individual required to obtain a license or permit by this part shall demonstrate that he is current and not in arrears on any financial obligation owed to the Commonwealth or any subdivision thereof, including court-ordered child-support payments.

(p) (d) An applicant for an occupation permit or nongaming employee registration shall be at least 18 years of age.

[(q)] (e) Slot machine licensees, manufacturers, manufacturer designees, suppliers, gaming service providers and gaming related gaming service providers that hire an individual who holds a **key employee** license, permit or registration issued by the Board shall contact the Bureau of Licensing to confirm that the individual's **key employee** license, permit or registration is in good standing prior to allowing the individual to work in the licensed facility.

§ 435a.2. Key employee license.

(a) An individual may not perform duties associated with a position that requires a key employee license prior

to receiving a temporary or permanent credential unless otherwise authorized by the Board. An applicant for a key employee license shall submit:

(1) An original and one copy of a completed Multi-Jurisdictional Personal History Disclosure Form.

(2) An original and one copy of a completed Principal/Key Employee Form—Pennsylvania Supplement to the Multi-Jurisdictional Personal History Disclosure Form.

(3) [Executed releases requested by the Board, including releases whereby the applicant consents to the release of information requested under section 1 of the Freedom of Information Act (5 U.S.C.A. § 552).

(4)] The nonrefundable application fee posted on the Board's web site [(www.pgcb.pa.gov)].

(b) In addition to the materials required under subsection (a), an applicant for a key employee license shall [:

(1) Promptly provide information requested by the Board relating to an application and cooperate with the Board in investigations, hearings, and enforcement and disciplinary actions.

(2) Comply] comply with the general application requirements in Chapters 421a and 423a (relating to general provisions; and applications).

(c) [In addition to the information under subsections (a) and (b), the Board may require letters of reference from law enforcement agencies under section 1310(b) of the act (relating to slot machine license application character requirements).

(d) An applicant for a key employee license will be required to reimburse the Board for additional costs, based on the actual expenses incurred by the Board, in conducting the background investigation.

(e)] After reviewing the [information submitted under subsections (a), (b) and (c),] application and the results of the applicant's background investigation, the Board may issue a key employee license if the individual has proven that he is a person of good character, honesty and integrity and is eligible and suitable to be licensed as a key employee.

[(f)] (d) A **key employee** license issued [under this section] will be valid for employment with any licensed entity.

§ 435a.3. Occupation permit.

(a) An applicant for [an] a **gaming employee** occupation permit shall submit:

(1) An original and one copy of the Gaming Employee Application and Disclosure Information Form or an electronic application using the SLOTS Link system. When an application for an [occupational] **occupation** permit is filed using SLOTS Link, [the] **any** additional documents required, including releases, shall be submitted to the Board:

(i) Within 5 days of the submission of the SLOTS Link application by an applicant for or holder of a slot machine license.

(ii) Within 10 days of the submission of the SLOTS Link application by an applicant for or holder of a manufacturer, manufacturer designee, or supplier license

or a gaming related gaming service provider certification or gaming service provider registration [or], certification or authorization.

(2) The nonrefundable application fee posted on the Board's web site [(www.pgcb.pa.gov)].

(3) Verification of an offer of employment from a licensed entity.

(b) In addition to the materials required under subsection (a), an applicant for [an] a gaming employee occupation permit shall [:

(1) Promptly provide information requested by the Board relating to his application and cooperate with the Board in investigations, hearings, and enforcement and disciplinary actions.

(2) Comply] comply with the general application requirements in Chapters 421a and 423a (relating to general provisions; and applications).

(c) [An applicant for an occupation permit may be required to reimburse the Board for additional costs, based on the actual expenses incurred by the Board, in conducting the background investigation.

(d)] After [review of the information submitted under subsections (a) and (b), including a] reviewing the application and the results of the applicant's background investigation, the Board may issue a gaming employee occupation permit if the individual has proven that the individual is a person of good character, honesty and integrity and is eligible and suitable to hold an occupation permit.

[(e)] (d) An individual who wishes to receive [an] a gaming employee occupation permit under this chapter may authorize an applicant for or holder of a slot machine, management company, manufacturer, manufacturer designee or supplier license or gaming related gaming service provider certification or gaming service provider registration [or], certification or authorization to file an application on the individual's behalf.

[(f)] (e) A gaming employee occupation permit issued under this section [shall] will be valid for employment with any licensed entity, any certified gaming related gaming service provider or any registered or certified gaming service provider.

§ 435a.5. Nongaming employee registration.

(a) An applicant for a nongaming employee registration shall submit:

(1) An original and one copy of the Nongaming Employee Registration Form or an electronic application using the SLOTS Link system. When an application for a nongaming employee registration is filed using SLOTS Link, [the] any additional documents required, including releases, shall be submitted to the Board:

(i) Within 5 days of the submission of the SLOTS Link application by an applicant for or holder of a slot machine license.

(ii) Within 10 days of the submission of the SLOTS Link application by an applicant for or holder of a manufacturer, manufacturer designee, or supplier license or an applicant for or holder of a gaming service provider registration or certification.

(2) The nonrefundable application fee posted on the Board's web site [(www.pgcb.pa.gov)].

(b) In addition to the materials required under subsection (a), an applicant for a nongaming employee registration shall [:

(1) Promptly provide information requested by the Board relating to his application and cooperate with the Board in investigations, hearings, and enforcement and disciplinary actions.

(2) Comply] comply with the general application requirements in Chapters 421a and 423a (relating to general provisions; and applications).

(c) After review of the [information required under subsections (a) and (b)] application, the Board may register the individual if the individual has proven that he is eligible and suitable to be registered under this section.

(d) An individual who wishes to receive a nongaming employee registration under this chapter may authorize an applicant for or holder of a slot machine, manufacturer, manufacturer designee or supplier license or a gaming service provider registration or certification to file an application on the individual's behalf.

(e) A registration issued under this section is valid for employment with any slot machine, manufacturer, manufacturer designee or supplier licensee or registered [or], certified or authorized gaming service provider.

(f) A registration issued under this section will be valid for 4 years from the date of Board approval. If a registrant is not employed for 2 years in a position that requires a nongaming registration, the registration will be deemed expired.

(g) A renewal application shall be submitted to the Board at least 60 days prior to the expiration of a registration credential.

§ 435a.6. Board credentials.

* * * * *

(c) A State employee required to obtain a Board credential shall carry the Board credential on his person at all times while engaged in the performance of his duties on the premises of a licensed facility.

(d) An individual who is not a State employee, who is required to obtain a Board credential and whose duties [do]:

(1) Do not require the individual to be on the gaming floor or in a restricted area, shall carry the Board credential on his person at all times while engaged in the performance of his duties on the premises of a licensed facility. [**An individual who is not a State employee, who is required to obtain a Board credential and whose duties require]**

(2) Require the individual to be on the gaming floor or in a restricted area, shall display the Board credential on his person at all times while engaged in the performance of his duties on the premises of a licensed facility. A food and beverage employee of a slot machine licensee who is required to obtain a Board credential and whose duties require the individual to be on the gaming floor may carry, instead of display, the employee's Board credential if:

[(1)] (i) The employee displays the access badge required under § 465a.12 (relating to access badges and temporary access credentials).

[(2)] (ii) The access badge displays a unique identification number that has been assigned to that employee and which can be read by the slot machine licensee's surveillance system.

[(d) Except as provided in § 435a.7 (relating to emergency credentials), slot] (e) Slot machine and management company licensees are prohibited from allowing a principal who is required to obtain a credential, a key employee, gaming employee or nongaming employee registrant to perform his duties on the premises of a licensed facility unless the employee [has his Board] is in possession of a Board-issued credential.

[(e) Notwithstanding subsection (a), the Board may, upon written request by a slot machine or management company licensee and upon a showing of good cause, exempt certain positions, titles or persons from the requirements of this section.]

(f) An employee whose license, permit or registration has been suspended or revoked by the Board shall surrender the Board credential to [the] Board staff.

§ 435a.8. Temporary credentials [for principals, key employees and gaming employees].

(a) A temporary credential may be issued by the Board to a principal, key employee or gaming employee.

(b) A temporary credential issued [under this section is void a maximum of 180 days after] to a principal, key employee or gaming employee is valid for up to 180 days from the date of its issuance.

(c) The Board may extend the expiration date of a temporary credential issued to a principal, key employee or gaming employee if the Board determines additional time is needed to complete an investigation for licensure.

(d) A temporary credential may be issued by the Bureau of Licensing to a nongaming employee if:

(1) The applicant has submitted all of the application materials required under § 435a.5 (relating to nongaming employee registration).

(2) The applicant has been fingerprinted and photographed by the Pennsylvania State Police.

(e) A temporary credential issued to a nongaming employee will be valid for 30 days.

[(d)] (f) Board staff may impose conditions on the holders of temporary credentials.

§ 435a.9. [Temporary credentials for nongaming employees] (Reserved).

[(a) A temporary credential may be issued by the Board to a nongaming employee if:

(1) The applicant has submitted all of the application materials required under § 435a.5 (relating to nongaming employee registration).

(2) The applicant has been fingerprinted and photographed by the Pennsylvania State Police.

(b) Temporary credentials for nongaming employees will be issued by the Bureau of Licensing.

(c) A temporary credential issued under this section will be valid for 30 days.]

§ 435a.9a. Gaming service provider employee temporary access credentials.

(a) The Board's casino compliance representatives at a licensed facility may issue a Gaming Service Provider Employee Temporary Access Credential to an employee of a registered or certified gaming service provider that is a construction company that is completing work on the gaming floor or in a restricted area under the registered or certified gaming service provider's original contract, change orders or punch lists, or to complete periodic repairs or warranty work if:

(1) The employee's duties of employment [or incidental activities related to employment] do not require the employee to touch or have contact with a slot machine, table game device or associated equipment other than exterior [cleaning] contact that does not affect the play of the game.

(2) The employee signs in with the security department of the licensed facility and will be escorted and under the supervision of an employee of the slot machine [licensee's security department] licensee who is authorized to have access to the area where the work is being performed.

(3) The gaming service provider employee and the employee of the slot machine licensee who will escort and supervise both sign in with the Board's casino compliance representatives.

(b) To receive a Gaming Service Provider Employee Temporary Access Credential, the employee of the registered or certified gaming service provider that is a construction company shall surrender his driver's license or other photo identification.

(c) A Gaming Service Provider Employee Temporary Access Credential will not be issued to an employee of a registered or certified gaming service provider that is a construction company for more than 12 days in a 12-month period. The time period may be extended for good cause as determined by the Bureau of Licensing.

(d) [Employees of a manufacturer, manufacturer licensee or supplier may not be issued a Gaming Service Provider Employee Temporary Access Credential.] As provided in § 437a.10 (relating to emergency gaming service provider), an employee of an emergency gaming service provider may obtain a temporary access credential in accordance with subsections (a) and (b) to enable the employee to perform emergency services at the licensed facility.

§ 435a.10. Loss, theft or destruction of credentials.

(a) As soon as possible, but no later than 24 hours following the loss, theft or destruction of a Board credential, emergency credential or temporary credential, the person to whom the credential was issued shall notify the [security department of the slot machine licensee] Board's casino compliance representatives at the licensed facility.

(b) [The security department of the slot machine licensee shall notify the Board in writing within 24 hours of receipt of the notice under subsection (a).]

(c) An employee who has lost his Board credential [The slot machine licensee, on behalf of an employee whose Board-issued credential was lost, stolen or destroyed, may request a [duplicate] re-

placement Board credential by submitting a Request for Duplicate PGCB Credential form and the fee established by the Board to the Bureau of Licensing.

CHAPTER 437a. GAMING SERVICE PROVIDER CERTIFICATION AND REGISTRATION

§ 437a.1. General gaming service provider requirements.

(a) [A] Except as provided in § 437a.10 (relating to emergency gaming service provider), a gaming service provider or person seeking to conduct business with a slot machine applicant or licensee[, except as provided in § 437a.10 (relating to emergency gaming service provider),] shall apply to the Board for registration if:

(1) The total dollar amount of the goods or services to be provided to a single slot machine applicant or licensee or to multiple slot machine applicants or licensees will be or is anticipated to be equal to or greater than \$100,000 but less than or equal to \$500,000 within a consecutive 12-month period.

(2) The employees of the gaming service provider or person seeking to conduct business with a slot machine applicant or licensee will be working [on the gaming floor or in restricted areas unless all of the following conditions are met] in either:

(i) A restricted area of the licensed facility.

(ii) On the gaming floor unless all of the following conditions are met:

[(i)] (A) The employees will be on the gaming floor for less than 24 hours within a 72-hour period no more than once in any consecutive 3-month period.

[(ii)] (B) The employees sign-in with the security department at the licensed facility and the Board's casino compliance representatives prior to entering the gaming floor.

[(iii)] (C) The gaming service provider has received written approval from the Bureau of Licensing for the gaming service provider's employees to be on the gaming floor.

(b) [A] Except as provided in § 437a.10, a gaming service provider or person seeking to conduct business with a slot machine applicant or licensee[, except as provided in § 437a.10,] shall apply to the Board for certification if the total dollar amount of the goods or services to be provided to a single slot machine applicant or licensee or to multiple slot machine applicants or licensees will be or is anticipated to be greater than \$500,000 within a consecutive 12-month period.

(c) A person that provides goods or services indirectly to a slot machine applicant or licensee through an intermediary, holding company or affiliate of the slot machine applicant or licensee shall be required to be registered or certified if the cost of the goods or services provided to the slot machine applicant or licensee exceeds the monetary thresholds in subsections (a) and (b).

(d) The following persons are exempt from the gaming service provider registration and [the gaming service provider] certification requirements of this chapter:

(1) Public utilities which provide [only] one or more of the following services to a slot machine applicant or licensee:

* * * * *

(g) [A person, or subsidiary of a person, that has a class of equity securities listed on the New York Stock Exchange, the NASDAQ Stock Market, the American Stock Exchange or a foreign stock exchange determined by the Bureau of Licensing to have similar listing requirements may be authorized to provide goods or services to slot machine applicants and licensees without applying for registration or certification if the person or subsidiary of the person] Notwithstanding subsections (a) and (b), a publicly traded corporation or subsidiary thereof will not be required to be registered or certified as a gaming service provider if the publicly traded corporation or subsidiary thereof submits a completed Publicly Traded Gaming Service Provider Form to the [Board] Bureau of Licensing accompanied by the filing fee posted on the Board's web site [(www.pgcb.state.pa.us)]. A [person] publicly traded corporation or subsidiary [of a person] thereof that is authorized to provide goods and services under this subsection shall be required to:

(1) Comply with § 437a.7 (relating to registered [and], certified and authorized gaming service provider responsibilities).

(2) [Immediately notify the Board if the person or subsidiary of the person ceases to have a class of equity securities listed on the New York Stock Exchange, the NASDAQ Stock Market, the American Stock Exchange or a foreign stock exchange determined by the Bureau of Licensing to have similar listing requirements.] Immediately notify the Bureau of Licensing if the publicly traded corporation or subsidiary thereof ceases to meet the definition of a publicly traded corporation.

* * * * *

§ 437a.2. Gaming service provider registration applications.

(a) A gaming service provider seeking registration shall do one of the following:

(1) [Complete] If the gaming service provider has or will be entering into an agreement to provide goods or services to a specific slot machine applicant or licensee, the gaming service provider shall complete an original and [four copies] one copy of a Gaming Service Provider Registration Form—Sponsored. The original [and copies] copy and the fee toward the cost of the investigation of the applicant posted on the Board's web site [(www.pgcb.state.pa.us)] shall be submitted to the Bureau of Licensing by the slot machine applicant or licensee for whom the gaming service provider will provide goods or services unless otherwise directed by the [Board] Bureau of Licensing.

(2) [Complete] If a gaming service provider does not have an agreement to provide goods or services to a specific slot machine applicant or licensee but is seeking to conduct business with slot machine applicants or licensees, the gaming service provider shall complete an original and [four copies] one copy of a Gaming Service Provider Registration Form—

Un-sponsored. The original [**and copies**], **copy** and the fee toward the cost of the investigation of the applicant posted on the Board's web site [**(www.pgcb.state.pa.us)**] shall be submitted to the Bureau of Licensing by the gaming service provider unless otherwise directed by the [**Board**] **Bureau of Licensing**.

(b) In addition to the materials required under subsection (a), an applicant for a gaming service provider registration shall:

(1) Submit the nonrefundable application fee posted on the Board's web site [**(www.pgcb.state.pa.us)**].

(2) [**Promptly provide information requested by the Board relating to its application or regulation and cooperate with the Board in investigations, hearings and enforcement and disciplinary actions.**

(3)] Comply with the general application requirements in Chapters 421a and 423a (relating to general provisions; and applications).

[(4)] (3) Submit fingerprints of the following individuals [**to the Board**] in a manner prescribed by [**BIE**] **the Bureau**:

* * * * *

(c) A person who holds any direct or indirect ownership or beneficial interest in a registered gaming service provider or applicant for gaming service provider registration, or has the right to any profits or distributions directly or indirectly, from the registered gaming service provider or applicant for gaming service provider registration may be required to submit fingerprints if the [**Board**] **Bureau** determines that the submission of fingerprints of the person is necessary to protect the public interest or to enhance the integrity of gaming in this Commonwealth.

(d) Each of the individuals required to submit fingerprints under subsection [(b)(4) or (c)] (b)(3) must be found qualified by the Board. **An individual who is found qualified and is also a gaming or nongaming employee as defined in § 401a.3 (relating to definitions) shall obtain a gaming employee occupation permit in accordance with § 435a.3 (relating to occupation permit) or a nongaming employee registration in accordance with § 435a.5 (relating to nongaming employee registration).**

(e) An applicant for a gaming service provider registration [**will be required to**] shall reimburse the Board for costs incurred [**by the Board**] in conducting the [**review**] investigation of the [**application**] applicant.

(f) A gaming service provider registration will not be issued until all fees **and costs** have been paid.

§ 437a.3. Gaming service provider certification applications.

(a) A gaming service provider seeking certification shall complete and the slot machine applicant or licensee for whom the gaming service provider will provide goods or services shall submit:

(1) An original and [**four copies**] **one copy** of a Gaming Service Provider Certification Application and Disclosure Information Form unless otherwise directed [**by the Board**].

(2) The nonrefundable application fee posted on the Board's web site [**(www.pgcb.state.pa.us)**].

(3) Applications and release authorizations for each individual required to be qualified under § 437a.4 (relating to qualification of individuals and entities).

(b) In addition to the [**materials required under**] **requirements of** subsection (a), an applicant for a gaming service provider certification shall [**:**

(1) **Promptly provide information requested by the Board relating to is application or regulation and cooperate with the Board in investigations, hearings, and enforcement and disciplinary actions.**

(2) **Comply**] **comply** with the general application requirements in Chapters 421a and 423a (relating to general provisions; and applications).

(c) **An applicant for a gaming service provider certification shall reimburse the Board for costs incurred in conducting the investigation of the applicant.**

(d) A gaming service provider certification will not be issued until all fees **and costs** have been paid.

[(d) **A person required to be a certified gaming service provider under this chapter may request that the Board waive its obligation to be certified by filing a Single Transactional Waiver Form. To be eligible to receive this waiver from the requirements of certification, the person shall demonstrate that the person is proposing to engage in a single transaction with a slot machine applicant or licensee and satisfies the following requirements:**

(1) **The person's required performance under the contract with the slot machine applicant or licensee does not require the person's employees to be on the gaming floor or in a restricted area.**

(2) **The person has not filed a Single Transactional Waiver Form with the Board within 2 years of the current waiver request.**

(3) **The person will not have a continuing business relationship with the slot machine applicant or licensee or have a continuing onsite presence at the licensed facility.**

(e) **The Board may, in response to misrepresentations or a change in circumstances, revoke a waiver granted under this section and require the recipient of the waiver to comply with the gaming service provider certification requirements of this chapter.**

(f) **A person who has requested a waiver under this section may not provide goods or services to a slot machine applicant or licensee prior to Board approval of the person's waiver request.]**

(Editor's Note: The following section is new and printed in regular type to enhance readability.)

§ 437a.3a. Single transaction waiver.

(a) A gaming service provider required to be registered or certified under this chapter may request that the Board waive its obligation to be registered or certified by filing a Single Transactional Waiver Form. To be eligible to receive a waiver, the gaming service provider shall demonstrate that it is proposing to engage in a single transaction and satisfies the following requirements:

(1) The gaming service provider's required performance under the contract with the slot machine licensee does not require the gaming service provider's employees to be on the gaming floor or in a restricted area.

(2) The gaming service provider has not filed a Single Transactional Waiver Form within 2 years of the current waiver request.

(3) The gaming service provider will not have a continuing business relationship with the slot machine licensee or have a continuing onsite presence at the licensed facility.

(b) The Board may, in response to misrepresentations or a change in circumstances, revoke a waiver granted under this section and require the recipient of the waiver to comply with the gaming service provider registration or certification requirements of this chapter.

(c) A gaming service provider that has requested a waiver under this section may not provide goods or services to a slot machine applicant or licensee prior to Board approval of the gaming service provider's waiver request.

§ 437a.4. Qualification of individuals and entities.

* * * * *

(b) Each entity that directly owns 20% or more of the voting securities of a certified gaming service provider or person applying for gaming service provider certification shall **[be required to]** file a Gaming Service Provider Certification Form—Private Holding Company with the **[Board] Bureau of Licensing** and be found qualified by the Board.

(c) The following persons may be required to submit a Gaming Service Provider Certification Form—Private Holding Company or a Pennsylvania Personal History Disclosure Form and be found qualified by the Board if the **[Board] Bureau of Licensing** determines that the qualification of the person is necessary to protect the public interest or to enhance the integrity of gaming in this Commonwealth:

* * * * *

(d) The Bureau of Licensing may issue a temporary credential to an individual who is required to be qualified by the Board under this section if:

(1) The individual's presence in the licensed facility is needed.

(2) The company with which the individual is associated is on the Authorized Gaming Service Provider List.

(e) **[The] Upon request, the** Bureau of Licensing will issue a **[permanent]** credential to an individual who has been found **[to be]** qualified under this section if the Gaming Service Provider has been certified.

§ 437a.5. Construction subcontractors.

(a) **[A] Instead of filing for registration or certification, a** construction subcontractor **[who] that** is otherwise required to be certified or registered may elect to file an On-site Subordinate Pre-Opening Construction Notification Form with the **[Board in lieu of registration or certification] Bureau of Licensing** if:

(1) The subcontractor is not providing goods or services through an agreement with a slot machine applicant or licensee.

(2) The subcontractor is not **a first-tier subcontractor** providing goods or services to **[a person who] the general contractor that** has entered into a contract with a slot machine applicant or licensee for the construction of a licensed facility.

(b) The On-site Subordinate Gaming Service Provider Notification Form shall be valid for the construction of only one licensed facility, and shall **[be valid for only 1 year unless the Board, at its sole discretion, renews the On-site Subordinate Gaming Service Provider Notification Form after a showing by the subcontractor that its obligations pursuant to the subcontract have not been fully performed and good cause exists for the delay in the performance] expire upon completion of the contract.**

(c) A subcontractor **[who] that** elects to file an On-site Subordinate Gaming Service Provider Notification Form as outlined in subsection (a) shall be prohibited from:

(1) Employing any person to work **[on the gaming floor or]** in a restricted area of a licensed facility **or on the gaming floor after onsite Board staff designates the area as a gaming floor.**

(2) Providing, directly or indirectly, goods or service to any other slot machine applicant or licensee other than the slot machine applicant or licensee identified in the On-site Subordinate Gaming Service Provider Notification Form.

§ 437a.6. Registration and certification term and renewal.

(a) Gaming service provider certifications, registrations and renewals issued under this chapter shall be valid for 4 years from the date of Board approval.

(b) **Publicly traded gaming service provider authorizations approved under § 437a.1(g) (relating to general gaming service provider requirements) will be valid for 4 years from the date of authorization.**

(c) Registered **[and]**, certified **and authorized publicly traded** gaming service providers shall submit to the Board a completed renewal application **or form** and renewal fee at least 60 days prior to the expiration of a certification **[or]**, registration **or authorization**.

[(c)] (d) A certification or registration for which a completed renewal application and fee has been received by the **[Board] Bureau of Licensing** will continue in effect until the Board sends written notification to the holder of the certification or registration that the Board has approved or denied the certification or registration.

(e) **A publicly traded gaming service provider authorization for which a completed renewal form and fee has been received by the Bureau of Licensing will continue in effect unless the Bureau of Licensing sends written notification to the publicly traded gaming service provider that the authorization has been rescinded.**

§ 437a.7. Registered **[and]**, certified **and authorized** gaming service provider responsibilities.

(a) A holder of a gaming service provider certification **[or]**, registration **or authorization** shall have a continuing duty to **[:] comply with the general application requirements in Chapters 421a and 423a (relating to general provisions; and applications).**

[(1) Provide information requested by the Board relating to licensing or regulation; cooperate with the Board in investigations, hearings, and enforcement and disciplinary actions; and comply with conditions, restrictions, requirements, orders and rulings of the Board in accordance with the act.

(2) Report a change in circumstances that may render the holder of a gaming service provider certification or registration ineligible, unqualified or unsuitable to hold a certification or registration under the standards and requirements of the act and of this part.]

(b) An employee of a [registered or certified] gaming service provider shall be required to obtain an occupation permit under § 435a.3 (relating to occupation permit) if:

(1) The employee is the onsite supervisor of other gaming employees, as defined in § 401a.3 (relating to definitions), of the gaming service provider [whose duties of employment or incidental activities related to employment require the employees to be on the gaming floor or in a restricted area].

(2) The [employee's duties of employment or incidental activities related to employment require the employee to be on the gaming floor or in a restricted area and require the employee to touch or have contact with a slot machine or associated equipment] employee is a gaming employee as defined in § 401a.3.

(c) An employee of a [certified] gaming service provider [that] who is not required to obtain an occupation permit under subsection (b) shall be required to obtain a nongaming employee registration under § 435a.5 (relating to nongaming employee registration) if:

(1) The employee is the onsite supervisor of [other employees who are involved in the construction of a licensed facility.]:

(i) Other nongaming employees as defined in § 401a.3.

(ii) Employees of the gaming service provider who are involved in the construction of the licensed facility.

(2) [The employee's duties of employment or incidental activities related to employment require the employee to be on the gaming floor but do not require the employee to touch or have contact with a slot machine or associated equipment other than exterior cleaning.] The employee is a nongaming employee as defined in § 401a.3.

[(3) The employee's duties of employment or incidental activities related to employment require the employee to be in a restricted area, but do not require the employee to touch or have contact with a slot machine or associated equipment other than exterior cleaning and the employee is under the constant supervision of an employee of the slot machine licensee who is licensed or permitted and who is authorized to be in the restricted area.

(4) The employee is the offsite supervisor of employees of the registered or certified gaming service provider working at the licensed facility.]

(d) Employees of a [registered or certified] gaming service provider who are not required to obtain an occupation permit or a nongaming employee registration under subsection (b) or (c) may be required to obtain an occupation permit or nongaming employee registration if the Board determines, after a review of the work being performed, that obtaining a permit or registration is necessary for the protection of the integrity of gaming.

(e) Workers employed by a [registered or certified] gaming service provider that is a construction company, who are completing work on the gaming floor or in a restricted area under their original contract, change orders, punch lists, periodic repairs or warranty work, will not be required to comply with the requirements in subsection (b) or (c) if the [following] conditions in § 435a.9a (a) and (b) (relating to gaming service provider employee temporary access credentials) are met[:].

[(1) The employee's duties of employment or incidental activities related to employment do not require the employee to touch or have contact with a slot machine or associated equipment other than exterior cleaning.

(2) The employee is under the supervision of an employee of the slot machine licensee's security department who is authorized to have access to the area where the work is being performed.

(3) The employee has been issued a Gaming Service Provider Employee Temporary Access Credential by one of the Board's casino compliance representatives at the licensed facility.]

(f) A certified, registered or authorized gaming service provider operating within a licensed facility that cashes personal checks shall comply with § 465a.20 (relating to personal check cashing).

§ 437a.8. Authorized gaming service providers list; prohibited gaming service providers.

(a) The Board will maintain a list of authorized gaming service providers and a list of prohibited gaming service providers. The authorized list will contain the names of persons who:

(1) Have been registered or certified.

(2) Are eligible to file and have filed a completed publicly traded gaming service provider form under § 437a.1(g) (relating to general gaming service provider requirements).

(3) Have been [permitted] authorized to conduct business with a slot machine licensee or applicant under § 437a.9 (relating to permission to conduct business prior to certification or registration).

(b) Except as permitted under § 437a.1(a)(2), (d) and (g) and § 437a.10 (relating to emergency gaming service provider), a slot machine licensee or applicant may not purchase goods or services from a gaming service provider, when the employees of the gaming service provider will be working on the gaming floor or in a restricted area or compensate a gaming service provider \$100,000 or more within a consecutive 12-month period, unless the person is on the authorized gaming service provider list. A slot machine licensee or applicant or any affiliate, intermediary, subsidiary or holding company thereof acting on behalf of the slot machine licensee or applicant may not enter into an agreement or

continue to do business with a gaming service provider on the prohibited gaming service providers list.

(c) The Board may place a person on the prohibited gaming service providers list if:

(1) The gaming service provider has failed to comply with this chapter.

(2) The gaming service provider has failed to cooperate with [the Board in the Board's] Board staff in its review and investigation of the gaming service provider's application [for certification or registration].

* * * * *

§ 437a.10. Emergency gaming service provider.

(a) A slot machine licensee may utilize a gaming service provider that is not registered [or], certified or authorized to conduct business in accordance with § 437a.8 (relating to authorized gaming service providers list; prohibited gaming service providers) when a threat to public health, welfare or safety of the building or its occupants exists or circumstances outside the control of the slot machine [applicant or] licensee create an urgency of need which does not permit the delay involved in using the formal method of gaming service provider certification or registration. A slot machine licensee may not use a gaming service provider on the prohibited list.

(b) When using a gaming service provider that is not registered [or], certified or authorized to conduct business to respond to an emergency, the slot machine [applicant or] licensee shall:

(1) Immediately notify the onsite casino compliance representatives in the licensed facility of the emergency and the gaming service provider that was selected to provide emergency services.

(2) File a Gaming Service Provider Emergency Notification Form with the [Board] Bureau of Licensing within 72 hours [of] after commencement of the gaming service provider's [commencement of] services and a written explanation of the basis for the procurement of the emergency gaming service provider.

[(2) Provide a written explanation to the Board of the basis for the emergency gaming service provider procurement and for the selection of the particular gaming service provider.

(3) File a Gaming Service Provider Registration Form or Gaming Service Provider Certification Form on behalf of the gaming service provider within 20 business days of the filing of the Gaming Service Provider Notification Form.]

(c) An employee of the emergency gaming service provider who is providing emergency services in the licensed facility shall obtain a temporary access credential in accordance with § 435a.9a(d) (relating to gaming service provider employee temporary access credentials) prior to performing any work.

(d) If the slot machine licensee continues to utilize the gaming service provider after the emergency circumstances have passed or if the Bureau of Licensing determines that the circumstances did not necessitate the use of an emergency gaming service provider that was not registered, certified or on the authorized list, the slot machine licensee

and gaming service provider shall comply with the requirements in this chapter.

§ 437a.11. Slot machine applicants' and licensees' duty to investigate.

* * * * *

(b) An applicant for or holder of a slot machine license shall have an affirmative duty to avoid agreements or relationships with persons applying for gaming service provider registration or certification whose background or [association is] associations are injurious to the public health, safety, morals, good order and general welfare of the people of this Commonwealth, or who threaten the integrity of gaming in this Commonwealth.

* * * * *

CHAPTER 440a. MANAGEMENT COMPANIES

§ 440a.1. General requirements.

(a) A management company shall [be required to] obtain a management company license from the Board prior to [providing any service to a slot machine applicant or licensee under this chapter] the commencement of gaming operations.

* * * * *

§ 440a.2. Applications.

(a) An applicant for a management company license shall file:

(1) A completed [applicable Category 1, Category 2 or Category 3 slot machine license] application and disclosure [information forms with the applicable appendices as if the management company license applicant were an affiliated entity of the slot machine applicant or licensee] form.

(2) The nonrefundable application fee posted on the Board's [website (pgcb.state.pa.us)] web site.

(b) In addition to the [materials] application required under subsection (a), an applicant for a management company license shall [:

(1) Promptly provide information requested by the Board relating to its application or regulation and cooperate with the Board in investigations, hearings, and enforcement and disciplinary actions.

(2) Comply] comply with the general application requirements in Chapters 421a and 423a (relating to general provisions; and applications).

§ 440a.3. Management company license term and renewal.

(a) A management company license or renewal will be valid for 3 years from the date on which the initial license is issued or the renewal is approved by the Board. The management company license will not be issued or renewed until all fees and costs have been paid.

(b) A renewal application shall be submitted to the [Board] Bureau of Licensing at least 60 days prior to the expiration of a management company license.

(c) A management company license for which a completed renewal application and fee has been received by the [Board] Bureau of Licensing will continue in effect until the Board sends written notification to the

holder of the management company license that the Board has approved or denied the management company license.

(d) A management company license issued by the Board is nontransferable.

§ 440a.5. Management contracts.

(a) A management contract between a slot machine applicant or licensee and management company licensee may not become effective until the Board has [reviewed and] approved [the terms and conditions of] the management contract.

(b) A management company licensee shall submit any amendment to a management contract 30 days prior to the effective date of the proposed amendment. The amendment may not become effective until the Board has [reviewed and] approved the [terms and conditions of the] amendment.

(c) A management contract or amendment will not be approved by the Board unless the management company proves by clear and convincing evidence that the approval of the contract would not create a monopoly on the control of licensed gaming facilities in this Commonwealth. [A management company that seeks Board approval of a management contract shall disclose its financial interests in the slot machine licensee or applicant and, if applicable, proposed or contemplated changes in ownership or control of a slot machine licensee.]

(d) [Requests for approval of a management contract must include a business plan which sets forth the parties' goals and objectives for the term of the management contract.] A management company that requests Board approval of a management contract shall disclose its financial interests in the slot machine applicant or licensee and, if applicable, any exercisable option that may constitute a change in ownership or control of a slot machine licensee as described in § 441a.17 (relating to change in ownership or control of slot machine licensee and multiple slot machine license prohibition).

* * * * *

(f) A management contract submitted for [Board review and] approval must [enumerate with specificity] specify the terms and conditions of the management contract and the responsibilities of the slot machine applicant or licensee and management company [under the terms and conditions of the management contract]. At a minimum, the terms should address whether, and to what extent, the management company is involved in the following:

- (1) Operation of the following departments:

* * * * *

- (vi) Surveillance.

- (viii) Table games.

(2) Design, construction, improvement [or] and maintenance[, or both,] of the licensed facility.

(3) [Provision] Sources of operating capital and financing for the development of the licensed facility.

(4) Payment of the slot machine license fee and the table games operation certificate fee, if applicable.

(5) Purchase or lease of slot machines, table games, table game devices or associated equipment.

(6) Design, implementation [or] and amendment[, or both,] of the system of internal controls required under section 1322 of the act (relating to slot machine accounting controls and audits) and this part including the financial reporting requirements.

* * * * *

(12) Procurement of [vendors] gaming service providers and gaming [junkets] junket enterprises.

(13) Selection of the licensed facility's independent auditor.

(g) Notwithstanding subsections (a)—(f), a slot machine licensee and licensed management company may not contract for the delegation of any benefits, duties or obligations specifically granted to or imposed upon the slot machine licensee by the act.

CHAPTER 441a. SLOT MACHINE LICENSES

§ 441a.1. Definitions.

For purposes of this subpart, the following words and terms have the following meanings, unless the context clearly indicates otherwise:

* * * * *

Applicant—A person who applies to the Board to receive a slot machine license as defined in this section.

Debt transaction—A transaction or series of transactions in which the entity incurs any of the following types of debt:

- (i) Loans, lines of credit or similar financing.
- (ii) Public and private debt offerings.
- (iii) Note issuance, exchange or bond offering.
- (iv) Any transaction that provides guarantees or encumbers assets of the licensee.

Developer—A person engaged by a slot machine applicant or licensee to construct a proposed licensed facility or to otherwise make land or buildings suitable for use as a licensed facility.

Guest rooms under common ownership—A room or group of rooms, including timeshare units, that are owned by a well-established resort hotel and that are available for rental.

Initial plan of development—The slot machine licensee's financing, construction schedule, comprehensive design plan and projected expenditure for the licensed facility as described by the licensee in its application and presented at the licensee's initial suitability hearing before the Board.

Licensing hearing—A hearing before the Board in which an applicant for a [grant of a permanent] slot machine license [or a Conditional Category 1 slot machine license] will have an opportunity to present to the Board:

- (i) Evidence concerning its eligibility for a license.
- (ii) Evidence concerning its suitability for a license.
- (iii) Evidence of how its proposed facility and operation addresses the criteria identified in section 1325(c) of the act (relating to license or permit issuance).

(iv) For applicants seeking licensure under section 1304 of the act (relating to Category 2 slot machine license), evidence which sets forth a comparison between the applicant and other applicants within the same category of licensure on the standards and criteria in the act.

Material change in financial status—A default in any covenant or condition specified in any loan document or other debt instrument under which the slot machine licensee, or any of its intermediaries, subsidiaries, holding companies or management companies thereof, is a borrower or guarantor.

Material debt transaction—

(i) A debt transaction of \$25 million or more in a single transaction or cumulative transactions during any 12-month period.

(ii) The term does not include transactions under a Board-approved line of credit, revolver or similar type of loan.

Modified plan of development—An alteration to a slot machine licensee's initial plan of development.

Non-de minimis consideration—A payment of fair market value of at least \$10 per patron paid to the resort hotel for use of one or more amenities.

* * * * *

§ 441a.2. Slot machine application [restrictions and] deadlines.

[(a) Under section 1304 of the act (relating to category 2 slot machine license), an applicant for a Category 2 slot machine license under section 1301 of the act (relating to authorized slot machine licenses), its affiliate, intermediary, subsidiary or holding company, may not possess any ownership or financial interest in any person eligible to apply for a Category 1 slot machine license or its affiliates, intermediaries, subsidiaries or holding companies.

(b)] The Board will initiate the formal procedure for the acceptance, consideration and final resolution of applications for slot machine licenses by setting a filing period for filing of Category 1, 2 or 3 slot machine license applications. The filing period set by the Board will be posted on the Board's [website (www.pgcb.state.pa.us)] web site.

[(c) After the expiration of the filing period established by the Board under subsection (b), the Board will set a completion date by which all filed applications are to be complete. An application that is not complete, as determined by the Board, by the completion date will not be considered. The completion date set by the Board under this subsection will be published in the *Pennsylvania Bulletin* at least 30 days prior to the completion date.]

§ 441a.3. Slot machine license application.

(a) An applicant for a slot machine license shall submit an application which includes the following:

(1) An original and [three copies] one copy of the Conditional[/]Category 1, Category 2, or Category 3 Application and Disclosure Information Form.

(2) The nonrefundable application fee posted on the Board's [website (www.pgcb.state.pa.us)] web site.

(3) [A license or waiver] An application for each principal [and key employee] under [Chapters 433a and 435a (relating to principal licenses; and employees), including an original and three copies of the Multi Jurisdictional Personal History Disclosure Form, the Pennsylvania Supplement and a nonrefundable background investigation deposit to be set by the Board and provided in a fee schedule for each principal and each key employee] Chapter 433a (relating to principal licenses).

(4) Fingerprints for [the applicant and] each principal [and key employee].

(5) A diversity plan as set forth in section 1325(b) of the act (relating to license or permit issuance) and Chapter 481a (relating to diversity), which shall be signed by the chief executive officer of the applicant or authorized designee.

(6) If a temporary land-based facility is to be licensed, a plan for how the licensee will transition to a permanent facility, including a date for completion of the permanent facility. A permanent facility shall be the facility proposed by the applicant, which is designated, identified and made part of the evidentiary record by the applicant at the applicant's licensing hearing. Modifications to the [proposed] approved permanent facility following the applicant's licensing hearing [shall be approved by] require approval of the Board in accordance with § 441a.20a (relating to changes to a slot machine licensee's initial or modified plan of development).

(7) A sworn or affirmed statement that the applicant has developed and implemented internal safeguards and policies to prevent a violation of section 1513 of the act (relating to political influence).

(8) A statement demonstrating compliance with the geographical requirements of section 1302 of the act (relating to Category 1 slot machine license), section 1304 of the act (relating to Category 2 slot machine license) or section 1305 of the act (relating to Category 3 slot machine license).

(b) Failure to provide the information required in subsection (a) may result in the application being [returned to the applicant or result in an application being] deemed incomplete.

(c) In addition to the materials required under subsection (a), an applicant for a slot machine license shall[:

(1) Promptly provide information requested by the Board relating to its application, financial fitness, character, honesty and integrity, or regulation and cooperate with the Board in investigations, hearings, and enforcement and disciplinary actions.

(2) Comply] comply with the general application requirements in Chapters 421a and 423a (relating to general provisions; and applications).

(d) A copy of the local impact report required as part of the application shall be provided to the political subdivisions in which the licensed facility will be located at the same time as the filing of the application for a slot machine license. The applicant shall file a proof of service with the [Board] Bureau of Licensing within 5 business days after filing the application for a slot machine license.

[(e) An applicant for a slot machine license will be required to reimburse the Board for any addi-

tional costs, based on the actual expenses incurred by the Board, in conducting the background investigation.]

§ 441a.4. Alternative Category 1 licensing standards.

* * * * *

(b) The Board may use the abbreviated process if:

(1) The Board determines, after investigation, that the licensing standards in the other jurisdiction in which the applicant or its affiliate, intermediary, subsidiary or holding company is licensed is similarly comprehensive and thorough and provides safeguards that are equal to or greater than those provided in the act and granting the request would be in the public interest.

(2) A completed application for a Category 1 license has been filed with the [Board] Bureau of Licensing which includes the name and address of the regulatory agency in the other jurisdiction.

(3) The [Board] Bureau of Licensing has received a copy of the completed application, renewal applications and accompanying documents filed in the other jurisdiction.

(4) The applicant has provided current, updated information to the [Board] Bureau of Licensing and the Bureau regarding the license in the other jurisdiction and information relating to its financial viability and suitability and good character.

(5) The applicant has no administrative or enforcement actions pending in other jurisdictions that could render the applicant ineligible or unsuitable for licensure or the applicant has disclosed and explained these actions to the satisfaction of the Board.

(6) There are no pending or ongoing investigations of possible [material] violations by the applicant in other jurisdictions that could render the applicant ineligible or unsuitable for licensure or the applicant has disclosed and explained these investigations to the satisfaction of the Board.

* * * * *

(e) Following the issuance of a Category 1 license under this section, the Bureau will initiate a complete review of the information submitted under this subpart. If the applicant does not meet the requirements of the act or this part, the Board [will] may revoke, suspend or condition the license until the applicant meets the requirements of the act.

§ 441a.5. License fee payment bond or letter of credit requirements.

(a) An application for a slot machine license shall at all times throughout the period in which the application is on file with the Board include original payment bonds or original irrevocable letters of credit, or some combination thereof, that include draw instructions guaranteeing the applicant's payment of the slot machine license fee required by sections 1209(a) and 1305(d) of the act (relating to slot machine license fee; and category 3 slot machine license) if the license is approved and issued.

(1) Payment bonds or irrevocable letters of credit shall be submitted [and approved by the Board] to the Bureau of Licensing for review before an application may be accepted for filing. The [Board's] review of the payment bond or irrevocable letter of credit will

include an assessment of both the proposed terms [of the payment bond or irrevocable letter of credit] and [of] the surety or financial institution that will issue the payment bond or irrevocable letter of credit. An application will be deemed incomplete if at any time during the period the application is on file with the Board payment bonds or letters of credit [approved by the Board] in the amounts required in paragraph (2) are not in full force and effect.

* * * * *

(e) The payment bond or irrevocable letter of credit provided under this section must provide that if the slot machine license has been approved [and issued] by the Board and the license fee has not been paid in full within 5 business days following the [issuance of the license] deadline for payment set by the Board or Board staff, the Commonwealth will have the right to request immediate payment under the payment bond or irrevocable letter of credit for payment of the slot machine license fee.

* * * * *

(h) This section does not preclude a slot machine license applicant from substituting or replacing a payment bond or letter of credit during the period the application is on file with the Board provided the replacement payment bond or letter of credit is [approved] reviewed by the [Board under this section] Bureau of Licensing.

§ 441a.6. Public input.

* * * * *

(c) The Board will develop and post the procedures that will be used to conduct public input hearings on the Board's [website (www.pgcb.state.pa.us)] web site.

(d) The Board will make public a list of all witnesses scheduled to testify at a public input hearing at least 7 days prior to the hearing. The list of witnesses will be updated at least 3 days prior to the hearing. Additional witnesses will be posted on the Board's [website (www.pgcb.state.pa.us)] web site as they are added to the witness list.

§ 441a.7. Licensing hearings for slot machine licenses.

(a) A schedule of licensing hearings for all slot machine license applicants will be posted on the Board's [website (www.pgcb.state.pa.us)] web site.

(b) The Board may schedule prehearing conferences under § 491a.9 (relating to prehearing and other conferences) to address issues related to licensing hearings.

(c) The Board will allot each applicant a specified time for its presentation. The length of the presentations, which shall be the same for each applicant within each category, will be established [at the prehearing conferences] by the Board.

(d) At a licensing hearing, an applicant shall appear before the Board and at all times have the burden to establish and demonstrate, by clear and convincing evidence, its eligibility and suitability for licensure and to address the criteria identified in section 1325(c) (relating to license or permit issuance) of the act.

(e) For the purposes of this section, an applicant's demonstration of eligibility must include a showing of compliance [**which**] **with**:

* * * * *

(f) For the purposes of this section, an applicant's demonstration of suitability must include a showing of:

(1) Good character, honesty and integrity in compliance with section 1310 of the act (relating to slot machine license application character requirements).

(2) Financial fitness in compliance with section 1313 of the act (relating to slot machine license application financial fitness requirements).

(3) Operational viability, including:

(i) The quality of the proposed licensed facility, and temporary land-based facility, if applicable, including the number of slot machines **and table games** proposed and the ability of the proposed licensed facility to comply with statutory, regulatory and technical standards applicable to the design of the proposed licensed facility and the conduct of slot machine **and table game** operations therein.

(ii) The projected date of the start of operations of the proposed licensed facility and any accessory uses such as hotel, convention, retail and restaurant space proposed in conjunction therewith. Applicants shall provide the Board with a time line on the deliverability of proposed temporary land-based or phased permanent licensed facilities and the accessory uses proposed in conjunction therewith.

(iii) The ability of the applicant's proposed licensed facility to generate and sustain an acceptable level of growth of revenue.

(g) For the purposes of this section, an applicant's demonstration of how it addresses the criteria identified in section 1325(c) of the act must include:

(1) The location and quality of the proposed facility, including, but not limited to, road and transit access, parking and the facility's [**centrality**] **proximity** to its anticipated market service area.

(2) The potential for new job creation and economic development which are expected to result from granting a license to an applicant.

(3) The applicant's good faith plan to recruit, train and [**upgrade**] **enhance** diversity in all employment classifications in the facility.

(4) The applicant's good faith plan for enhancing the representation of diverse groups in the operation of its facility through the ownership and operation of business enterprises associated with or utilized by its facility or through the provision of goods or services utilized by its facility and through the participation in the ownership of the applicant.

(5) The applicant's good faith effort to assure that all persons are accorded equality of opportunity in employment and contracting by it and any contractors, subcontractors, assignees, lessees, agents, gaming service providers and suppliers [**it**] **the applicant** may employ directly or indirectly.

* * * * *

(14) Areas of deficiency in the applicant's application previously identified by the **Bureau or the** Bureau of Licensing [**or Chief Enforcement Counsel**] that have not been resolved.

(h) The applicant's demonstration of how it addresses section 1325(c) of the act and subsection (g) may include information relating to its affiliates, intermediaries, subsidiaries or holding companies.

(i) No later than 30 days before the first scheduled licensing hearing in the category of license for which the applicant has filed an application, the applicant shall file with the Board a memorandum identifying all evidence it intends to use in support of its presentation before the Board. At the same time, Category 1 and Category 3 applicants shall serve the memorandum on the other applicants in the same category. At the same time, Category 2 applicants shall serve the memorandum on all other applicants whose proposed facility meets the same location criteria as the applicant's proposed facility as specified in subsection (n)(1)(i)—(iii). The memorandum must include the following:

(1) The name of the applicant and docket number of the applicant's application to which the evidence will relate.

(2) Identification of each standard and criterion in subsections (d)—(f) to which the evidence will relate.

(3) As to each criterion identified, whether the evidence will be presented through oral testimony [**or**], the proffer of documents, or both. If any portion of the evidence will be presented through oral testimony, the notice must include the name, address and telephone number of each testifying witness, the identified criteria about which the witness will testify and a detailed summary of the witness' testimony. If any portion of the evidence will be presented through the proffer of documents, including reports and exhibits, the memorandum must include a copy of each document to be proffered and the name, address and telephone number of the persons who prepared the document.

(4) If any person identified in paragraph (3) will testify as an expert, the person's qualifications, including the person's education, experience and training, and a listing of the other jurisdictions where the person has been qualified as an expert witness[,] within the last 5 years, shall be attached to the notice. A copy of the results or reports of any tests, experiments, examinations, studies or documents prepared or conducted by the expert or about which the expert will testify or which will be relied upon by the expert to render an opinion shall be attached to the notice.

(5) Documents required under paragraphs (3) and (4) that have already been submitted to the Board and made part of the public record may be referenced instead of being included with the memorandum identifying all evidence an applicant intends to use in support of its presentation before the Board.

(j) The Board will serve on all applicants within that category any expert reports developed for and requested by the Board that [**pertains**] **pertain** to the applicants.

(k) Applicants, at the time of filing, shall provide the Board with an electronic version, in a format prescribed by the Board, of the reports and exhibits provided in paper form.

(l) If an applicant designates any submitted report or exhibit as confidential under § 401a.3 (relating to definitions) or section 1206(f) of the act (relating to Board minutes and records), the applicant shall:

(1) Clearly and conspicuously indicate that the report or exhibit is confidential in both the paper and electronic format and provide these exhibits separately from the nonconfidential exhibits.

(2) Request that the confidential information be presented to the Board in [closed deliberations, under section 1206(a) of the act] an executive session in accordance with 65 Pa.C.S. § 708(a)(5) (relating to executive sessions) and provide an explanation of the need for the designation of confidentiality and [closed deliberations] presentation during an executive session or authorize the release of the report or exhibit in compliance with section [1206(f)] 1206(f)(5) of the act.

(m) Applicants are prohibited from relying upon or introducing new evidence, including witnesses' testimony, reports or exhibits, not identified under subsection (i) or (n), except in the following circumstances:

(1) Applicants may update or supplement evidence, including witnesses' testimony, reports or exhibits to respond to requests from the Board or Board staff.

(2) Applicants may update or supplement evidence, including witnesses' testimony, reports or exhibits to respond to issues raised subsequent to the filing of the memorandum required by subsection (i) at a prehearing conference if the issues could not have been reasonably anticipated by the applicant.

(n) For Category 2 and Category 3 applicants only, in addition to the applicant's presentation of evidence to the Board relative to its eligibility and suitability for a license, an applicant may, during its licensing hearing, present evidence which sets forth a comparison between the applicant and other applicants within the same category with respect to the standards and criteria in subsections (e)—(h).

* * * * *

(2) If an applicant desires to present comparative evidence under this subsection, the applicant shall, no later than 20 days prior to the commencement of the first scheduled licensing hearing in the category of license for which the applicant has filed an application, file with the Board Clerk a separate written notice evidencing the intent [with the Board] identifying each other applicant about whom the applicant desires to present evidence. A copy of the notice shall [also] be served on the applicants about whom the evidence will be presented and on the Chief Enforcement Counsel. The notice must include:

* * * * *

(4) If the applicant plans to present evidence to the Board concerning another applicant in [closed deliberations] an executive session, the applicant shall provide notice to the other applicant and provide any report or exhibit relied upon to the other applicant. The other applicant may be represented in the [closed deliberations] executive session.

* * * * *

(r) Information obtained by [BIE] the Bureau during an applicant's background investigation based upon public record or upon information otherwise in the public domain will be heard by the Board during the licensing hearing. Information submitted by an applicant under 4 Pa.C.S. § 1310(a) (relating to slot machine license appli-

cation character requirements) or obtained by the Board or [BIE] Bureau as part of a background investigation from any source not in the public domain is considered confidential. The Board may not require an applicant to waive any confidentiality provided for in 4 Pa.C.S. [§§] § 1206(f) [and 1310(a)] as a condition for the approval of a slot machine license or any other action of the Board. The Board may request that an applicant respond to inquiries related to confidential information during a licensing hearing to promote transparency in the regulation of gaming in this Commonwealth. An applicant who does not waive the right to confidentiality shall:

* * * * *

§ 441a.9. Approval of a slot machine license.

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(b) For Category 1 slot machine applications, the State Horse Racing Commission or the State Harness Racing Commission may submit [additional] information [to the Board] if it believes the information will assist the Board in making a determination relating to the operational, financial or character fitness of the applicant.

* * * * *

§ 441a.10. Notification of anticipated or actual changes in principals or key employees.

Each slot machine applicant or licensee shall notify the [Board] Bureau of Licensing, in writing, as soon as it becomes aware, of the proposed appointment, appointment, proposed nomination, nomination, election, hiring, promotion, intended resignation, resignation, removal, firing, incapacitation or death of any person required to be licensed as a principal or key employee under Chapter 433a and § 435a.2 (relating to principal licenses; and key employee license). The notice must be addressed to the Bureau of Licensing.

§ 441a.11. [Notification of new financial sources] (Reserved).

[Each slot machine applicant or licensee shall notify the Board, in writing, as soon as it becomes aware that it intends to enter into a transaction which may result in any new financial backers. The notice shall be sent to the Bureau of Licensing and the Bureau of Corporate Compliance and Internal Controls.]

(Editor's Note: The following section is new and printed in regular type to enhance readability.)

§ 441a.11a. Duty to maintain financial suitability; notification of change in financial status.

(a) A slot machine licensee and its intermediaries, subsidiaries and holding companies shall, at all times, remain financially suitable. In determining whether a licensee is financially suitable, the Board will consider the following factors:

- (1) The ability to develop the proposed project.
(2) The ability to obtain financing.
(3) The ability to maintain a steady level of growth of revenue to the Commonwealth.

(4) The historical financial suitability and financial wherewithal of the slot machine licensee, its intermediaries, subsidiaries and holding companies.

(b) A slot machine licensee shall notify the Bureau and the Bureau of Licensing in writing within 24 hours if the

slot machine licensee or any intermediary, subsidiary or holding company of the slot machine licensee incurs a material change in financial status.

§ 441a.15. Slot machine license issuance bond requirement.

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(b) Unless otherwise required by the Board, the payment bond must comply with the following:

(1) The payment bond must be issued by a surety company that is both licensed by the Insurance Department and assigned a credit rating within the three highest categories, without regard to numerics or other modifiers, by Moody's or Standard & Poor's, or upon the discontinuance of Moody's or Standard & Poor's, by another Nationally recognized rating service. Proof that the surety is licensed by the Insurance Department and has been assigned the required credit rating must accompany any payment bond submitted under this section.

(2) A slot machine licensee shall submit its proposed payment bond to the Board prior to the issuance of a slot machine license. **[The Board will investigate and approve both the proposed terms of the payment bond and the surety that will issue the payment bond.]**

(3) The payment bond must state that it is payable to "The Commonwealth of Pennsylvania" as the obligee for immediate payment of the slot machine licensee's financial obligations to the Commonwealth under the act and as security to guarantee that the slot machine licensee faithfully makes the payments, keeps its books and records, makes reports and conducts its operations in conformity with the act, this part and the rules and orders promulgated by the Board.

(4) A payment bond issued in accordance with this section will remain in full force and effect throughout the period of time that the slot machine license is in effect. If a bond is canceled and the slot machine licensee fails to file a new bond with the **[Board] Bureau of Licensing** in the required amount on or before the effective date of the cancellation, the slot machine licensee's license will be revoked or suspended.

(5) Any notice provision **[to the Board]** in a payment bond applicable to an election by a surety to cancel a then current payment bond must provide that the Board will receive at least 30 days written notice, by registered mail or overnight courier service, of the surety's election to cancel.

* * * * *

§ 441a.17. Change in ownership or control of slot machine licensee and multiple slot machine license prohibition.

(a) A slot machine licensee shall notify the **[Board] the Bureau and the Bureau of Licensing** by filing a Slot Machine Licensee's Notification of Proposed Transfer of Interest Form prior to or immediately upon becoming aware of any proposed or contemplated change in ownership of the slot machine licensee by a person or group of persons acting in concert which involves any of the following:

(1) More than 5% of a slot machine licensee's securities or other ownership interests.

(2) More than 5% of the securities or other ownership interests of a corporation or other form of business entity

that owns, directly or indirectly, at least 20% of the voting or other securities or other ownership interest of the slot machine licensee.

(3) The sale **[, other than in the normal course of business,]** of a slot machine licensee's assets, **other than in the ordinary course of business.**

(4) Other transactions or occurrences deemed by the Board to be relevant to license qualification.

[(b) Notice to the Board and Board approval shall be required prior to completion of any proposed change of ownership of a slot machine licensee that meets the criteria in subsection (a).

(c) A person or group of persons acting in concert desiring to acquire an interest in a slot machine licensee that meets the criteria in subsection (a) shall submit an application for approval of the transfer which includes the following:

(1) An application for transfer on a form prescribed by the Board.

(2) A copy of all documents, contracts and agreements related to the transfer.

(3) A principal license application for each person seeking to acquire an interest that does not currently hold a principal license.

(4) Application fees specified by the Board to cover the cost of investigations of the transfer application and persons seeking to acquire an interest. The applicant for the transfer shall be responsible for and remit to the Board any costs associated with the investigation of the transfer that exceed the amount covered by the fees.

(d) A person or group of persons acting in concert that acquires more than 20% of a slot machine licensee's securities or other ownership interests or purchases the assets, other than in the normal course of business, of any slot machine licensee shall independently qualify for a license in accordance with the act and this part and shall pay the licensing fee required by section 1209 of the act (relating to slot machine license fee), except as otherwise required by the Board.

(e) The requirements in subsections (a)—(d) do not apply to:

(1) An underwriter who will hold a security for less than 90 days.

(2) An institutional investor, if:

(i) The institutional investor holds less than 10% of the securities or other ownership interests referred to in subsection (a)(1) or (2).

(ii) The securities or interests are publicly traded securities.

(iii) The institutional investor's holdings if the securities were purchased for investment purposes only and the institutional investor files a certified statement with the Board stating that the institutional investor has no intention of influencing or affecting, directly or indirectly, the affairs of the slot machine licensee.]

(b) A transaction set forth in subsection (a) may not be consummated without:

(1) Obtaining the prior approval of the Board.

(2) Each principal involved in the transaction obtaining a license in accordance with Chapter 433a (relating to principal licenses).

(c) A request for approval required under subsection (b)(1) shall be made by filing a petition with the Board in accordance with § 493a.4 (relating to petitions generally).

(d) Notwithstanding the requirement in subsection (b)(2), the Board may approve a transaction under subsection (a) prior to the licensure of the person or group of persons acting in concert if all of the following apply:

(1) The person or group of persons acting in concert are proposing to acquire 20% or less of the voting securities of a publicly traded holding company of a slot machine licensee.

(2) The person or group of persons acting in concert affirm that the person or group of persons will not control or influence the affairs of or benefit from the slot machine licensee prior to being licensed as principals in accordance with Chapter 433a.

(3) The person or group of persons have filed applications with the Board for licensure as principals in accordance with Chapter 433a.

(4) The approval of the transaction is expressly conditioned upon the person or group of persons being licensed as principals in accordance with Chapter 433a.

(e) The Board will not approve a transaction under subsection (a), which involves a change in control unless the person or group of persons:

(1) Acting in concert demonstrates by clear and convincing evidence that the slot machine licensee's gaming facility will remain or become a financially successful, suitable and efficient business operation.

(2) Acquiring the interest pay a new slot machine license fee as determined by the Board. The Board may condition its approval of the transaction on the payment of the fee.

(f) The following transactions are not be subject to subsections (a)—(c):

(1) A transaction through which an underwriter will possess a security for less than 90 days.

(2) A transaction through which an institutional investor acquires less than 20% of the securities of a slot machine licensee's holding company, provided that the securities were acquired for investment purposes only and the institutional investor complies with § 433a.5 (relating to institutional investors).

[(f)] (g) In accordance with section 1330 of the act (relating to multiple slot machine license prohibition), a slot machine licensee, its affiliates, intermediaries, subsidiaries and holding companies, may not possess an ownership or financial interest in any other slot machine licensee or in any other person eligible to apply for a Category 1 slot machine license or its affiliates, intermediaries, subsidiaries or holding companies that exceeds 33.3%.

[(g)] (h) Nothing in subsection [(f)] (g) prevents a slot machine licensee from possessing ownership or financial interests of 33.3% or less, in multiple slot machine

licensees or in persons eligible to apply for a Category 1 slot machine license or its affiliates, intermediaries, subsidiaries or holding companies.

[(h)] (i) If a slot machine licensee, its affiliates, intermediaries, subsidiaries or holding companies has an ownership or financial interest in another slot machine licensee that is in violation of subsection [(f)] (g), the slot machine licensee will be required to divest that interest which is in excess of 33.3% in compliance with section 1330 of the act.

[(i)] (j) Nothing in this section concerning ownership or financial interests applies to contractual interests including those in the nature of management contracts, options to purchase exercisable after a license has been issued or leases.

§ 441a.18. Employee status report.

* * * * *

(b) Each month each slot machine licensee shall generate a monthly employee status report of the slot machine licensee's and management company's employees. The report shall be submitted to the Bureau of Licensing no later than the 15th calendar day of the following month. The report must include the following information:

* * * * *

(2) The total number of persons employed by the slot machine [applicant or] licensee and management company during the preceding month.

* * * * *

(c) The reports shall be [signed by the slot machine licensee and] transmitted to the Bureau of Licensing by means of electronic data transmission or in a form prescribed by the Board.

* * * * *

§ 441a.19. Notice of employee misconduct and offenses and employee resignations.

* * * * *

(c) Notwithstanding subsection (a), a slot machine licensee shall, within 24 hours, notify the [Board] Bureau upon learning of the arrest, charging, indictment or conviction of any of its affiliates, intermediaries, subsidiaries, holding companies, principals, key employees, permittees or registrants, for any of the following:

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(Editor's Note: The following section is new and printed in regular type to enhance readability.)

§ 441a.20a. Changes to a slot machine licensee's initial or modified plan of development.

(a) A slot machine licensee shall obtain Board approval prior to implementing any change to the slot machine licensee's initial or modified plan of development as defined in § 441a.1 (relating to definitions).

(b) A request for approval of a change to a slot machine licensee's initial or modified plan of development shall be made by filing a petition with the Board in accordance with § 493a.4 (relating to petitions generally).

(c) The licensee shall demonstrate that the contemplated change in the development plan is substantially similar to the currently approved plan of development or show good cause as to why a contemplated plan of development that is different from the licensee's currently approved plan should be approved.

§ 441a.21. [**Management contracts**] **Liability for management companies.**

Notwithstanding any provision to the contrary in the management contract, each slot machine licensee may be jointly and severally liable for any act or omission by [**the**] **its** management company in violation of the act or this part, regardless of actual knowledge by the slot machine licensee of the act or omission.

(*Editor's Note:* Sections 441a.24—441a.26 are new and printed in regular type to enhance readability.)

§ **441a.24. Notification of equity securities offering.**

(a) A slot machine licensee or an intermediary or holding company of a slot machine licensee shall notify the Board in writing at least 15 business days prior to the commencement of an offering of equity securities or other ownership interests.

(b) A notification under subsection (a) shall be made on a Notification of Financial Transaction form accompanied by current drafts of all documentation relating to the offering of equity securities or other ownership interests.

(c) All final executed documents relating to the offering of the equity securities or other ownership interests shall be transmitted to the Bureau and the Bureau of Licensing within 5 business days following the commencement of the offering.

§ **441a.25. Approval of material debt transactions.**

(a) A slot machine licensee may not consummate a material debt transaction without the prior approval of the Board.

(b) An intermediary or holding company of a slot machine licensee may not consummate a material debt transaction without the prior approval of the Board if the slot machine licensee is a guarantor of the debt or if the assets or income of the slot machine licensee are being used as collateral.

(c) Notwithstanding subsections (a) and (b), a publicly traded corporation may consummate a material debt transaction without Board approval, provided that:

(1) The publicly traded corporation notifies the Bureau and the Bureau of Licensing in writing at least 15 business days prior to the consummation of the material debt transaction by submitting a Notification of Financial Transaction form accompanied by current drafts of all documentation relating to the material debt transaction.

(2) The publicly traded corporation transmits to the Bureau and the Bureau of Licensing all final, executed documents relating to the material debt transaction within 5 business days following the consummation of the material debt transaction.

(3) The publicly traded corporation's debt transaction is \$50 million or less.

(d) Any subsequent borrowings under a revolving line of credit, previously approved under this section, do not require subsequent approval of the Board.

(e) A debt transaction that does not otherwise qualify as a material debt transaction may require Board approval if Board staff determines that approval is necessary to protect the integrity of gaming.

§ **441a.26. Notification of refinancing transaction.**

(a) A slot machine licensee or an intermediary or holding company of a slot machine licensee shall provide the Bureau and the Bureau of Licensing with all docu-

ments relating to a transaction to refinance \$25 million or more of its outstanding indebtedness at least 10 business days prior to the consummation of the transaction.

(b) A notification required under subsection (a) shall be made on a Notification of Financial Transaction form accompanied by current drafts of all documentation relating to the refinancing transaction. All final executed documents relating to a refinancing shall be transmitted to the Bureau within 5 business days following the consummation of the refinancing transaction.

(c) A refinancing transaction that results in the incurrence of \$25 million or more of additional indebtedness shall be subject to § 441a.25 (relating to approval of material debt transactions).

(d) Notwithstanding subsection (c), a publicly traded corporation may consummate a refinancing transaction that results in the incurrence of \$50 million or less of additional indebtedness.

(e) A refinancing transaction that does not otherwise require approval in accordance with subsections (c) and (d) may require Board approval if Board staff determines that approval is necessary to protect the integrity of gaming.

Subpart E. **SLOT MACHINES AND ASSOCIATED EQUIPMENT; ACCOUNTING AND INTERNAL CONTROLS**

CHAPTER 461a. SLOT MACHINE AND TABLE GAME DEVICE TESTING AND CONTROL

§ **461a.7. Slot machine minimum design standards.**

(a) A slot machine may not be set to pay out less than the theoretical payout percentage, which may not be less than **85%, calculated using the lowest possible wager that could be played for any single play**, or equal or exceed **100%, calculated using the highest eligible wager available**. The theoretical payout percentage for the total value of slot machine wagers will be calculated using the following:

* * * * *

CHAPTER 465a. ACCOUNTING AND INTERNAL CONTROLS

§ **465a.24. Count room characteristics.**

(a) A slot machine licensee shall have adjacent or proximate to the cage a room, to be known as a count room, specifically designated, designed and used for counting the contents of slot cash storage boxes and table game drop boxes.

(b) The count room shall be designed and constructed to provide maximum security for the materials housed therein and for the activities conducted therein. Each slot machine licensee shall design and construct a count room with the following security measures:

(1) A metal door installed on each entrance and exit equipped with an alarm device which audibly signals the surveillance department monitoring room [**and**] **or** the security department whenever a door to the count room is opened [**at times other than those times for which the slot machine licensee has provided prior notice under § 465a.25 (relating to counting and recording of slot cash storage boxes and table game drop boxes)**].

(2) Each entrance [**and exit**] **door to the count room** must be equipped with two separate locks, the keys to which must be different from each other and different

from the lock securing the contents of each slot cash storage box or table game drop box. The keys shall be maintained and controlled as follows:

- (i) The key to one of the locks shall be maintained and controlled by the security department.
- (ii) The key to the other lock shall be maintained and controlled by finance.
- (iii) Sign out and sign in procedures shall be established for both keys.

(3) To exit the count room, the count room door must be equipped with an automatic release mechanism or other device as specified in the slot machine licensee's internal controls.

(c) The following must be located within the count room:

* * * * *

**Subpart K. TABLE GAMES
CHAPTER 609a. CREDIT**

§ 609a.4. Approval of credit limits.

(a) A credit limit, and any temporary or permanent increases thereto, shall be approved by either:

* * * * *

(c) Prior to approving a temporary or permanent credit limit increase, an employee of the certificate holder's credit department shall:

(1) Obtain a written request from the patron which includes:

- (i) The date and time of the patron's request.
- (ii) The amount of credit limit increase requested by the patron **and if the increase requested is temporary or permanent.**
- (iii) The signature of the patron.

(2) Reverify the patron information required under [§ 609a.3(c)(2) and (3)] § 609a.3(c)(2) (relating to application and verification procedures for granting credit).

(3) Consider the patron's player rating based on a continuing evaluation of the amount and frequency of play subsequent to the patron's initial receipt of credit.

(4) Include the information and documentation required under paragraphs (1)—(3) in the patron's credit file.

(5) Comply with subsections (a) and (b).

§ 609a.5. Derogatory information; reduction or suspension of credit.

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(c) [Whenever] In addition to the requirements in subsection (d), whenever derogatory information is received by a certificate holder's credit department relating to the patron's continued creditworthiness[, other than a returned check,] the certificate holder's credit department shall reverify the patron information required under [§ 609a.3(c)(2) and (3)] § 609a.3(c)(2) (relating to application and verification procedures for granting credit).

(d) A patron having a check returned to any certificate holder unpaid by the patron's bank shall have credit privileges suspended unless the returned check was due to a processing error and an explanation for the error is

noted in the patron's credit file or until the returned check has been paid in full. **Prior to reinstating a patron's credit privileges, the certificate holder shall comply with subsection (e).**

(e) If a patron's credit privileges have been suspended for any reason, the certificate holder's credit department shall reverify the patron's information, as required under [§ 609a.3(c)(1)—(4)] § 609a.3(c)(2) and (3), before reinstating the patron's credit privileges.

CHAPTER 623a. CRAPS AND MINI-CRAPS

§ 623a.4. Making and removal of wagers.

* * * * *

(c) A wager made on any bet may be removed or reduced at any time prior to a roll that decides the outcome of the wager except that:

(1) A Pass Bet may not be **wagered**, removed or reduced after a come out point is established with respect to the Pass Bet.

* * * * *

§ 623a.5. Payout odds.

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(g) A certificate holder that offers Buy Bets and Lay Bets:

* * * * *

(3) [**May collect, at time the player makes the wager, a vigorish of up to 5%, as specified in the certificate holder's Rules Submission, of the amount wagered on the Buy or Lay Bet or may collect the vigorish only on a winning Buy or Lay Bet. If collecting a vigorish, the certificate holder shall specify in its Rules Submission which vigorish procedure it will utilize.**] **May collect a vigorish of up to 5%, as specified in the certificate holder's Rules Submission, in accordance with the following requirements:**

(i) For Buy Bets, the certificate holder may utilize one of the following vigorish procedures as specified in its Rules Submission:

(A) At the time the player makes a Buy Wager, the dealer shall collect a vigorish based on the amount wagered on the Buy Bet. The vigorish amount collected may not be included in the wager amount.

(B) The dealer shall collect a vigorish only on a winning Buy Bet. If the certificate holder utilizes this vigorish procedure for Buy Bets, it shall specify the wagers on which this vigorish will be applicable. For example, vigorish based on winning Buy Bets placed on the 4 or 10.

(ii) For Lay Bets, the certificate holder may utilize one of the following vigorish procedures as specified in its Rules Submission:

(A) At the time the player makes a Lay Wager, the dealer shall collect a vigorish based on the amount potentially won on the Lay Bet. The vigorish amount collected may not be included in the wager amount.

(B) The dealer shall collect a vigorish only on a winning Lay Bet. If the certificate holder utilizes this vigorish procedure for Lay Bets, it shall specify the wagers on which this vigorish will be appli-

cable. For example, vigorish based on winning Lay Bets placed on the 4 or 10.

(h) Except as permitted under subsection (g)(3), a certificate holder may not charge a percentage, fee or vigorish to a player in making any wager in the game of Craps or Mini-Craps.

(i) Except as permitted under § 623a.6(e) (relating to supplemental wagers made after the come out roll in support of Pass, Don't Pass, Come and Don't Come Bets (taking and laying odds)), a certificate holder may not accept any wager in excess of the maximum bet posted at the table.

CHAPTER 633a. BLACKJACK

§ 633a.7. Procedure for dealing the cards; completion of each round of play.

* * * * *

(i) After the procedures in subsection (h) have been completed, if necessary, the dealer shall start with the player farthest to the dealer's left and continue around the table in a clockwise direction and if the player:

(1) Has Blackjack and the dealer's up card:

(i) Is a 2, 3, 4, 5, 6, 7, 8 or 9, the dealer shall announce and pay the Blackjack and remove the player's cards.

(ii) Is an ace, king, queen, jack or 10 but the dealer's hole card will not give the dealer a Blackjack, the dealer shall announce the player's Blackjack [**but may not make a payment nor remove any cards until all other cards are dealt to the players and the dealer reveals the hole card.**] and either:

(A) Immediately pay the player's Blackjack and remove the player's cards.

(B) Leave the player's cards on the table and not make a payment to the player. After all other cards are dealt to the players and the dealer reveals his hole card, the dealer shall pay the player's Blackjack and remove the player's cards.

(2) Does not have Blackjack, the player shall indicate whether he wishes to surrender, as permitted under § 633a.9 (relating to surrender), double down as permitted under § 633a.10 (relating to Double Down Wager), split pairs as permitted under § 633a.11 (relating to splitting pairs), stand or draw additional cards.

(j) As each player indicates his decision, the dealer shall deal face upwards whatever additional cards are necessary to effectuate the player's decision.

* * * * *

§ 633a.9. Surrender.

(a) After the first two cards are dealt to the player, the player may elect to discontinue play on his hand for that round by surrendering 1/2 his wager. All decisions to surrender shall be made prior to the player indicating whether he wishes to double down as permitted under § 633a.10 (relating to Double Down Wager), split pairs as permitted under § 633a.11 (relating to splitting pairs), stand or draw. If the first card dealt to the dealer:

(1) Is not an ace or 10 value card, the dealer shall immediately collect 1/2 of the wager and return 1/2 to the player.

(2) Is an ace or 10 value card, the dealer will [**place**] **either:**

(A) Place the player's wager on top of the player's cards. When the dealer's second card is revealed, the hand will be settled by immediately collecting the entire wager if the dealer has Blackjack or collecting 1/2 of the wager and returning 1/2 of the wager to the player if the dealer does not have Blackjack. **The player's cards shall then be collected.**

(B) Immediately after utilizing the card reader device in accordance with § 633a.7(h) (relating to procedure for dealing the cards; completion of each round of play), the hand shall be settled by immediately collecting the entire wager if the dealer has Blackjack or collecting 1/2 of the wager and returning 1/2 of the wager to the player if the dealer does not have Blackjack. The player's cards shall then be collected.

(b) If the player has made an Insurance Wager and then elects to surrender, each wager will be settled separately in accordance with subsection (a) and § 633a.8 (relating to Insurance Wager).

CHAPTER 643a. LET IT RIDE POKER

§ 643a.12. Payout odds; payout limitation.

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(b) If a certificate holder offers the Five Card Bonus Wager, the certificate holder shall pay out winning Five Card Bonus Wagers at the amounts in one of the following paytables selected by the certificate holder in its Rules Submission filed in accordance with § 601a.2:

* * * * *

<i>Hand</i>	<i>Paytable D</i>	<i>Paytable E</i>	<i>Paytable F</i>	<i>Paytable G</i>
Royal flush	\$10,000	\$10,000	\$10,000	\$25,000
Straight flush	\$2,000	\$2,000	\$2,000	\$2,500
Four-of-a-kind	\$200	\$200	\$100	\$400
Full house	\$75	\$100	\$75	\$200
Flush	\$50	\$50	\$50	\$50
Straight	\$25	\$25	\$25	\$25
Three-of-a-kind	\$5	\$10	\$9	\$5
Two pair	\$4	\$6	\$6	
Pair of tens, jacks, queens, kings or aces	\$1	\$0	\$0	

* * * * *

CHAPTER 645a. PAI GOW POKER

§ 645a.5. Shuffle and cut of the cards; procedures for determining the starting position for dealing cards.

* * * * *

(i) To determine the starting position for the dealing of cards, the certificate holder shall use one of the following:

* * * * *

[(3) If an automated card shuffling device and dealing shoe are used under § 645a.10, a flat button to indicate the starting position. At the commencement of play, the button shall be placed in front of the dealer. Thereafter, the button shall rotate around the table in a clockwise manner after each round of play.]

(j) After the starting position for a round of play has been determined, a certificate holder may mark that position with an additional cover card or similar object approved in accordance with § 601a.10(a) (relating to approval of table game layouts, signage and equipment).

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