MEETING AGENDA
JULY 16, 2018

1. CALL TO ORDER AND ESTABLISHMENT OF QUORUM

2. CONSIDERATION OF MINUTES, MEETING OF MAY 21, 2018

3. REPORT OF THE ACTING EXECUTIVE DIRECTOR

4. RULEMAKING

   A. ADOPTION RACING RULEMAKING: SGC-19-18-00004-P PROHIBITED PRACTICES AND DOPING AGENTS, VETERINARY RELATIONSHIP FOR PRESCRIBING DRUGS IN THOROUGHBRED HORSE RACING

   B. ADOPTION CHARITABLE GAMING RULEMAKING: SGC-20-18-00005-P ELECTRONIC TRANSFER OF FUNDS TO THE GAMING COMMISSION FROM SPECIAL BELL JAR ACCOUNTS

   C. PROPOSED GAMING RULEMAKING: BLAZING 7'S TABLE GAME

5. ADJUDICATIONS

   A. IN THE MATTER OF GONZALEZ GROCERY STORE

   B. IN THE MATTER OF JENNY FOOD CORPORATION

   C. IN THE MATTER OF DENNIS MARTIN

   D. IN THE MATTER OF EBONY WALKER

   E. IN THE MATTER OF REGINALD GIPSON

6. OLD BUSINESS/NEW BUSINESS

7. SCHEDULING OF NEXT MEETING

8. ADJOURNMENT

###

New York State Gaming Commission

Minutes

Meeting of May 21, 2018

A meeting of the Commission was conducted in New York, New York.

1. Call to Order and Establishment of Quorum

Acting Executive Director Ronald Ochrym called the meeting to order at 1:57 p.m. Establishment of a quorum was noted by Acting Secretary Kristen Buckley. In attendance were Chairman Barry Sample and Commissioners John Crotty, Peter Moschetti, John Poklemba, Jerry Skurnik and Todd Snyder.

2. Consideration of Minutes for Meeting of March 26, 2018

The Commission considered previously circulated draft minutes of the meeting conducted on March 26, 2018. The minutes were accepted as circulated.

3. Report of the Acting Executive Director

Acting Executive Director Ochrym provided a brief report on a recent decision of the U.S. Supreme Court regarding sports wagering and the upcoming Belmont Stakes Day.

4. Rulemaking

a. REVISED RULEMAKING PROPOSAL: Licensing and Registration of Gaming Facility Employees and Vendors, SGC-09-18-00005-P

The Commission considered proposal of a revised proposal regarding the Licensing and Registration of Gaming Facility Employees and Vendors.

ON A MOTION BY: Commissioner Snyder
APPROVED: 6-0

b. PROPOSED RULEMAKING: Charitable Gaming

The Commission considered a proposal of a rulemaking regarding charitable gaming.

ON A MOTION BY: Commissioner Crotty
APPROVED: 6-0

5. Adjudications

a. In the Matter Brandon G. Charlerie

The Commission, having considered this matter at a meeting conducted pursuant to the judicial or quasi-judicial proceedings exemption of N.Y. Public Officers Law § 108.1, announced that it had agreed, on a 6-0 vote, to modify the Hearing Officer's Report and Recommendation by imposing a fine of $3,000 that had been levied by State Steward, revoking all of Mr. Charlerie's Commission-issued licenses and by ordering that Mr. Charlerie was ineligible to reapply for any Commission license for a period of three years.

b. In the Matter of James White

The Commission, having considered this matter at a meeting conducted pursuant to the judicial or quasi-judicial proceedings exemption of N.Y. Public Officers Law § 108.1, announced that it had agreed, on a 6-0 vote to accept the Hearing Officer's Report and sustain the recommendation that the denial of the applicant's registration be upheld.

c. In the Matter of Nicholas Zufelt

The Commission, having considered this matter at a meeting conducted pursuant to the judicial or quasi-judicial proceedings exemption of N.Y. Public Officers Law § 108.1, announced that it had agreed, on a 6-0 vote, to modify the Hearing Officer's Report and Recommendation by revoking Mr. Zufelt's license, and allow reapplication upon providing verification from a drug treatment program that he is fit to perform duties at the racetrack.

d. In the Matter of Hothara Food Market, Inc.

The Commission, having considered this matter at a meeting conducted pursuant to the judicial or quasi-judicial proceedings exemption of N.Y. Public Officers Law § 108.1, announced that it had agreed, on a 6-0 vote, to accept recommending that the entity's license be revoked and that the period from the date of suspension to the Commission's final determination be the term of license suspension.

e. <u>In the Matter of City Max Market</u>

The Commission, having considered this matter at a meeting conducted pursuant to the judicial or quasi-judicial proceedings exemption of N.Y. Public Officers Law § 108.1, announced that it had agreed, on a 6-0 vote, to accept recommending that the entity's license be revoked and that the period from the date of suspension to the Commission's final determination be the term of license suspension.

6. Old Business/New Business

a. <u>Old Business</u>

No old business was offered for discussion.

b. <u>New Business</u>

No new business was offered for discussion.

7. Scheduling of Next Meeting

The Commission tentatively set June 25th as the date for the next meeting.

8. Adjournment

Prior to adjournment, Chairman Sample requested executive session for the sole purpose of consideration of the employment history of a particular person. Upon return from such session, the Chairman announced that no votes to expend public money were undertaken and the meeting was adjourned at 2:13 p.m.

# # #

NEW YORK STATE OF OPPORTUNITY. Gaming Commission

One Broadway Center, P.O. Box 7500, Schenectady, NY 12301-7500
www.gaming.ny.gov

To: Commissioners

From: Edmund C. Burns

Date: July 10, 2018

Re: Adoption of Proposed Rulemaking for Prohibited Substances in Thoroughbred Racing (9 NYCRR §§ 4043.12 and 4043.16)

For Commission consideration is the adoption of proposed rules to prohibit in Thoroughbred horse racing the substances that the World Anti-Doping Agency prohibits at all times unless an athlete has a restricted therapeutic use (RTU) exemption, based on RTUs that are appropriate for horse racing; to prohibit experimental use of doping agents with no generally accepted medical use with racehorses; and to require that no drug may be administered to a horse engaged in horse racing activities except as approved by a veterinarian in a valid veterinarian-client-patient relationship.

The proposed rulemaking, including the text of the proposed rule, was published in the May 9, 2018 *State Register*, a copy of which is attached. The public comment period for the proposal expired on July 9, 2018. No comments were received.

These rule amendments would implement several of the rulemaking proposals recommended in the Asmussen Report that Commission staff issued in November 2015. The Association of Racing Commissioners International (ARCI) adopted this proposal as a model rule after receiving input and support from representatives from leading Thoroughbred organizations, including the American Association of Equine Veterinarians, the National Horseman's Benevolent and Protective Association, Inc., the Racing Medication and Testing Consortium, The Jockey Club and the Thoroughbred Horsemen's Association.

[redacted].

attachment

cc: Ronald Ochrym, Acting Executive Director

for good cause. The Department believes that this will ameliorate any burden on mortgage loan servicers operating in rural areas.

Rural Area Participation:

The Department issued a draft of Part 419 in December 2009 and held meetings with and received comments from industry and consumer groups following the release of the draft rule. The Department also maintains continuous contact with large segments of the servicing industry though its regulation of mortgage bankers and brokers and its work in the area of foreclosure prevention. The Department likewise maintains close contact with a variety of consumer groups through its community outreach programs and foreclosure mitigation programs. The Department has utilized this knowledge base in drafting the regulation.

Job Impact Statement

Article 12-D of the Banking Law, as amended by the Mortgage Lending Reform Law (Ch. 472, Laws of 2008), requires persons and entities which engage in the business of servicing mortgage loans after July 1, 2009 to be registered with the Superintendent. Part 418 of the Superintendent's Regulations, initially adopted on an emergency basis on July 1, 2009, sets forth the application, exemption and approval procedures for registration as a mortgage loan servicer, as well as financial responsibility requirements for applicants, registrants and exempted persons.

Part 419 addresses the business practices of mortgage loan servicers in connection with their servicing of residential mortgage loans. Thus, this part addresses the obligations of mortgage loan servicers in their communications, transactions and general dealings with borrowers, including the handling of consumer complaints and inquiries, handling of escrow payments, crediting of payments, charging of fees, loss mitigation procedures and provision of payment histories and payoff statements. This part also imposes certain recordkeeping and reporting requirements in order to enable the Superintendent to monitor services' conduct and prohibits certain practices such as engaging in deceptive business practices.

Compliance with Part 419 is not expected to have a significant adverse effect on jobs or employment activities within the mortgage loan servicing industry. The vast majority of mortgage loan servicers are sophisticated financial entities that service millions, if not billions, of dollars in loans and have the experience, resources and systems to comply with the requirements of the rule. Moreover, many of the requirements of the rule reflect derive from federal or state laws and reflect existing best industry practices.

New York State Gaming Commission

PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED

Prohibited Practices and Doping Agents, Veterinary Relationship for Prescribing Drugs in Thoroughbred Horse Racing

I.D. No. SGC-19-18-00004-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

Proposed Action: Amendment of section 4043.12; and addition of section 4043.16 to Title 9 NYCRR.

Statutory authority: Racing, Pari-Mutuel Wagering and Breeding Law, sections 103(2), 104(1) and (19)

Subject: Prohibited practices and doping agents, veterinary relationship for prescribing drugs in Thoroughbred horse racing.

Purpose: To enable the Commission to maintain the integrity of pari-mutuel racing.

Text of proposed rule: Subdivision (a) of section 4043.12 of 9 NYCRR would be repealed, and section 4043.12 would be amended as follows:

§ 4043.12. Prohibited substances *and methods*.

(a) The substances and methods listed in the ARCI prohibited list are prohibited, may not be used at any place or time and may not be possessed on the premises of any racing or training facility under the jurisdiction of the commission except as a restricted therapeutic use. ARCI prohibited list means the "Prohibited List" annexed to Model Rule ARCI-011-015 Version 7.0 (approved December 9, 2016) of the Association of Racing Commissioners International, Inc., 1510 Newtown Pike, Suite 210, Lexington, KY 40511, which is hereby incorporated by reference. Such Uniform Rules of Racing are available for public inspection at the New York State Gaming Commission located at One Broadway Center, Suite 600, Schenectady, NY 12305 and at the Department of State, 99 Washington Street, Albany, NY.

(b) Restricted therapeutic use. A limited number of medications and methods listed in the ARCI Prohibited List shall be exempted when the administration occurs in compliance with the ARCI required conditions for restricted therapeutic use. ARCI required conditions for restricted therapeutic use means the "Required Conditions for Restricted Therapeutic Use" annexed to such Model Rule, as described in subdivision (a) of this section and hereby incorporated by reference, whose columns shall mean:

(1) Report When Sampled means the administration of the substance must be reported to the commission when the horse is next sampled, if the horse is sampled within 24 hours after the administration;

(2) Pre-File Treatment Plan means that if the commission where the horse is located requires the filing of treatment plans, then a treatment plan for the substance must be filed by the time of administration in a manner approved by such commission;

(3) Written Approval from Commission means the commission has granted written approval of a written treatment plan before the administration of the substance, including as may be required by the column's footnotes;

(4) Emergency Use (report) means the substance had to be administered due to an acute emergency involving the life or health of the horse, provided the emergency use is reported to the commission as soon as practicable after the treatment occurs;

(5) Prescribed by Veterinarian means the substance has been prescribed by an attending veterinarian in a manner consistent with the standards and procedures described in section 4043.16 of this Article and recorded in a manner consistent with the requirements of section 4012.4 of this Article;

(6) Report Treatment means the treatment must be reported to the commission by the trainer at the time of administration to provide the commission with information for the veterinarian's list. The trainer may delegate this responsibility to the treating veterinarian, who shall make the report when so designated; and

(7) Other Limitations means additional requirements that apply, such as a substance may be used in only fillies or mares or a horse that is administered a substance shall be reported immediately to the commission and placed on the veterinarian's list for a specific minimum period of time.

(c) No person shall at any time administer any other doping agent to a horse except pursuant to a valid therapeutic, evidence-based treatment plan.

(1) Other doping agent means a substance that is not described in subdivision (a) of this section or the ARCI Prohibited List, has a pharmacologic potential to alter materially the performance of a horse, had no generally accepted medical use in the horse when treated, and is:

(i) capable at any time of causing an action or effect, or both, within one or more of the blood, cardiovascular, digestive, endocrine, immune, musculoskeletal, nervous, reproductive, respiratory, or urinary mammalian body systems; including without limitation endocrine secretions and their synthetic counterparts, masking agents, oxygen carriers and agents that directly or indirectly affect or manipulate gene expression; but

(ii) not a substance that is considered to have no effect on the physiology of a horse except to improve nutrition or treat or prevent infections or parasite infestations.

(2) The commission may publish advisory warnings that certain substances or administrations may constitute a violation of this section.

(3) Therapeutic, evidence-based treatment plan means a planned course of treatment written and prescribed by an attending veterinarian before the horse is treated that:

(i) describes the medical need of the horse for the treatment, the evidence-based scientific or clinical justification for using the doping agent and a determination that recognized therapeutic alternates do not exist; and

(ii) complies with section 4043.16 of this Part, meets the standards of veterinary practice in the jurisdiction and is developed in good faith to treat a medical need of the horse.

(4) Such plans shall not authorize the possession of a doping agent on the premises of a racing or training facility under the jurisdiction of the commission.

(5) If the other doping agent is a protein- or peptide-based agent or drug that may produce analgesia or enhance the performance of a horse beyond such horse's natural ability, then the administration of such substance to such horse and the possession of such substance on the premises of a licensed racetrack also shall be

(i) limited to a time, place and manner specifically permitted in writing by the commission before the administration of such substance;

(ii) for a recognized therapeutic use; and

(iii) subject to such appropriate limitations as the commission may place on the return of the horse to running races.

(d) Consistency with other restrictions.

(1) The prohibited doping agents, substances and methods described in this section are prohibited regardless of any other sections, including 4043.2 and 4043.3, of this Part.

(2) The use of a prohibited doping agent, substance or method under conditions permitted by this section must also comply with other applicable rules of the commission, including, without limitation, sections 4043.2, 4043.3, 4043.6, 4043.15 and 4043.16 of this Part.

[(b)] *(e)* Penalties.

(1) A horse *found to be* in violation of this [rule] *section* shall be ineligible to [race] *participate in racing* until it is certain that the horse is no longer affected by the prohibited substance *or method* and for not less than 180 days, after which the horse must qualify in a workout satisfactory to the [judges] *stewards* and test negative for *prohibited or impermissible* drugs *or other substances*. The minimum fixed period of ineligibility for a horse in violation of this [rule] *section* shall be reduced from 180 to 30 days if the trainer had never violated this rule or similar rules in other jurisdictions and had, for any violations of Part 4043 or similar rules in other jurisdictions, fewer than 180 days in lifetime suspensions or revocations and fewer than two suspensions or revocations of 15 days or more in the preceding 24 months.

(2) A person who is found responsible for a *prohibited substance or method in* violation of [paragraph (a)(1) of] this section shall*, in the absence of extraordinary mitigating circumstances,* incur a minimum penalty of license revocation in addition to any other penalties authorized in this [Title] *Article*.

[(c)] *(f)* A buyer who was not aware that a horse is or may be determined ineligible under this section may void the purchase, provided that [such] *the* buyer does so within 10 days after receiving *actual or constructive* notice of the horse's ineligibility.

A new section 4043.16 would be added to part 4043 of 9 NYCRR, as follows:

§ 4043.16. No drug administrations without appropriate veterinary approval.

The limitations set forth in this section apply to drug treatments of horses engaged in activities, including training, related to competing in pari-mutuel racing in New York. This includes, without limitation, any horses that are training outside the jurisdiction to participate in racing in New York and all horses that are training in the jurisdiction.

(a) No drug may be administered except in the context of a valid veterinarian-client-patient relationship between an attending veterinarian, the horse owner (who may be represented by the trainer or other agent) and the horse. The owner is not required by this subdivision to follow the veterinarian's instructions, but no drug may be administered without a veterinarian having examined the horse and provided the treatment recommendation. Such relationship requires the following:

(1) the veterinarian, with the consent of the owner, has accepted responsibility for making medical judgments about the health of the horse;

(2) the veterinarian has sufficient knowledge of the horse to make a preliminary diagnosis of the medical condition of the horse;

(3) the veterinarian has performed an examination of the horse and is acquainted with the keeping and care of the horse;

(4) the veterinarian is available to evaluate and oversee treatment outcomes, or has made appropriate arrangements for continuing care and treatment;

(5) the relationship is maintained by veterinary visits as needed, and

(6) the veterinary judgments of the veterinarian are independent and are not dictated by the trainer or owner of the horse.

(b) No prescription drug may be administered except as prescribed by an attending veterinarian.

(c) The trainer and veterinarian are both responsible to ensure compliance with these limitations on drug treatments of horses, except that the medical judgment to recommend a drug treatment or to prescribe a drug is the responsibility of the veterinarian and the decision to proceed with a drug treatment that has been so recommended is the responsibility of the horse owner (who may be represented by the trainer or other agent).

Text of proposed rule and any required statements and analyses may be obtained from: Kristen M. Buckley, New York State Gaming Commission, 1 Broadway Center, PO Box 7500, Schenectady, NY 12301, (518) 388-3332, email: gamingrules@gaming.ny.gov

Data, views or arguments may be submitted to: Same as above.

Public comment will be received until: 60 days after publication of this notice.

Regulatory Impact Statement

1. Statutory authority: The New York State Gaming Commission ("Commission") is authorized to promulgate these rules pursuant to Racing, Pari-Mutuel Wagering and Breeding Law ("Racing Law") Sections 103(2) and 104(1, 19). Under Section 103(2), the Commission is responsible for supervising, regulating and administering all horse racing and pari-mutuel wagering activities in the State. Subdivision (1) of Section 104 confers upon the Commission general jurisdiction over all such gaming activities within the State and over the corporations, associations and persons engaged in such activities. Subdivision (19) of Section 104 authorizes the Commission to promulgate any rules and regulations that it deems necessary to carry out its responsibilities.

2. Legislative objectives: Legislative objectives of maintaining the integrity of pari-mutuel racing are advanced by this proposal.

3. Needs and benefits: This rule making is needed to adopt a broad prohibition of performance enhancing drugs, a mandate for veterinary oversight of drug use, and a restriction on experimental drugging of Thoroughbred race horses.

The proposal would revise the current Prohibited Substances rule, 9 NYCRR § 4043.12, and add another rule, 9 NYCRR § 4043.16, that would require appropriate veterinary oversight for the use of equine drugs.

The current rule, 9 NYCRR § 4043.12(a), provides that a Thoroughbred horse shall not be administered a blood or gene doping agent, or any protein-based substance that may produce analgesia or enhance a horse's performance beyond its natural ability, except for therapeutic uses approved in advance by the Commission. The current rule was adopted in 2010 in response to reports of erythropoietin (EPO) use in horse racing and was written to prohibit similar doping agents. As human drug research and development has progressed, the need to prohibit additional categories of substances and methods has become clear.

The proposal would expand the list of prohibited substances to include all substances and methods that the World Anti-Doping Agency currently bans in human competition with exceptions for therapeutic use. This would broadly prohibit the use of such performance enhancing drugs in horse racing. In addition, the proposal would specify the conditions required for restricted equine therapeutic use of a few substances. The proposal also would require an evidence-based treatment plan before any other doping agents could be used in a horse in a manner that is not considered as generally accepted veterinary care, and require an appropriate veterinary recommendation before using such drug in a race horse.

This proposal was initiated by the Racing Medication and Testing Consortium and adopted by the Board of Directors of the Association of Racing Commissioners International, Inc. ("ARCI") at a national meeting in December 2016. Input was also received from a broad range of leading industry representatives.

4. Costs:

(a) Costs to regulated parties for the implementation of and continuing compliance with the rule: These amendments will not add any new mandated costs to the existing rules.

(b) Costs to the agency, the state and local governments for the implementation and continuation of the rule: None. The amendments will not add any new costs. There will be no costs to local government because the Commission is the only governmental entity authorized to regulate pari-mutuel racing.

(c) The information, including the source(s) of such information and the methodology upon which the cost analysis is based: N/A.

5. Local government mandates: None. The Commission is the only governmental entity authorized to regulate pari-mutuel racing activities.

6. Paperwork: There will be no additional paperwork.

7. Duplication: No relevant rules or other legal requirements of the state and/or federal government exist that duplicate, overlap or conflict with this rule.

8. Alternatives: The Commission considered adopting its own rulemaking draft before a national consensus was reached. This approach was rejected once a national model rule was developed.

9. Federal standards: There are no minimum standards of the Federal government for this or a similar subject area.

10. Compliance schedule: The Commission believes that regulated persons will be able to achieve compliance with the rule upon adoption of this rule.

Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement

A regulatory flexibility analysis for small business and local governments, a rural area flexibility analysis, and a job impact statement are not required for this rule making proposal because it will have no adverse effect on small businesses, local governments, rural areas, or jobs. No regulated party will need a period to cure a pending matter because the restrictions and penalties will apply only to conduct that occurs in the future.

The proposed amendments serve to standardize the Commission's existing prohibitions concerning the use of certain substances and methods in Thoroughbred racehorses with recent national model rules that are based on the substances and methods prohibited in human sports by the World Anti-Doping Agency ("WADA"), including restricted therapeutic uses

that are tailored to horse racing; to permit the use of other doping agents if there is an evidence-based treatment plan; and to include the existing professional veterinary ethical requirements for the use of equine drugs in the Commission's rules. This rule will not impose an adverse economic impact or reporting, record keeping or other compliance requirements on small businesses in rural or urban areas or on employment opportunities. Due to the straightforward nature of the rulemaking, there is no need for the development of a small business regulation guide to assist in compliance. These provisions are clear as to what equine drug use is generally prohibited, the manner in which doping agents and drugs can be used for legitimate therapeutic purposes, and what is necessary to comply with the rules.

Department of Health

NOTICE OF ADOPTION

Lead Testing in School Drinking Water

I.D. No. HLT-20-17-00013-A
Filing No. 381
Filing Date: 2018-04-18
Effective Date: 2018-05-09

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

Action taken: Addition of Subpart 67-4 to Title 10 NYCRR.

Statutory authority: Public Health Law, sections 1110 and 1370-a

Subject: Lead Testing in School Drinking Water.

Purpose: Requires lead testing and remediation of potable drinking water in schools.

Text of final rule: Pursuant to the authority vested in the Commissioner of Health by Public Health Law sections 1370-a and 1110, Subpart 67-4 of Title 10 (Health) of the Official Compilation of Codes, Rules and Regulations of the State of New York is added, to be effective upon publication of a Notice of Adoption in the New York State Register, to read as follows:

SUBPART 67-4: Lead Testing in School Drinking Water

Section 67-4.1 Purpose.

This Subpart requires all school districts and boards of cooperative educational services, including those already classified as a public water system under 10 NYCRR Subpart 5-1, to test potable water for lead contamination and to develop and implement a lead remediation plan, where applicable.

Section 67-4.2 Definitions.

As used in this Subpart, the following terms shall have the stated meanings:

(a) Action level means 15 micrograms per liter (µg/L) or parts per billion (ppb). Exceedance of the action level requires a response, as set forth in this Subpart.

(b) Building means any structure, facility, addition, or wing of a school that may be occupied by children or students. The terms shall not include any structure, facility, addition, or wing of a school that is lead-free, as defined in section 1417 of the Federal Safe Drinking Water Act.

(c) Commissioner means the State Commissioner of Health.

(d) Department means the New York State Department of Health.

(e) Outlet means a potable water fixture currently or potentially used for drinking or cooking purposes, including but not limited to a bubbler, drinking fountain, or faucets.

(f) Potable water means water that meets the requirements of 10 NYCRR Subpart 5-1.

(g) School means any school district or board of cooperative educational services (BOCES).

Section 67-4.3 Monitoring.

(a) All schools shall test potable water for lead contamination as required in this Subpart.

(b) First-draw samples shall be collected from all outlets, as defined in this Subpart. A first-draw sample volume shall be 250 milliliters (mL), collected from a cold water outlet before any water is used. The water shall be motionless in the pipes for a minimum of 8 hours, but not more than 18 hours, before sample collection. First-draw samples shall be collected pursuant to such other specifications as the Department may determine appropriate.

(c) Initial first-draw samples.

(1) For existing buildings in service as of September 6, 2016, schools shall complete collection of initial first-draw samples according to the following schedule:

(i) for any school serving children or students in any of the levels prekindergarten through grade five, collection of samples is to be completed by September 30, 2016;

(ii) for any school serving children or students in any of the levels grades six through twelve that are not also serving children or students in any of the levels prekindergarten through grade five, and all other applicable buildings, collection of samples is to be completed by October 31, 2016.

(2) For buildings put into service after September 6, 2016, initial first-draw samples shall be performed prior to occupancy; provided that if the building is put into service between the effective date of this regulation but before October 31, 2016, the school shall have 30 days to perform first-draw sampling.

(3) Any first-draw sampling conducted consistent with this Subpart that occurred after January 1, 2015 shall satisfy the initial first-draw sampling requirement.

(d) Continued monitoring. Schools shall collect first-draw samples in accordance with subdivision (b) of this section again in 2020 or at an earlier time as determined by the commissioner. Schools shall continue to collect first-draw samples at least every 5 years thereafter or at an earlier time as determined by the commissioner. All such sampling shall be conducted according to procedures as determined by the commissioner.

(e) All first-draw samples shall be analyzed by a laboratory approved to perform such analyses by the Department's Environmental Laboratory Approval Program (ELAP).

Section 67-4.4 Response.

If the lead concentration of water at an outlet exceeds the action level, the school shall:

(a) prohibit use of the outlet until:

(1) a lead remediation plan is implemented to mitigate the lead level of such outlet; and

(2) test results indicate that the lead levels are at or below the action level;

(b) provide building occupants with an adequate supply of potable water for drinking and cooking until remediation is performed;

(c) report the test results to the local health department as soon as practicable, but no more than 1 business day after the school received the laboratory report; and

(d) notify all staff and all persons in parental relation to children or students of the test results, in writing, as soon as practicable but no more than 10 business days after the school received the laboratory report; and, for results of tests performed prior to September 6, 2016, within 10 business days after September 6, 2016, unless such written notification has already occurred.

Section 67-4.5 Public Notification.

(a) List of lead-free buildings. By October 31, 2016, the school shall make available on its website a list of all buildings that are determined to be lead-free, as defined in section 1417 of the Federal Safe Drinking Water Act.

(b) Public notification of testing results and remediation plans.

(1) The school shall make available, on the school's website, the results of all lead testing performed and lead remediation plans implemented pursuant to this Subpart, as soon as practicable, but no more than 6 weeks after the school received the laboratory reports.

(2) For schools that received lead testing results and implemented lead remediation plans in a manner consistent with this Subpart, but prior to September 6, 2016, the school shall make available such information, on the school's website, as soon as practicable, but no more than 6 weeks after September 6, 2016.

Section 67-4.6 Reporting.

(a) As soon as practicable but no later than November 11, 2016, the school shall report to the Department, local health department, and State Education Department, through the Department's designated statewide electronic reporting system:

(1) completion of all required first-draw sampling;

(2) for any outlets that were tested prior to September 6, 2016, and for which the school wishes to assert that such testing was in substantial compliance with this Subpart, an attestation that:

(i) the school conducted testing that substantially complied with the testing requirements of this Subpart, consistent with guidance issued by the Department;

(ii) any needed remediation, including re-testing, has been performed;

(iii) the lead level in the potable water of the applicable building(s) is currently below the action level; and

(iv) the school has submitted a waiver request to the local health department, in accordance with Section 67-4.8 of this Subpart; and

(3) a list of all buildings that are determined to be lead-free, as defined in section 1417 of the Federal Safe Drinking Water Act.

NEW YORK STATE OF OPPORTUNITY. Gaming Commission

One Broadway Center, P.O. Box 7500, Schenectady, NY 12301-7500
www.gaming.ny.gov

To: Commissioners

From: Edmund C. Burns

Date: July 10, 2018

Re: Adoption of Proposed Rulemaking for Electronic Transfer of Funds to the Commission from Special Bell Jar Accounts (9 NYCRR § 4624.9)

For Commission consideration is the adoption of a proposed amendment to an existing rule that would allow licensed charitable organizations to submit fees through electronic transfer. In general, Commission Rule 4624.9 requires any disbursement from charitable gaming accounts to be by check only. The purpose of this historical requirement was to increase accountability of charitable expenditures. Receipt of funds by electronic transfer would aid agency and regulated party efficiency substantially, by reducing the paperwork involved in submissions, ensuring immediate crediting of organization's accounts and automating the agency's depositing function, all without sacrificing safety, security or accountability.

The proposed rulemaking, including the text of the proposed rule, was published in the May 16, 2018 *State Register*, a copy of which is attached. The public comment period for the proposal will expire on July 16, 2018. To date, no comments have been received. I will notify the Commissioners if any comments are received within the comment period.

[redacted].

attachment

cc: Ronald Ochrym, Acting Executive Director
Stacy Harvey, Director, Division of Charitable Gaming

Assessment of Public Comment

The New York State Department of Financial Services (the "Department") proposed the First Amendment to Part 224 of Title 11 of the Official Compilation of Codes, Rules and Regulations of the State of New York (Insurance Regulation 187) in December 2017 and received more than 35 sets of comments to the proposed amendment (including one set of comments structured as a form letter that was emailed to the Department over 200 times by individual producers). The Department received comments from individuals and entities including insurers, producers, industry trade associations, consumer groups, and others. The Department also met with several commenters before and after the close of the comment period to discuss the proposal and to obtain clarification of the comments that were submitted.

Many commenters commended the Department for its efforts and most commenters expressed support for a best interest standard for life insurance and annuity transactions. Many commenters addressed more than one provision of the proposed amendment, and many requested specific changes. Generally, comments were made with respect to harmonization and other regulatory bodies; the scope of the regulation; proposed exemptions; definitions; the best interest standard; disclosure and documentation; producer certifications, designations and titles; multiple producer sales; producer compensation; proprietary products; financial exploitation; product comparison disclosure; insurer requirements and supervision; revision to the regulatory impact statement; and the effective date and enforcement. The Department has processed and carefully considered every comment and has made several revisions and clarifications to the proposal. However, the Department did not make all of the recommended revisions because the Department determined, based on its experience and knowledge, that certain revisions were unnecessary within the context of the proposal, were inconsistent with the standards or the purpose of the proposal, or were better addressed with an explanation in this assessment.

The Department addresses each of the comments in full in the complete version of the assessment of public comments, which will be posted on the Department's website.

New York State Gaming Commission

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Electronic Transfer of Funds to the Gaming Commission from Special Bell Jar Accounts

I.D. No. SGC-20-18-00005-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

Proposed Action: Amendment of section 4624.9 of Title 9 NYCRR.

Statutory authority: Racing, Pari-Mutuel Wagering and Breeding Law, sections 104(1) and (19); General Municipal Law, section 188-a(1)

Subject: Electronic transfer of funds to the Gaming Commission from special bell jar accounts.

Purpose: To allow charitable gaming organizations to pay their license fees to the Gaming Commission via electronic transfer.

Text of proposed rule: Section 4624.9 of 9 NYCRR is amended to read as follows:

§ 4624.9. Method of withdrawal.

[All] *With the exception of the transfer of funds to the Commission as may be required by section 4624.3 of this Part, which may be accomplished by approved electronic means pursuant to instructions, directions and procedures that the Commission may establish and modify from time to time, all* monies withdrawn from the "special games of chance account," "special raffle account" or "special bell jar account" shall be only by checks having preprinted consecutive numbers, signed by at least two duly authorized officers of the licensee and made payable to a specific person, firm, partnership or corporation with the purpose specified on the check stub[; and at no time shall a]. *No* check *from any of the accounts described in this section is permitted to* be made payable to cash. All checks must be accounted for in the appropriate part of the financial statement of games of chance operations (form GC-7), financial statement of raffle operations (form GC-7R) or financial statement of bell jar operations (form GC-7Q), including voided checks.

Text of proposed rule and any required statements and analyses may be obtained from: Kristen Buckley, Acting Secretary, New York State Gaming Commission, P.O. Box 7500, Schenectady, New York 12301-7500, (518) 388-3332, email: gamingrules@gaming.ny.gov

Data, views or arguments may be submitted to: Same as above.

Public comment will be received until: 60 days after publication of this notice.

Regulatory Impact Statement

Statutory authority: The New York State Gaming Commission is authorized to promulgate these rules pursuant to Racing, Pari-Mutuel Wagering and Breeding Law §§ 104(1), 104(19) and 188-a(1) of the General Municipal Law. Section 104(1) of the Racing, Pari-Mutuel Wagering and Breeding Law (RPMWBL) vests the Commission with general jurisdiction over all gaming activities within New York State and over the corporations, associations and persons engaged therein. Section 104(19) of the RPMWBL authorizes the Commission to promulgate any rules and regulations that it deems necessary to carry out its responsibilities. General Municipal Law § 188-a(1) authorizes the Commission to supervise the administration of games of chance and to adopt, amend and repeal rules and regulations governing the issuance and amendment of licenses and the conducting of games under such licenses.

Legislative objectives: To maintain the public confidence and trust in the credibility and integrity of legalized gaming activities, the conduct of games of chance and all attendant activities should be so regulated and adequate controls so instituted. All phases of the supervision, licensing and regulation of games of chance should be closely controlled and the laws and regulations pertaining thereto should be strictly construed and rigidly enforced.

Needs and benefits: This amendment is necessary to allow charitable organizations to make electronic transfer of funds to pay their additional license fees to the New York State Gaming Commission.

Currently, any disbursement from a special bell jar account by a charitable organization (including payment of license fees to the Commission) can be made only by check having pre-printed consecutive numbers. This method of payment is archaic in light of the development of secure online payment methods.

Charitable organizations licensed to conduct bell jar games are required to submit to the Commission a quarterly report of the sale of bell jar tickets pursuant to 9 NYCRR § 4624.1. Each report must be accompanied by an additional license fee in the amount of five percent of the specific organization's net proceeds from its sale of bell jar tickets pursuant to 9 NYCRR § 4624.3. This is the only license fee paid to the Commission by organizations licensed to conduct charitable gaming. The Commission's Division of Charitable Gaming processes approximately 1,500 such reports and accompanying license fees each calendar quarter. Receipt of funds by electronic transfer would improve administrative efficiency for both the Commission and for charitable organizations without sacrificing security or accountability.

Currently, the Commission accepts only checks. Electronic transfers will allow charitable organizations to submit license funds and reduce paperwork for both the organizations and the Commission. Online payment systems automatically generate a record of payments which can be readily accessed if an audit is needed. Like checks, online payment systems ensure accountability for disbursements through access codes and passwords so that only authorized persons may disburse funds. Electronic payment will also reduce the amount of time required for Commission staff to process more than 1,000 payments that are received every quarter.

Costs: (a) There may be some minimal costs imposed through the use of electronic payment, but because electronic payment is optional and not required by this rule, the charitable organization still has the ability to pay by check if the costs of electronic transfer are burdensome. The minimal costs will be offset through savings of no longer requiring envelopes, postage and copy paper as part of each submission.

(b) There are no additional costs imposed upon the Commission, New York State or local governments for the implementation of, and continuing compliance with, this rule. The Commission will see a cost savings of expenses associated with copying checks, filing and processing checks for deposit.

(c) The determination that there are no costs imposed upon any of the parties listed above is based upon a review of the common procedures used by both the Commission and charitable organizations, with which Commission staff is highly familiar as a result of audits and reviews of charitable organization procedures.

(d) Because there are no costs associated with this rulemaking as determined by the limited nature and statutory scope of the amendments, a statement setting forth a best estimate and methodology of costs is not attached.

Paperwork: There is no additional paperwork required by or associated with this rule amendment.

Local government mandates: This rule would impose no local government mandates.

Duplication: There are no other state or federal requirements similar to the provisions contained in the rule amendment.

Alternative approaches: There are no other significant alternatives to this rule. The rule still allows organizations to pay by check.

Federal standards: Charitable gaming within New York State are activities that are exclusively regulated by the Commission, and there are no applicable federal rules for the conduct of such activities. Therefore, the rule does not exceed any minimum standards of the federal government because there are no applicable federal rules.

Compliance schedule: This rulemaking would be effective immediately upon the date of publication in the New York State Register as a Notice of Adoption.

Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement

This proposal does not require a Regulatory Flexibility Statement, Rural Area Flexibility Statement or Job Impact Statement as it merely permits the use of a new method for charitable organizations to pay bell jar license fees to the Commission. These proposals do not impact upon "Small business" under State Administrative Procedure Act section 102(8), nor do they affect employment. The proposal will not impose an adverse economic impact on reporting, recordkeeping or other compliance requirements on small businesses in rural or urban areas nor on employment opportunities.

Department of Health

EMERGENCY RULE MAKING

Medical Use of Marihuana

I.D. No. HLT-43-17-00001-E

Filing No. 396

Filing Date: 2018-04-30

Effective Date: 2018-04-30

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

Action taken: Amendment of sections 1004.3, 1004.4, 1004.22 and 1004.23 of Title 10 NYCRR.

Statutory authority: Public Health Law, section 3369-a

Finding of necessity for emergency rule: Preservation of public health and public safety.

Specific reasons underlying the finding of necessity: Currently, over 31,000 patients have been certified to use medical marihuana in New York State. Many of these certified patients are admitted into hospitals or reside in residential health care facilities, adult care facilities, community mental health residences, mental hygiene facilities, residential facilities for the care and treatment of persons with developmental disabilities, and residential treatment facilities for children and youth. In addition, there are certified patients who attend private or public schools. These severely ill, and often disabled, certified patients are currently being denied access to medical marihuana because of concerns from facilities over the handling of the medication. Denying certified patients access to medical marihuana, or forcing them to abruptly discontinue using medical marihuana, poses an immediate risk to the health and safety of these patients, some of whom are terminally ill.

The proposed regulations are necessary to immediately allow these facilities the option of becoming designated caregivers for certified patients. Once registered with the Department, designated caregivers are authorized by Public Health Law Section 3362 to possess, acquire, deliver, transfer, transport and/or administer medical marihuana on behalf of their certified patient(s). By allowing a facility to become a designated caregiver, these regulations will authorize the facility to lawfully possess, acquire, deliver, transfer, transport and/or administer medical marihuana to certified patients residing in, or attending, that facility. In doing so, these regulations will help prevent patients from experiencing adverse events associated with abrupt discontinuation of this treatment alternative.

Subject: Medical Use of Marihuana.

Purpose: To allow certain defined facilities to become a designated caregiver for a certified patient in NYS's Medical Marihuana Program.

Text of emergency rule: Subdivision (k) of section 1004.3 is amended to read as follows:

(k) A certified patient may designate up to two designated caregivers either on the application for issuance or renewal of a registry identification card or in another manner determined by the department. *A designated caregiver may be either a natural person or a facility. For purposes of this section, a "facility" shall mean: a general hospital or residential health care facility operating pursuant to Article 28 of the Public Health Law; an adult care facility operating pursuant to Title 2 of Article 7 of the Social Services Law; a community mental health residence established pursuant to section 41.44 of the Mental Hygiene Law; a hospital operating pursuant to section 7.17 of the Mental Hygiene Law; a mental hygiene facility operating pursuant to Article 31 of the Mental Hygiene Law; an inpatient or residential treatment program certified pursuant to Article 32 of the Mental Hygiene Law; a residential facility for the care and treatment of persons with developmental disabilities operating pursuant to Article 16 of the Mental Hygiene Law; a residential treatment facility for children and youth operating pursuant to Article 31 of the Mental Hygiene Law; or a private or public school. Further, within each of the facilities listed above, each division, department, component, floor or other unit of such facility shall be entitled to be considered to be a "facility" for purposes of this section.* The application *for issuance or renewal of a registry identification card* shall include the following information:

* * *

(3) date of birth of the proposed designated caregiver(s)*, unless the proposed designated caregiver is not a natural person*;

* * *

Subdivision (b) of section 1004.4 is amended to read as follows:

(b) A *facility or natural* person selected by a certified patient as a designated caregiver [shall] *may* apply to the department for a registry identification card or renewal of such card on a form or in a manner determined by the department. The proposed designated caregiver shall submit an application to the department which shall contain the following information and documentation:

(1) *For a proposed designated caregiver that is a natural person, the individual shall submit:*

(i) the applicant's full name, address, date of birth, telephone number, email address if available, and signature;

([2]*ii*) if the applicant has a registry identification card, the registry identification number;

([3]*iii*) a nonrefundable application fee of fifty ($50) dollars, provided, however that the department may waive or reduce the fee in cases of financial hardship as determined by the department;

([4]*iv*) a statement that the applicant is not the certified patient's practitioner;

([5]*v*) a statement that the applicant agrees to secure and ensure proper handling of all approved medical marihuana products;

([6]*vi*) acknowledgement that a false statement in the application is punishable under section 210.45 of the penal law;

([7]*vii*) proof that the applicant is a New York State resident, consisting of a copy of either:

([i]*a*) a New York State issued driver's license; or

([ii]*b*) a New York State *non-driver* identification card;

([8]*viii*) If the documentation submitted by the applicant in accordance with paragraph ([7]*vii*) of this subdivision does not contain a photograph of the applicant or the photograph on the documentation is not a true likeness of the applicant, the applicant shall provide one recent passport-style color photograph of the applicant's face taken against a white background or backdrop. The photograph shall be a true likeness of the applicant's appearance on the date the photograph was taken and shall not be altered to change any aspect of the applicant's physical appearance. The photograph shall have been taken not more than thirty (30) days prior to the date of the application. The photograph shall be submitted in a form and manner as directed by the department, including as a digital file (.jpeg).

([9]*ix*) Identification of all certified patients for which the applicant serves, has served or has an application pending to serve as a designated caregiver and a statement that the applicant is not currently a designated caregiver for five current certified patients, and that he/she has not submitted an application which is pending and, if approved, would cause the applicant to be a designated caregiver for a total of five current certified patients;

(2) For a proposed designated caregiver that is an entire facility that is licensed or operated pursuant to an authority set forth in subdivision (k) of section 1004.3 of this Part, the designated caregiver shall submit:

(i) the facility's full name, address, operating certificate or license number where appropriate, email address, and printed name, title, and signature of an authorized facility representative;

NEW YORK STATE OF OPPORTUNITY. Gaming Commission

One Broadway Center, P.O. Box 7500, Schenectady, NY 12301-7500
www.gaming.ny.gov

To: Commissioners

From: Edmund C. Burns

Date: July 2, 2018

Re: Proposed Rulemaking for Blazing 7s Progressive Side Wager for Blackjack (9 NYCRR § 5324.11)

For Commission consideration is the addition of a blackjack table game feature called Blazing 7s Progressive. At the request of a casino licensee, temporary rules for this game were approved through October 26, 2018, pursuant to Rule 5323.19. The Commission's Division of Gaming has evaluated the experience with this game so far and is satisfied that this wager would be appropriate to add to the table game rules as a permanent rule.

The text of the proposed amendments is attached.

[redacted].

attachment

cc: Ronald Ochrym, Acting Executive Director
Thomas Anapolis, Director, Division of Gaming

A new subsection 5324.11(q) of title 9 of NYCRR would be added to read as follows:

§ 5324.11 Blackjack

* * *

(q) *Blazing 7s progressive wager*. The gaming facility may provide a progressive super sevens jackpot wager as an additional side wager in the game of blackjack.

(1) All blazing 7s progressive wagers shall be made in the designated betting space or coin slot on the layout, in an amount that shall be established by the gaming facility prior to the commencement of a round of play. Once all wagers are made, the dealer shall announce “no more bets.” Simultaneously with such announcement, the dealer shall activate the blazing 7s progressive wager lock-out feature by depressing the coin-in button or collecting the wagers from the designated betting space. No blazing 7s progressive wager shall be accepted after a card has been dealt in the underlying blackjack game.

(2) Each blazing 7s progressive wager shall increase the game’s progressive jackpot meter and entitle a player to win that progressive jackpot prize upon obtaining a hand comprising three sevens of the same suit or three sevens of diamonds, depending on the pay table used. The amount of the initial blazing 7s progressive prize, which shall be established by the gaming facility, shall be reset to that amount following each 100% blazing 7s progressive payout. The blazing 7s progressive shall be augmented upon each wager in increments established by the gaming facility’s approved system of internal controls, without regard to the outcome of the blazing 7s progressive wager. The initial and reset amounts shall be at least $2,000, if the required blazing 7s progressive wager is $1, and at least $10,000, if the required blazing 7s progressive wager is $5.

(3) If other optional wagers in the game of blackjack are offered on the same table as the blazing 7s progressive wager, the dealer shall first settle those optional wagers.

(4) If a player splits the first two sevens the player is dealt, for purposes of the underlying game, blazing 7s progressive wager shall be based on the two sevens and the third card dealt to the player.

(5) A blazing 7s progressive wager loses if a player is not dealt two sevens in the player’s initial two cards.

(6) In the case of dealer blackjack, the player shall receive a third card if the first two cards dealt to the player are sevens but will still lose the player’s blackjack wager regardless of outcome.

(7) Each gaming facility shall pay a winning progressive super sevens jackpot wager at odds no less than the following (with the gaming facility choosing pay table A or pay table B), to a player who receives:

Hand	Pay table A	Pay table B
Three 7s of the same suit	100% of meter	not applicable
Three 7s of diamonds	not applicable	100% of meter
Three 7s of clubs, hearts or spades	not applicable	10% of meter
Three 7s of same color	10% of meter	500:1
Three 7s	200:1	200:1
Two 7s as the first two cards	25:1	25:1
One 7 as the first two cards	2:1	2:1

(8) When a player has a blazing 7s progressive hand that requires a change to the meter:

(i) the gaming facility supervisor shall notify the surveillance department and any other department, as appropriate; and

(ii) pit management shall insert the jackpot key into the jackpot computer, verify the amount of the payout to the winning player or players and secure the key in accordance with the gaming facility's approved system of internal controls.

(9) Upon completion of each round of play, the dealer shall press the game-over button and commence a new round of play.

(10) Notwithstanding the requirements in paragraph (4) of this subdivision, if the first two cards of the player are sevens, the gaming facility may use a dealing procedure wherein the dealer's up card, rather than a player's drawn card, shall be used to determine whether the player receives a payout for three sevens in accordance with paragraph (7) of this subdivision. The gaming facility shall provide notice to the commission of this change in dealing procedure prior to its implementation on the gaming floor.