



**MEETING AGENDA  
SEPTEMBER 24, 2018**

1. CALL TO ORDER AND ESTABLISHMENT OF QUORUM
2. CONSIDERATION OF MINUTES, MEETING OF JULY 16, 2018
3. REPORT OF THE ACTING EXECUTIVE DIRECTOR
4. RULEMAKING
  - A. ADOPTION GAMING RULEMAKING: SGC-32-18-00002-P BLAZING 7S PROGRESSIVE WAGER
  - B. PROPOSED RULEMAKING: SELF EXCLUSION
  - C. PROPOSED RACING RULEMAKING: PICK-SIX JACKPOT POOLS FOR THOROUGHBRED RACING
  - D. PROPOSED RACING RULEMAKING: CLAIMING PRICE IN THOROUGHBRED RACING
5. ADJUDICATIONS
  - A. IN THE MATTER OF THOMAS E. RUSSELL
  - B. IN THE MATTER OF TERRY SANTIAGO
6. OLD BUSINESS/NEW BUSINESS
7. SCHEDULING OF NEXT MEETING
8. ADJOURNMENT

###

**New York State Gaming Commission**

**Minutes**

**Meeting of July 16, 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 2:33 p.m. Establishment of a quorum was noted by Acting Executive Director Ronald Ochrym. 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 May 21, 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 Ron Ochrym provided a brief report on the 2018 Saratoga Racecourse meet, The New York Sire Stakes County Fair Series, U.S. Supreme Court decision regarding sports wagering and the New York Racing Association Purse Ratio Request.

**4. Rulemaking**

**a. ADOPTION: Prohibited Practices and Doping Agents, Veterinary Relationship for Prescribing Drugs in Thoroughbred Horse Racing SGC-19-18-00004-P**

The Commission considered an adoption of a proposed rulemaking in regards to prohibited practices and doping agents in Thoroughbred horses.

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

**b. ADOPTION: Electronic Transfer of Funds to the Gaming Commission from Special Bell Jar Accounts SGC-20-18-00005-P**

The Commission considered an adoption of a proposed rulemaking in regards to electronic transfer of funds to the Commission from special bell jar accounts.

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

**c. PROPOSED: BLAZING 7'S TABLE GAME**

The Commission considered a proposed rulemaking to a blackjack table game feature for commercial casino.

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

**5. Adjudications**

**a. In the Matter Gonzalez Grocery Store**

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 sustain the Hearing Officer report and recommendation 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.

**b. In the Matter of Jenny Food Corporation**

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 sustain the Hearing Officer report and recommendation 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.

**c. In the Matter of Dennis Martin**

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 Recommendation that the that the denial of the applicant's registration be upheld.

**d. In the Matter of Ebony Walker.**

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 Recommendation that the that the denial of the applicant's registration be upheld.

**e. In the Matter of Reginald Gipson**

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 Recommendation that the that the denial of the applicant's registration be upheld.

**6. Old Business/New Business**

**a. Old Business**

No old business was offered for discussion.

**b. New Business**

**In the Matter of Re-open Richard E. Dutrow, Jr.**

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 4-2 vote to deny the application. Voting to grant the application were Commissioners John A. Crotty and Peter J. Moschetti, Jr.

**7. Scheduling of Next Meeting**

The Commission tentatively set August 27th as the date for the next meeting.

**8. Adjournment**

The meeting was adjourned at 2:54 p.m.

###



# Gaming Commission

One Broadway Center, P.O. Box 7500, Schenectady, NY 12301-7500  
[www.gaming.ny.gov](http://www.gaming.ny.gov)

**To:** Commissioners

**From:** Edmund C. Burns

**Date:** September 13, 2018

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

For Commission consideration is the adoption of a proposed rule establishing a blackjack table game feature called Blazing 7s Progressive. The proposed rulemaking, including the text of the proposed rule, was published in the August 8, 2018 *State Register*, a copy of which is attached. The public comment period for the proposal will expire on October 8, 2018. No comments have been received to date. Staff will bring any comment received before the expiration of the public comment period to the attention of the Commissioners.

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. Authorization to adopt the proposed rule upon expiration of the public comment period would ensure that the casinos would be able to continue to offer this game without interruption.

[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:

<u>Hand</u>	<u>Pay table A</u>	<u>Pay table B</u>
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.

## New York State Gaming Commission

### PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

**Blazing 7s Progressive Wager**

**I.D. No.** SGC-32-18-00002-P

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

**Proposed Action:** Addition of section 5324.11(q) to Title 9 NYCRR.

**Statutory authority:** Racing, Pari-Mutuel Wagering and Breeding Law, sections 104(19), 1307(1), (2)(g), 1335(5), (6) and (11)

**Subject:** Blazing 7s Progressive Wager.

**Purpose:** To set forth the practices and procedures for the operation of Blazing 7s Progressive Wager as a casino table game.

**Text of proposed rule:** A new subdivision 5324.11(q) of Title 9 NYCRR would be added to read as follows:

§ 5324.11 Blackjack

\* \* \*

(q) *Blazing 7s progressive wager. The gaming facility may provide a blazing 7s progressive 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 blazing 7s progressive 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 among 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.*

**Text of proposed rule and any required statements and analyses may be obtained from:** Kristen Buckley, New York State Gaming Commission, One Broadway Center, 6th Floor, Schenectady, NY 12305, (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:** Racing, Pari-Mutuel Wagering and Breeding Law (“Racing Law”) section 104(19) grants authority to the Gaming Commission (“Commission”) to promulgate rules and regulations that it deems necessary to carry out its responsibilities. Racing Law section 1307(1) authorizes the Commission to adopt regulations that it deems necessary to protect the public interest in carrying out the provisions of Racing Law Article 13.

Racing Law section 1307(2)(g) authorizes the Commission to regulate the devices permitted for use at a table game.

Racing Law section 1335(5) authorizes the Commission to regulate the wagers and pay-offs of winning wagers as may be necessary to assure the vitality of casino operations and fair odds to patrons.

Racing Law section 1335(6) authorizes the Commission to regulate the posting of gaming rules, pay-offs of winning wagers and the odds of winning for each wager.

Racing Law section 1335(11) authorizes the Commission to regulate a dealer’s ability to deal cards by hands or by use of a machine.

2. **LEGISLATIVE OBJECTIVES:** The above referenced statutory provisions carry out the legislature’s stated goal “to tightly and strictly” regulate casinos “to guarantee public confidence and trust in the credibility and integrity of all casino gambling in the state,” as set forth in Racing Law section 1300(10).

3. **NEEDS AND BENEFITS:** The proposed rule implements the above-listed statutory directives regarding table game rules and equipment. Best practices addressed in the proposed rule include detailing the rules of play for the Blazing 7s Progressive Wager, as well as relevant pay tables.

4. **COSTS:**

(a) **Costs to the regulated parties for the implementation of and/or continuing compliance with this rule:** The anticipated cost of implementing and complying with the proposed regulation for those gaming facilities who wish to offer the wager will be approximately \$7,500 per year for each gaming facility, based on the estimated license fee charged by Bally Gaming, Inc. d/b/a Bally Technologies for the game. There will be no additional costs for any gaming facility that chooses not to offer the wager.

(b) **Costs to the regulating agency, the State, and local governments for the implementation of and continued administration of the rule:** The costs to the Commission for the implementation of and continued administration of the rule will be negligible given that all such costs are the

responsibility of the gaming facility. These rules will not impose any additional costs on local governments.

(c) The information, including the source or sources of such information, and methodology upon which the cost analysis is based: The cost estimates are based on the Commission’s experience regulating racing and gaming activities within the State.

5. LOCAL GOVERNMENT MANDATES: There are no local government mandates associated with these rules.

6. PAPERWORK: The rule is not expected to impose any significant paperwork or reporting requirements on the regulated entities.

7. DUPLICATION: The rule does not duplicate, overlap or conflict with any existing State or federal requirements.

8. ALTERNATIVES: The Commission consulted stakeholders and reviewed other gambling jurisdiction best practices and regulation. These included the rules for similar table games and the appropriate pay tables. The Commission is also required to promulgate these rules pursuant to Racing Law sections 1307(2)(g), and 1335(5), (6) and (11).

9. FEDERAL STANDARDS: There are no federal standards applicable to the licensing of gaming facilities in New York; it is purely a matter of New York State law.

10. COMPLIANCE SCHEDULE: The Commission anticipates that the affected parties will be able to achieve compliance with these rules upon adoption.

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

The proposed rule will not have any adverse impact on small businesses, local governments, jobs or rural areas. This rule is intended to promote public confidence and trust in the credibility and integrity of casino gambling in New York State. The rule will ensure that licensed gaming facilities follow game rules that are authorized and trustworthy.

The proposed rule does not impact local governments or small businesses as it is not expected that any local government or small business will hold a gaming facility license.

The proposed rule imposes no adverse impact on rural areas. The rule applies uniformly throughout the state and solely applies to licensed gaming facilities.

The proposed rule will have no adverse impact on job opportunities.

This rule will not adversely impact small businesses, local governments, jobs, or rural areas. Accordingly, a full Regulatory Flexibility Analysis, Rural Area Flexibility Analysis, and Job Impact Statement are not required and have not been prepared.

**Justice Center for the Protection of People with Special Needs**

**NOTICE OF WITHDRAWAL**

**Protocols for Interviewing Service Recipients**

**I.D. No.** JCP-21-18-00030-W

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

**Action taken:** Notice of proposed rule making, I.D. No. JCP-21-18-00030-P, has been withdrawn from consideration. The notice of proposed rule making was published in the *State Register* on May 23, 2018.

**Subject:** Protocols for interviewing service recipients.

**Reason(s) for withdrawal of the proposed rule:** Due to deficiencies in the proposal as initially submitted a new proposed rule making was subsequently submitted.

**Office for People with Developmental Disabilities**

**EMERGENCY/PROPOSED  
RULE MAKING  
NO HEARING(S) SCHEDULED**

**Telehealth**

**I.D. No.** PDD-32-18-00003-EP

**Filing No.** 677

**Filing Date:** 2018-07-19

**Effective Date:** 2018-07-19

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

**Proposed Action:** Amendment of Part 679 and Subpart 635-13 of Title 14 NYCRR.

**Statutory authority:** Mental Hygiene Law, sections 13.07, 13.09(b), 16.00; Public Health Law, sections 2999-cc and 2999-dd

**Finding of necessity for emergency rule:** Preservation of public health, public safety and general welfare.

**Specific reasons underlying the finding of necessity:** The emergency adoption of regulations that authorizes telehealth as a new mechanism to deliver clinical services is necessary to protect the health, safety, and welfare of individuals receiving services in the OPWDD system. The proposed/emergency regulation will allow individuals to receive clinical services via telehealth, pursuant to recent legislative amendments to Public Health Law §§ 2999-cc and 2999-dd.

Telehealth will increase individuals access to care by allowing them to receive services remotely, rather than in the home or another costlier and more restrictive settings. The regulations must be filed on an emergency basis to ensure that OPWDD establishes telehealth regulations by July 11, 2018, the date prescribed by the amendments to Public Health Law §§ 2999-cc and 2999-dd. If the regulations are not adopted by July 11, 2018, OPWDD will not meet the amended statutory requirement and voluntary and state-operated facilities will not be able to deliver clinical services to individuals via telehealth on the effective date of the statute. The regulatory updates are minimal, and when weighed against the significant loss of the ability to provide clinical services via telehealth on the statutory start date, the limit of full public notice is less significant.

**Subject:** Telehealth.

**Purpose:** To authorize telehealth as a new modality for the delivery of clinical services.

**Text of emergency/proposed rule:** New paragraph 679.1(c)(4) is added as follows, and all remaining paragraphs are renumbered accordingly:

(4) *Providing access to clinical services to a person located in his/her residence or other temporary location via telehealth (see glossary) while the provider is located either at a main clinic site certified by OPWDD or at a certified satellite site (see glossary).*

New subdivision 679.2(c) is added as follows, and all remaining paragraphs are renumbered accordingly:

(c) *Section 367-u of the Social Services Law provides that the commissioner shall not exclude from the payment of medical assistance funds the delivery of healthcare services through telehealth when the services are provided pursuant to section 2999-cc(3) of the Public Health Law and meet the requirements of federal law, rules and regulations.*

New subdivision 679.2(f) is added as follows:

(f) *Section 2999-cc of the Public Health Law provides that health care services, which must include the assessment, diagnosis, consultation, treatment, education, care management, and/or self-management of a patient, may be provided via the use of electronic information and communication technologies between qualifying providers located at a distant site and a patient located at an originating site.*

New subdivision 679.2(g) is added as follows:

(g) *Section 4406-g of the Public Health Law provides that a health maintenance organization shall not exclude from coverage a service that is covered under an enrollee contract of a health maintenance organization because the service is delivered via telehealth.*

New subdivision 679.2(h) is added as follows:

(g) *Sections 3217-h and 4306-g of the Insurance Law provide that under an insurance policy that provides comprehensive coverage for hospital,*



## Gaming Commission

One Broadway Center, P.O. Box 7500, Schenectady, NY 12301-7500  
[www.gaming.ny.gov](http://www.gaming.ny.gov)

**To:** Commissioners

**From:** Edmund C. Burns

**Date:** September 17, 2018

**Re:** Proposed Rulemaking for Self-Exclusion (9 NYCRR Parts 5402 and 5403)

For Commission consideration are proposed consolidated and amended regulations for self-exclusion from gaming activities. While the Commission authorized the proposal of a version of these rules last year, staff wishes to expand the proposal to include Lottery play and supersede the proposed rule the Commission approved of last year.

Currently, there are different self-exclusion rules applying to different forms of gaming. This proposal would centralize Commission self-exclusion policies and make self-exclusion universal throughout the various forms of gaming Statewide, rather than limit it to one form of gambling or another.

The proposal would require that a person file a request for self-exclusion, to include the length of exclusion sought (one year, three years, five years or lifetime). A self-excluded person would be prohibited from collecting gambling winnings or recovering any gambling losses occurring during the exclusion period and would be subject to possible arrest for trespass if found on the premises of a place from which the person is excluded. Upon registration, the excluded person would be required to release any claims that could arise from a failure by the State, Commission or Commission licensees or operators of gaming activity to withhold or restore gaming privileges or from confiscation of such person's gambling winnings. A gaming operator would be required to establish procedures and training for its employees to identify and manage any self-excluded persons found to be present on a gaming floor or involved in gaming-related activities.

Current Parts dealing with self-exclusion in Thoroughbred wagering, Standardbred wagering, Quarterhorse wagering, off-track betting and video lottery would be repealed, as the new Part would supersede them. Current rules allowing for self-imposed restrictions in the amount of wagering on horse racing would be consolidated in a new Part 5403, eliminating duplicative provisions currently in the Thoroughbred, Standardbred, Quarterhorse and off-track betting rules.

The text of the proposed rules is attached.

[REDACTED]

attachment

Commissioners  
September 17, 2018  
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cc: Ronald Ochrym, Acting Executive Director  
Thomas Anapolis, Director, Division of Gaming  
Gweneth Dean, Director, Division of Lottery

A new Subchapter B would be added to Chapter V of Subtitle T of 9 NYCRR on the subject of problem gambling, containing new Parts 5402 and 5403, as follows:

**Chapter V**

**Administration**

**Subchapter A Public Access to Records**

**Subchapter B Problem Gambling**

**Part**

**5402 Self-Exclusion**

**5403 Restrictions on Account Wagering in Horse Racing**

**PART 5402**

**Self-Exclusion**

**Section**

**5402.1 Definitions**

**5402.2 Request for self-exclusion**

**5402.3 Self-exclusion list**

**5402.4 Duties of gaming operators**

**5402.5 Removal from self-exclusion list**

**5402.6 Exceptions for individuals on the self-exclusion list**

**5402.7 Disclosure of information related to persons on the self-exclusion list**

**§ 5402.1. Definitions.**

For purposes of this Part:

(a) *gaming facility* means any room, premises, designated gaming area or platform where gaming pursuant to articles 2, 3, 4, 5, 6, 9, 10, 13 or 14 of the Racing, Pari-Mutuel Wagering and Breeding Law or video lottery gaming pursuant to Tax Law section 1617-a is conducted; and

(b) *gaming operator* means any licensee or operator authorized to conduct or operate gaming or other activity pursuant to articles 2, 3, 4, 5, 6, 9, 10, 13 or 14 of the Racing, Pari-Mutuel Wagering and Breeding Law or video lottery gaming pursuant to Tax Law section 1617-a.

**§ 5402.2. Request for self-exclusion.**

(a) A person requesting placement on the self-exclusion list shall submit to the commission or the commission's designee a completed request for voluntary self-exclusion form provided by the commission. Such submission may be made by appearing at the commission's principal office in Schenectady during regular business hours or at any licensed gaming facility's area designated for problem gambling intake. Persons who are unable to travel may request accommodation for submission through United States mail, so long as a notarized statement accompanies the required form stating clearly that the person signing understands fully the implications of submitting such form.

(b) A request for self-exclusion from gaming activities shall include the following identifying information:

(1) name, including any aliases or nicknames;

(2) date of birth;

(3) address of current residence;

(4) telephone number;

(5) social security number, when voluntarily provided in accordance with section seven of the Privacy Act of 1974 (5 U.S.C. § 552a) or Article 6-A of the Public Officers Law (Personal Privacy Protection Law);

(6) a copy of a current government-issued photo identification, such as a driver's license or passport; and

(7) height, weight, gender, hair color, eye color and any other physical characteristic that may assist in the identification of the person.

(c) Any person requesting self-exclusion pursuant to this Part shall be required to file with the commission or the commission's designee a photograph of such person taken within six months of the date of the request. Such photograph shall accompany the submission of the required form.

(d) A self-excluded person shall update any of the information set forth in paragraphs (1) through (6) of subdivision (b) of this section and any material change in any of the information set forth in paragraph (7) of subdivision (b) of this section within 30 days of any change.

(e) The length of self-exclusion requested by a person shall be one of the following:

(1) one year;

(2) three years;

(3) five years; or

(4) lifetime.

(f) The commission or the commission's designee shall document a description of the type of identification credentials examined containing the signature of a person requesting self-exclusion and whether said credentials included a photograph or general physical description of the person.

(g) The commission or the commission's designee shall document the signature of the intake employee authorized to accept a self-exclusion request, indicating that the signature of the person on the request for self-exclusion appears to agree with that contained on the requester's identification credentials and that any photograph or physical description of the person appears to agree with the requester's actual appearance.

(h) Each person requesting self-exclusion shall be advised in writing that if such person is found violating the rules set forth in this Part, such person may be subject to arrest for trespassing pursuant to Penal Law sections 140.10, 140.15 and 140.17.

### **§ 5402.3. Self-exclusion list.**

(a) The commission shall maintain an official self-exclusion list and notify each gaming operator of additions to or deletions from the list within five business days of the verification of the information received pursuant to section 5402.2 of this Part.

(b) The notice that the commission provides to gaming operators shall include the information provided pursuant to subdivision (a) of section 5402.2 of this Part and a copy of the person's photograph pursuant to subdivision (b) of section 5402.2 of this Part.

(c) A gaming operator shall maintain a current copy of the self-exclusion list and ensure that all appropriate employees and agents of the gaming operator are notified promptly of any addition to or deletion from the list.

(d) Gaming operators, employees or agents thereof may not disclose the name of, or any information about, a person who has requested self-exclusion to anyone other than employees and agents of the gaming operator whose duties and functions require access to the information or as authorized by the Racing, Pari-Mutuel Wagering and Breeding Law for the limited purpose of assisting in the proper administration of responsible gaming programs. Notwithstanding anything to the contrary in this subdivision, a gaming operator may disclose the identity of a self-excluded person to appropriate employees of other gaming operators in the State of New York or affiliated gaming entities in other jurisdictions for the limited purpose of assisting in the proper administration of problem gambling treatment or responsible gaming programs or to law enforcement or as may be required by a validly issued court order.

(e) A self-excluded person shall not, directly or indirectly, collect in any manner any winnings or recover any losses arising as a result of any gaming activity, including lottery, conducted during the period of time that such person is on the commission's self-exclusion list, consistent with the requirements set forth in the Racing, Pari-Mutuel Wagering and Breeding Law and article 34 of the Tax Law.

(f) Winnings of a self-excluded person shall be subject to forfeiture to the commission if such forfeiture is authorized by the Racing, Pari-Mutuel Wagering and Breeding Law or article 34 of the Tax Law.

(g) For the purposes of this section, winnings issued to, found on or about, or redeemed by, a self-excluded person shall be presumed to constitute winnings subject to forfeiture to the commission if such forfeiture is authorized by the Racing, Pari-Mutuel Wagering and Breeding Law or article 34 of the Tax Law.

(h) A self-excluded person shall be removed from any lottery subscription program described in Part 5005 of subchapter A of Chapter III of this subtitle. The commission shall not accept any new lottery subscription deposits from such self-excluded person, but such self-excluded person shall be allowed to withdraw any amounts from such person's account as of the date of the self-exclusion.

### **§ 5402.4. Duties of gaming operators.**

(a) A gaming operator shall train its employees and establish procedures to:

(1) for a physical facility, identify a self-excluded person when such person is present on a gaming floor, present in areas off the gaming floor where gaming activity is conducted, present in areas

accessible only through a gaming floor or engaging in gaming-related activities and, upon identification, notify immediately, unless section 5402.6 of this Part applies, the following persons:

(i) employees of the gaming operator whose duties include the removal of self-excluded persons;

(ii) the commission's designated staff at the licensed facility; and

(iii) if the gaming operator deems appropriate, a law enforcement agency;

(2) refuse wagers or entry fees from and deny gaming privileges to a self-excluded person;

(3) deny gaming-related activities including credit and check-cashing privileges, player club membership, complimentary goods and services, redemption of any previously earned complimentary goods and services, gaming junket participation and other similar privileges and benefits to a self-excluded person;

(4) ensure that self-excluded persons do not receive, either from the gaming operator or any agent thereof, gaming junket solicitations, targeted mailings, telemarketing promotions, player club materials or other promotional materials relating to gaming activities at any licensed facility;

(5) comply with section 5402.3 of this Part; and

(6) make available to patrons written materials approved by the commission explaining the self-exclusion program and resources for treatment and assistance.

(b) A gaming operator shall designate responsible gaming ambassadors and provide commission approved training to such ambassadors to assist in the development and maintenance of the self-exclusion list.

(c) A gaming operator shall submit amendments to the procedures and training materials required under subdivisions (a) and (b) of this section to the commission for review and approval at least 30 days prior to the intended implementation date of such amendments. Such gaming operator may implement the amendments on the 30<sup>th</sup> calendar day following the submission of such amendments unless such gaming operator receives a notice under subdivision (e) of this section objecting to such amendments.

(d) If during the 30-day review period the commission determines that an amendment is inconsistent with the intent of this Part, the commission shall, by written notice to the gaming operator, object to such amendment. The objection shall:

(1) specify the nature of the objection and, when possible, an acceptable alternative; and

(2) direct that the amendments not be implemented until approved by the commission.

(e) When amendments to procedures and training materials have been objected to pursuant to subdivision (d) of this section, a gaming operator may submit revised amendments in accordance with subdivision (c) of this section.

(f) For physical facilities, each gaming operator shall post signs in a conspicuous manner within 50 feet of each entrance and exit of the gaming facility or at a distance otherwise approved in writing by the commission indicating that a person who is on the self-exclusion list will be subject to arrest for

trespassing pursuant to Penal Law sections 140.10, 140.15 and 140.17 if such person is on the gaming floor, in areas off the gaming floor where gaming activity is conducted, in areas accessible only through a gaming floor or engaging in gaming-related activities in the gaming facility. The text and font size of such signs shall be submitted to the commission for review and approval.

(g) For interactive gaming, a gaming operator shall not accept any new deposits from the self-excluded person, but such self-excluded person shall be allowed to withdraw any amounts from such person's account and the gaming operator shall acknowledge such withdrawals to such person.

#### **§ 5402.5. Removal from self-exclusion list.**

For a person who is self-excluded for one, three or five years, upon the conclusion of such period of self-exclusion, such person shall be removed from the self-exclusion list unless such person requests in writing, no later than 30 days prior to the expiration of such self-exclusion period, that the commission extend the term of such self-exclusion.

#### **§ 5402.6. Exceptions for individuals on the self-exclusion list.**

For physical facilities, the prohibition against allowing self-excluded persons to be on the gaming floor or in areas off the gaming floor where gaming activity is conducted shall not apply to a person who is on the self-exclusion list, if all of the following apply:

(a) the individual is carrying out the duties of employment or incidental activities related to employment;

(b) the gaming operator's security department has received prior notice, unless it was impracticable to have done so;

(c) access to the gaming floor or areas off the gaming floor where gaming activity is conducted is limited to the time necessary to complete the individual's assigned duties; and

(d) the individual does not otherwise engage in gaming activities.

#### **§ 5402.7. Disclosure of information related to persons on the self-exclusion list.**

(a) Information furnished to or obtained by the commission pursuant to this Part shall be deemed confidential and shall not be disclosed unless necessary to implement this Part or other law or as may be required by a validly issued court order;

(b) The commission may release periodically to the public demographics and general information in regard to the self-exclusion list, such as the total number of persons on the list, gender breakdown and age range.

(c) The commission may make selected data available, upon request, for the limited purpose of assisting in the proper administration of problem gambling treatment or responsible gaming programs.

**PART 5403**

**Restrictions on Account Wagering in Horse Racing**

Section

5403.1 General requirements

5403.2 Voluntary restrictions on account wagering

**§ 5403.1. General requirements.**

(a) Each account wagering licensee, as defined by Racing, Pari-Mutuel Wagering and Breeding Law section 1001(r), that maintains telephone betting accounts for wagering on horse races shall establish procedures that are designed to permit an account holder to voluntarily place limits on the amount of his or her wagers. This restriction may be calculated on a daily or weekly basis.

(b) An account holder who has placed restrictions on his or her account may remove such exclusion or restrictions upon request made to the account wagering licensee. No request, however, from a person to remove any self-exclusion or limit placed on account wagers shall be effective until seven days after such request has been received by the account wagering licensee.

**§ 5403.2. Voluntary restrictions on account wagering.**

(a) Any holder of an account authorized pursuant to Racing, Pari-Mutuel Wagering and Breeding Law section 1012 may voluntarily place limits on the amount of his or her wagers. This restriction may be calculated on a daily or weekly basis.

(1) Each account wagering licensee that maintains telephone betting accounts for wagering on horse races shall establish procedures that are designed to deny wagering privileges beyond a daily or weekly threshold set by the account holder.

(2) Any holder of an account voluntarily restricted may have such restrictions removed or modified upon written or in-person request to the racing association or corporation. Pursuant to Racing, Pari-Mutuel Wagering and Breeding Law section 111(3), no request from a person to remove any limit placed on account wagers shall be effective until seven days after such request has been received by the racing association or corporation.

(b) Each account wagering licensee that maintains telephone betting accounts for wagering on races shall file with the commission a copy of such account wagering licensee's procedures established pursuant to this section.

\* \* \*

**Parts 4044, 4123, 4237, 4411 and 5326 of 9 NYCRR would be repealed.**

\* \* \*

**Subdivisions (e) through (h) of section 5117.6 of 9 NYCRR would be repealed and such section would be renamed as follows:**

**§ 5117.6. Responsible gaming [and self-exclusion].**

\* \* \*

**Subdivision (b) of section 5325.6 of 9 NYCRR would be amended as follows:**

**§ 5325.6. Advertising.**

\* \* \*

(b) Advertisements shall contain a problem gambling assistance message comparable to one of the following:

(1) If you or someone you know has a gambling problem, help is available. Call (877-8-HOPENY) or text HOPENY [(46769)] (467369);

(2) Gambling Problem? Call (877-8-HOPENY) or text HOPENY [(46769)] (467369); or

(3) any other message approved in writing by the commission.



# Gaming Commission

One Broadway Center, P.O. Box 7500, Schenectady, NY 12301-7500  
[www.gaming.ny.gov](http://www.gaming.ny.gov)

**To:** Commissioners  
**From:** Edmund C. Burns  
**Date:** September 13, 2018  
**Re:** Proposed Rulemaking for Pick-Six Jackpot Pools (9 NYCRR §§ 4011.27 and others).

For Commission consideration is a proposed new Thoroughbred wager, the pick-six jackpot wager.

This rulemaking would authorize New York Thoroughbred tracks to offer a wager that is offered in several other jurisdictions. The wager, also known as a “jackpot” or “rainbow” wager, appeals to bettors by giving a larger prize when there is only one winning wager from a pool. If there are more than one winning ticket, then the major portion of the day’s pool is paid out to those who selected six of six winners, and the minor pool is added to the carryover. The carryover gets paid out when there is a unique winning ticket, or when there is an intermediate or final distribution as approved by the Commission, which would occur typically at the end of a race meeting.

The proposal renumbers two current wagering rules to keep the pick-n wagering rules in serial order and parallels the subdivisions of the Commission’s other pick-n wager rules (e.g., § 4011.24 (Pick-four pools), § 4011.25 (Pick-five pools), § 4011.26 (Pick-six pools)).

Stylistic edits to sections 4011.25 and 4011.26 are proposed for consistency.

The text of the proposed rules is attached.

[REDACTED]

attachment

cc: Ronald Ochrym, Acting Executive Director

Sections 4011.27 and 4011.28 of 9 NYCRR would be renumbered as 4011.28 and 4011.29, respectively, as follows:

**§ 4011.[27]28. Grand Slam.**

\* \* \*

**§ 4011.[28]29. Additional authorized wagers.**

\* \* \*

A new section 4011.27 would be added to 9 NYCRR, as follows:

**§ 4011.27. Pick-six jackpot pools.**

(a) A winning pick-six jackpot wager requires selection of the first-place finisher in each of six designated, consecutive contests, unless otherwise provided in this section. The association or corporation must obtain written approval from the commission concerning the scheduling of pick-six jackpot contests, the designation of the method used, the bet minimum, the takeout rate, the definition that will be relied upon for determining the existence of a unique winning ticket, the major-minor pool split and the amount of any cap to be set on the carryover. Any changes to the approved pick-six jackpot format require prior approval from the commission.

(b) The pick-six jackpot wager is not a parlay and has no connection or relation to the other betting pools for the respective races. The pick-six jackpot pool shall be held entirely separate from all other pools and is no part of a daily double, exacta, quinella, trifecta, superfecta, pick-six or other wagering pool.

(c) Resale of pick-six jackpot tickets from one individual to another is prohibited, shall be grounds for ejection, and may be deemed illegal gambling.

(d) Races in which pick-six jackpot pools shall be conducted shall be clearly designated in the program and racing cards issued by the association or corporation.

(e) The design of the pick-six jackpot tickets shall be clearly and immediately distinguishable from other pari-mutuel tickets.

(f) *Scratched horses and nonstarters.* Should a programmed starter be scratched or declared a nonstarter in any pick-six jackpot race before the start of the first pick-six jackpot race, affected bettors may select another betting interest, if a wager can be canceled and a replacement wager issued before the start of the first pick-six jackpot race, or may obtain a cancellation of the wager issued before the start of the first race of the pick-six jackpot sequence. If neither option is exercised, then wagers upon such scratched or declared nonstarter shall be deemed wagers upon the designated horse for such race. The *designated horse* means the betting entry or field upon which the most wagering money has been registered at the track in the win pool at the close of win-pool betting for such race. (In the event of a money tie, the tied betting entry or field with the lowest program number shall be designated.) At any time after wagering begins on the pick-six jackpot pool, should an entire betting entry or field be scratched or declared a nonstarter in any pick-six jackpot race, no further tickets selecting such betting entry or field shall be issued, and wagers upon such betting entry or field, for purposes of the pick-six

jackpot pool, shall be deemed wagers upon the designated horse. Wagers in the pick-six jackpot pool upon an entry or field of horses from which a starter or starters may have been scratched will, in the case of such entry or field, be deemed wagers upon the horse or horses remaining in such entry or field, except at tracks with totalisator capability to record wagers selecting a coupled entry (or field) and wagers selecting any individual constituent horses therein (merging such wagers for odds display and payoff purposes), in which case, the wagers upon scratched constituent horses will be deemed wagers upon the designated horse in such race. In case no starter remains representing any betting entry or field, wagers upon such entry or field shall be deemed wagers upon the designated horse in the race affected by the scratch. Should the balance of a betting entry or field race as a non-betting starter for purposes of other pari-mutuel pools, as provided in sections 4009.20 and 4009.21 of this Article, wagers upon such entry or field shall be deemed wagers upon the designated horse for such race. Should a programmed starter be scratched or declared a nonstarter prior to the start of the first leg, the betting operator shall be authorized to refund any tickets designating betting entries affected thereby prior to such first leg.

(g) *Wagering tickets and winners.* Except as otherwise provided in subdivision (h) or subdivision (i) of this section:

(1) The pick-six jackpot pool shall be apportioned as follows: The net pick-six jackpot pool and carryover, if any, shall be distributed to the holder of a unique winning ticket that selected the first-place finisher in each of the six designated races.

(2) If there is no unique ticket selecting the first-place finisher in all six designated races, the major share of the net pick-six jackpot pool shall be distributed as a single price pool to those who selected the first-place finisher in the greatest number of pick-six jackpot races, and the minor share shall be added to the carryover.

(3) Should there be no wager selecting the winner of at least one of the pick-six jackpot races, the day's net pool shall be refunded and the previous carryover pool amount, if any, shall be carried over to the next scheduled corresponding pool.

(4) In obtaining authorization for operating the pick-six jackpot, associations must clearly identify which of the following two definitions shall apply for determining the existence of a unique winning ticket:

(i) There is one and only one winning ticket that correctly selected the first-place finisher in each of the pick-six jackpot races, to be verified by the unique serial number assigned by the totalisator company that issues the winning ticket; or

(ii) The total amount wagered on one and only one winning combination selecting the first-place finisher in each of the pick-six jackpot races, is equal to the minimum allowable wager.

(h) *Race cancellations.* This subdivision applies except for pick-six jackpot pools in which an intermediate or final distribution is to be made. The net pool shall be distributed as a single price pool to those whose selection finished first in the greatest number of pick-six jackpot races, if one or two pick-six jackpot races are cancelled or declared no race, non-betting or no contest after the first pick-six jackpot race has been made official. The pick-six jackpot pool shall be declared off and the gross pool refunded:

- (i) if any designated race is canceled or declared no race or non-betting before the first pick-six jackpot race is made official; or
- (ii) if three or more pick-six jackpot races are cancelled or declared no race, non-betting or no contest.

(j) *Surface transfers.* When the condition of a turf course warrants a change of racing surface to a non-turf course in any of the pick-six jackpot races, and such change has not been known to the public before the close of wagering for the pick-six jackpot pool, then such changed race shall be deemed a *no contest race* for pick-six jackpot wagering purposes. A *no contest race* means a race is not to be considered as a contested race for pick-six jackpot wagering purposes.

(j) *Dead heats.* Each horse in a dead heat for win shall be considered the winner, and no allocations among wagers shall be made as a result thereof, unlike the practice in a pari-mutuel win pool. The payoff price per dollar shall be the same for each class of winning wager.

(k) *Carryovers.* Carryovers from prior pick-six jackpot pools, advertised guaranteed amounts or advertised added amounts will be distributed to winners in such day's pick-six jackpot pools, provided that there are no cancelled or no-contest races in the pick-six jackpot sequence and no intermediate or final distribution is to be made.

(l) *Intermediate distributions.* Prior to the last two weeks of a race meeting at a track, a date and program approved by the commission may be announced by the track operator at which (provided no one thereafter has the only wager that correctly selects the winners of all six designated races) accumulated carryovers will be added to the net pool distributable to wagers selecting the winners of the most races of the pick six jackpot pool conducted on such program. Distributing the pick-six jackpot carryover requires a written request for permission submitted for Commission approval. The request must contain justification for the distribution, an explanation of the benefit to be derived and intended date of the distribution. If all pick-six jackpot races on the program designated for intermediate distribution are canceled, or the pick-six jackpot pool is refunded, a pick-six jackpot pool shall be conducted on the next available race date with entries not yet carded. If no further programs are conducted at the race meeting, a pick-six jackpot pool shall be conducted on the first program of the next meeting conducted at such track by such track operator to provide for final distribution for such prior meeting. An intermediate distribution also may be directed at any time at the commission's discretion, upon three days' notice by the commission, so long as entries have not yet been carded.

(m) *Final distribution.* The track shall select, with the approval of the commission, a date and program during the final week of the annual assigned racing dates of the track operator, and also during the year during the final week of a meeting at a track after which such track operator will operate at another track, when there shall be a final distribution of all accumulated carryovers. The unique-wager provision of this section (set forth in paragraph (1) of subdivision (g) of this section) shall be suspended, and the entire pool shall be distributed as a single-price pool to those whose selection finished first in the greatest number of pick-six jackpot races. Thereafter, no pick-six jackpot pools are permitted to be conducted during such week. In the event that all pick-six jackpot races on the program designated for final distribution are cancelled, or the pick-six jackpot pool is refunded, and no further programs are conducted at the meeting, the commission shall require that a pick-six jackpot pool be conducted on the first program of the next race meeting conducted at such track by such track operator to provide for final distribution for such prior meeting. The commission also may order a final distribution for an earlier time in the commission's discretion.

(n) The association or corporation may suspend previously approved pick-six jackpot wagering with the prior approval of the commission. Any carryover shall be held until the-suspended pick-six jackpot wagering is reinstated. An association or corporation may request approval of a pick-six jackpot wager or separate wagering pool for specific performances.

(o) [Reserved].

(p) In the event of occurrences not encompassed within the explicit provisions of this section, distribution shall be formulated on the basis of established pari-mutuel practice and in accordance with the distribution philosophy set forth in this section; provided, nevertheless, that if full distribution of the pool is made on the basis of outstanding tickets, then the method of formulation announced by the track and the basis upon which payments have been made shall be deemed conclusively correct and not subject to review.

(q) Posting of winning combinations. Every pick-six jackpot wagering combination entitled to a payoff shall be posted publicly by the track operator together with the payoff price.

(r) Non-transferability. Pick-six jackpot tickets shall be nontransferable, and violations of this subdivision may lead to confiscation and cancellation of such tickets in addition to other disciplinary action.

(s) Betting information. Unless otherwise ordered by the commission, information concerning combinations wagered upon or not wagered upon in a pick-six jackpot pool shall not be disclosed by the totalisator operator, or otherwise, until the final pick-six jackpot race remains as the only race to be contested for completion of the pick-six jackpot wager. The operation of the totalisator equipment and reports generated thereby, as well as the communication of any information concerning such pool, shall be subject to the strict supervision of the commission.

(t) No reduction in guaranteed distributions. Advertised added monies or minimum distributions shall not apply to intermediate or final distributions, unless a wager correctly selects winners of all six designated races, or five winners and no more than one all-win of the pick-six pool. A guaranteed minimum distribution or guaranteed added money amount, once advertised, may not be reduced and shall continue to be guaranteed by the track operator for every pick-six pool for the balance of the meeting.

(u) Interfacing of off-track wagers. Interfacing of off-track wagers shall be accomplished according to procedures approved by the commission. In the event there is a failure to interface all such wagers with on-track wagers in accordance with such procedures, the procedure for distribution of the pool and computation of payoff prices shall be approved by the commission.

(v) Trust funds. Carry-over monies shall be held in a separate account in trust by track operators for the benefit of participants in pick-six pools until distributed.

(w) Seed money or insurance allocation. A percentage designated by the track operator and approved by the commission, not exceeding two percent of the total daily pick-six jackpot pool wagering, shall be held apart by the track operator from the takeout of each pick-six jackpot pool to reimburse such track operator for the cost of any insurance it may secure to guarantee minimum distributions to winners of such pools, or to reimburse a track operator for funds such track operator expends for added money or guaranteed minimum distributions to winners of such pools. Any accumulation of

such allocations not necessary to reimburse a track for expenditures actually incurred for such purposes shall be added to the amounts distributable in the pool designated for final distribution for the meeting.

(x) Copies of this section shall be made available free of charge by the track to the public in the public betting area of the track.

**Subdivision (s) of section 4011.25 of 9 NYCRR would be amended, as follows:**

(s) *Betting information.* Unless otherwise ordered by the commission, information concerning combinations wagered upon or not wagered upon in a pick-five pool shall not be disclosed by the [tote] totalisator operator, or otherwise, until the final pick-five race remains as the only race to be contested for completion of the pick-five wager. The operation of the totalisator equipment and reports generated thereby, as well as the communication of any information concerning such pool, shall be subject to the strict supervision of the commission.

**Subdivision (s) of section 4011.26 of 9 NYCRR would be amended, as follows:**

(s) *Betting information.* Unless otherwise ordered by the commission, information concerning combinations wagered upon or not wagered upon in a pick-six pool shall not be disclosed by the [tote] totalisator operator, or otherwise, until the final pick-six race remains as the only race to be contested for completion of the pick-six wager. The operation of the totalisator equipment and reports generated thereby, as well as the communication of any information concerning such pool, shall be subject to the strict supervision of the commission.



## Gaming Commission

One Broadway Center, P.O. Box 7500, Schenectady, NY 12301-7500  
[www.gaming.ny.gov](http://www.gaming.ny.gov)

**To:** Commissioners  
**From:** Edmund C. Burns  
**Date:** September 13, 2018  
**Re:** Proposed Rulemaking for Claiming Price in Thoroughbred Racing (9 NYCRR § 4038.2)

For Commission consideration is a proposal to add flexibility to the Thoroughbred claiming-price rule in appropriate circumstances. The current rule provides that the “minimum price for which a horse may be entered in a claiming race shall not be less than 50 percent of the value of the purse for the race.” The rule was adopted in 2012, when the increase in claiming-race purses at Aqueduct Racetrack seemingly caused an increase in race horse fatalities. The rule reduced the incentive of an owner or trainer to enter a potentially lame or uncompetitive horse in such a race.

Various interested parties have requested the Commission to consider adding flexibility to the existing rule, identifying neighboring jurisdictions who have experienced safe racing with higher purse-to-claiming-price ratios.

The proposed rule provides that flexibility be permitted on a case-by-case basis for all or a portion of a race meeting, while requiring the track to meet increased requirements to ensure the competitiveness, soundness and safety of the horses that enter any such races.

The text of the proposed rule amendment is:

The minimum price for which a horse may be entered in a claiming race shall not be less than 50 percent of the value of the purse for the race, unless the commission approves a request from a franchised or licensed corporation conducting thoroughbred racing for a lower minimum price for all or a portion of a race meeting. The commission shall not approve such a request unless the track has implemented increased measures required by the commission to ensure close examination of the competitiveness, soundness and safety of each horse entered in such race.

cc: Ronald Ochrym, Acting Executive Director