



**MEETING AGENDA
MARCH 28, 2022**

1. Call to Order and Establishment of Quorum
2. Consideration of Minutes for Meeting of February 28, 2022
3. Rulemaking
 - A. ADOPTION: SGC-02-22-00003-P Regulation of Charitable Gaming Internet Raffles
4. New & Old Business
5. Adjournment

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**New York State Gaming Commission Minutes
Meeting of February 28, 2022**

A meeting of the Commission was conducted in conformity with Chapter 1 of the Laws of 2022. The meeting was conducted by conference call, provided the public to listen and such meeting was recorded and will be transcribed.

1. Call to Order and Establishment of Quorum

Executive Director Robert Williams called the meeting to order at 1:05 p.m. Establishment of a quorum was noted by Acting Secretary Kristen Buckley. In attendance were Chairman Barry Sample, and Members John Crotty, Peter Moschetti, John Poklemba, Christopher Riaño and Jerry Skurnik. At the request of Chairman Sample, Commissioner Moschetti acted as Presiding Officer.

2. Consideration of Minutes for Meeting of November 8, 2021

The Commission considered previously circulated draft minutes of the meeting conducted on November 8, 2021. The minutes were accepted as circulated.

3. Rulemaking

A. ADOPTION: SGC-37-21-00017-P, Discretion to Require a Thoroughbred Jockey to Serve a Suspension for a Riding Violation at Track Where the Violation Occurred

The Commission considered adoption of regulations to establish discretion to require a Thoroughbred jockey to serve a suspension for a riding violation at the same track at which the violation occurred.

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

B. PROPOSAL: Jockey agent qualification standardization

The Commission considered a proposal to amend to the regulation governing licensing requirements for a jockey's agent.

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

C. PROPOSAL: Pick-5 Thoroughbred

The Commission considered a proposal to amend the current Thoroughbred Pick-5 rule.

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

D. PROPOSAL: Pick-4 Thoroughbred and Standardbred Carryover

The Commission considered a proposal to amend the current thoroughbred and standardbred Pick 4 rules regarding consolation pools and carryovers.

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

E. PROPOSAL: Jockey equipment weigh change

The Commission considered a proposal to amend the jockey equipment weighing rule in thoroughbred racing.

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

F. PROPOSAL: Standardization for racing license hearing requests and service methods

The Commission considered a proposal to establish a standard time period for requesting a hearing on horse racing license determinations, set forth acceptable service methods for the Commission, and set forth the duty of licensees to keep addresses updated for the Commission.

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

G. PROPOSAL: Jockey Coupling

The Commission considered a proposal to amend regulations governing mandatory coupling of entries in Thoroughbred racing.

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

4. Adjudications

A. In the Matter of Eternal Deli 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 determined upon a 6-0 vote to adopt the Hearing Officer's findings of fact, conclusions of law and recommendation of license revocation.

B. In the Matter of Richard Banca

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 determined upon a 6-0 vote to adopt the Hearing Officer's findings of fact, conclusions of law and recommendation of license refusal.

C. In the Matter of Amira Chichakly

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 determined upon a 6-0 vote to adopt the Hearing Officer's findings of fact, conclusions of law and recommendation of the imposition of a \$2,000 fine.

D. In the Matter of Timothy Masters

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 determined upon a 5-0 vote, with Commissioner Crotty abstaining, to adopt the Hearing Officer's findings of fact, conclusions of law and recommendation of imposition of a \$250 fine.

5. New/Old Business

Neither new nor old business was presented.

6. Adjournment

The meeting was adjourned at 1:28 p.m.



Gaming Commission

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

To: Commissioners
From: Edmund C. Burns
Date: March 18, 2022
Re: Adoption of Proposed Rulemaking for Charitable Gaming Implementation and Updates (9 NYCRR §§ 4620.22(b) and 5402.1(b))

For Commission consideration is the adoption of a proposed rulemaking to enable authorized organizations to sell raffle tickets through Internet or mobile application platforms, subject to regulation by the Commission. The rule would implement General Municipal Law section 189(16), which requires the Commission to ensure that the purchase of a raffle ticket is initiated and received or otherwise made on the premises of an authorized organization or an authorized games of chance lessor or “in a municipality” that complies with conditions set forth in in General Municipal Law section 189(13)(b)(1) through (4) .

The Notice of Proposed Rule Making was published in the January 12, 2022 edition of the State Register, a copy of which is attached. The full text of the proposed rule is contained in that notice. The public comment period expired on March 14, 2022. Two comments were received from companies that provide technology platforms for organizations offering charitable gaming: Ascend Fundraising Solutions (“Ascend”) and BUMP Worldwide, Inc. (“Bump”).

Server location

[REDACTED]

Staff response:

[REDACTED]

Player account

[REDACTED]

Staff response:

[REDACTED]

Self-exclusion

[REDACTED]

[REDACTED]

Staff response:

[REDACTED]

Sales to minors

[REDACTED]

Staff response:

[REDACTED]

Correction

Staff noted a typographical error that could be corrected upon adoption as a non-substantive change (the word “or” should be “of” in one instance in proposed Rule 4620.22(b)(7)(iii)).

[REDACTED].

attachment

cc: Robert Williams, Executive Director
Stacy Harvey, Director, Division of Charitable Gaming

New York State Gaming Commission

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Regulation of Charitable Gaming Internet Raffles

I.D. No. SGC-02-22-00003-P

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

Proposed Action: Amendment of sections 4620.22 and 5402.1 of Title 9 NYCRR.

Statutory authority: General Municipal Law, sections 188-a(1), 189(16); Racing, Pari-Mutuel Wagering and Breeding Law, section 104(19)

Subject: Regulation of charitable gaming Internet raffles.

Purpose: To implement Internet raffles regulation as directed by statute.

Text of proposed rule: Subdivision (b) of section 4620.22 and subdivision (b) of section 5402.1 of 9 NYCRR would be amended to read as follows:

(7) *Internet and mobile device sales.*

(i) *No entity, other than an authorized organization to which the commission has issued a games of chance identification number and a raffle license, if applicable pursuant to General Municipal Law section 190-a(1), is permitted to sell raffle tickets through the internet or a mobile device.*

(ii) *No sale of a raffle ticket through an internet or a mobile device platform may occur unless the server or other electronic equipment that initiates the offering of a raffle ticket for sale and accepts a request to purchase such ticket is located in a municipality in this State in which the sale of such tickets is authorized as set forth in General Municipal Law section 189(13) and the purchaser of such ticket is located, at the moment of purchase, in this State. Locations shall be determined by the physical location of each of the purchaser and the server or other electronic equipment of the seller and not the purchaser or seller's usual address. An authorized organization's internet or mobile device raffle sale platform shall block any attempts to purchase a raffle ticket from a location outside of this State.*

(iii) *No sale of a raffle ticket through an internet or a mobile device platform may occur unless the purchaser or such ticket has first established a raffle ticket account with the authorized organization conducting such raffle. Such account shall include, for each purchaser:*

- (a) *the purchaser's legal name;*
- (b) *the purchaser's date of birth;*
- (c) *an account number unique to such purchaser;*
- (d) *the purchaser's address;*
- (e) *the purchaser's electronic mail address; and*
- (f) *the purchaser's telephone number.*

(iv) *No sale of a raffle ticket may be made to any person on the commission's self-exclusion list maintained pursuant to section 5403.2 of this article.*

(v) *No authorized organization shall outsource or otherwise delegate to another entity or person, including, without limitation, a third-party fundraising entity, the conduct of a raffle through the internet or mobile device.*

(vi) *Each authorized organization that proposes to sell a raffle ticket for a specifically identified raffle through an internet or a mobile device platform shall seek commission approval to conduct such raffle. To obtain such approval, an authorized organization shall, not less than 60 days before offering any tickets for sale on such platform:*

(a) *demonstrate to the satisfaction of the commission that the server or other electronic equipment that initiates the offering of a raffle ticket for sale and accepts requests to purchase such tickets is located in a municipality in this State in which the sale of such tickets is authorized as set forth in General Municipal Law section 189(13);*

(b) *demonstrate to the satisfaction of the commission, which may be done by providing evidence of competent native or third-party geolocation procedures, that such organization has geolocation technology in place to ensure that each purchaser of a ticket is located within this State;*

(c) *submit procedures to prevent minors from purchasing a raffle ticket through the authorized organization's internet or mobile application platform. An authorized organization shall implement any changes to such procedures as the commission may direct at any time. Such plan, at a minimum, shall include the following components:*

(1) *specification of parental control procedures to allow parents and guardians to exclude persons under the age of 18 from entering a raffle through the authorized organization's internet or mobile device platform. The authorized organization shall display conspicuously the specific steps a parent or guardian may take to implement parental controls;*

(2) *detailed explanation of the steps taken to prevent persons under the age of 18 from purchasing a raffle ticket through the authorized organization's internet or mobile device platform. The authorized organization shall explain what types of native or third-party age verification procedures are implemented to verify that each person entering a raffle with such authorized organization's internet platform or mobile application is not under the age of 18. The authorized organization shall explain the mechanism or mechanisms used to identify and deactivate accounts or purchases created or used by minors; and age verification and identification procedures to exclude persons under the age of 18 from creating an account or purchasing a raffle ticket on the authorized organization's internet platform or mobile application;*

(3) *procedures used to identify and deactivate accounts created or used by persons under the age of 18 and to exclude such persons from all raffles offered through such authorized organization's internet and mobile device platforms; and*

(4) *procedures to ensure that persons under the age of 18 do not receive promotional materials that relate to raffles held on authorized organization's internet and mobile device platforms;*

(d) *submit procedures to protect the privacy of ticket purchasers on such internet or mobile device platforms; and*

(e) *submit procedures to protect the security of personal information of ticket purchasers on such internet or mobile device platforms from unauthorized disclosure;*

(f) *submit procedures to ensure that no person on the commission's self-exclusion list maintained pursuant to section 5403.2 of this article may purchase a raffle ticket through the authorized organization's internet or mobile application platform.*

(vii) *Each authorized organization that the commission authorizes to sell raffle tickets for a specifically identified raffle through an internet or a mobile device platform shall have an ongoing duty to inform the commission of any material change to any of the procedures submitted pursuant to subparagraph (vi) of this paragraph or any material change in the anticipated performance of geolocation technology as described to the commission.*

(viii) *The commission may, in its discretion, revoke any approval given pursuant to this paragraph to conduct a raffle through an internet or mobile device platform if the commission has cause to believe that the conditions required by General Municipal Law section 189(16) will not be or are not being satisfied or are at significant risk of not being satisfied.*

(ix) *The commission may, in its discretion, declare an authorized organization ineligible to conduct raffle ticket sales through an internet or mobile device platform for a period of time, or for an indefinite time, if such authorized organization fails to comply with this paragraph or the conditions required by General Municipal Law section 189(16).*

(8) *Any supplier of software, platforms or electronic equipment designed to enable an authorized organization to conduct an internet or mobile raffle pursuant to paragraph (7) of this subdivision shall apply for a license as a games of chance supplier pursuant to General Municipal Law section 189-a and Part 4623 of this subchapter.*

[(7)] (9) *No ticket shall be sold in conjunction with any raffle, including raffles in which winning tickets are scheduled to be drawn on multiple dates, more than 180 days prior to the date scheduled for the drawing of the last ticket in that raffle.*

[(8)] (10) *All raffle tickets, with the exception of the two-part "admission-style" tickets used in the game commonly known as a "50/50 raffle," shall be sold at a uniform price per ticket, unless the discount offered is based on the selling price per book of tickets and the price per single ticket and the discounted price per book of tickets are printed on each ticket.*

[(9)] (11) *The value of merchandise to be awarded as a raffle prize shall be the fair market value of the merchandise at the time of submission of an application or verified statement for a raffle license.*

* * *

§ 5402.1. Definitions.

For purposes of this Part:

* * *

(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; or raffles pursuant to General Municipal Law section 189(16).*

Text of proposed rule and any required statements and analyses may be obtained from: Kristen 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 General Municipal Law sections 188-a(1) and 189(16) and Racing, Pari-Mutuel Wagering and Breeding Law section 104(19).

2. **LEGISLATIVE OBJECTIVES:** To implement regulation of Internet raffles to enhance revenue opportunities for charitable and civic organizations.

3. **NEEDS AND BENEFITS:** This rule making proposes to amend the Commission’s regulations to create a framework for the sale of raffle tickets over the Internet or by mobile application. A charitable organization looking to conduct raffle sales in that manner would be required to demonstrate that it can meet the statutory requirements for geolocation, age verification, parental controls, privacy protections, self-exclusion and precluding minors from being exposed to any advertising or promotional material the organization holding the raffle may disseminate. This should result in an expansion of charitable gaming raffle ticket sales, which would increase revenue opportunities to eligible organizations.

4. **COSTS:**

(a) Costs to the regulated parties for the implementation of and continuing compliance with these rules: Charitable organizations will incur a cost relative to the sophistication, experience and volume of vendors they retain to satisfy the requirements of these regulations. It is anticipated that the cost of compliance will also be impacted by the number of raffles making raffle tickets available through the Internet or mobile device an organization holds within a given year. It is anticipated that compliance with the rules governing sales of raffle tickets over an Internet or mobile application would cost a charitable organization at least \$30,000 a year. No additional costs for regulated parties are anticipated for the other rule amendments.

(b) Costs to the regulating agency, the State, and local governments for the implementation of and continued administration of the rule: None anticipated.

(c) The information, including the source or sources of such information, and methodology upon which the cost analysis is based: Discussions with regulated entities in the interactive fantasy sports space that are legally required to engage in many of the same customer protections and deploy third-party technological barriers to those who are ineligible customers as a result of geography or not meeting the statutory criteria.

5. **LOCAL GOVERNMENT MANDATES:** Municipalities may have an increase in the number of organizations seeking a charitable gaming license.

6. **PAPERWORK:** These rules are not expected to impose any new paperwork requirements for charitable organizations other than the paperwork necessary for the application submission and the reporting requirements for Internet and mobile raffles.

7. **DUPLICATION:** These rules do not duplicate, overlap or conflict with any existing State or federal requirements.

8. **ALTERNATIVES:** No alternatives were considered.

9. **FEDERAL STANDARDS:** There are no federal standards applicable to raffle sales. 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 changes do not require a Regulatory Flexibility Analysis, Rural Area Flexibility Analysis or Job Impact Statement. There will be no adverse impact on small businesses, local governments, rural areas or jobs. The only organizations authorized to conduct raffles are not-for-profit authorized organizations as defined in General Municipal Law section 186(4), which are not businesses.

The proposed rule making would implement a statute permitting authorized organizations to offer Internet raffles that comply with such law.

The proposed rules will not impose any adverse economic impacts or reporting, recordkeeping or other compliance requirements on small businesses, local governments, rural areas or employment opportunities.

Department of Health

**EMERGENCY
RULE MAKING**

Telehealth Services

I.D. No. HLT-02-22-00001-E

Filing No. 1278

Filing Date: 2021-12-22

Effective Date: 2021-12-22

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

Action taken: Addition of Part 538 to Title 18 NYCRR.

Statutory authority: Public Health Law, sections 2999-cc(2)(y), (4) and 2999-ee

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

Specific reasons underlying the finding of necessity: These regulations must be promulgated on an emergency basis to continue certain telehealth flexibilities that were authorized during the State public health emergency and to avoid a disruption in certain health care services provided to Medicaid enrollees once the public health emergency ends. During the public health emergency, pursuant to Executive Orders which waived certain New York State laws and regulatory requirements related to telehealth, all eligible Medicaid providers were authorized to utilize telehealth, including audio-only telephone or other audio-only technology. This regulation is required to authorize Medicaid providers to continue to provide services pursuant to the same flexibilities afforded during the public health emergency until permanent regulations are able to be promulgated.

Subject: Telehealth Services.

Purpose: To ensure continuity of care of telehealth services provided to Medicaid enrollees.

Text of emergency rule: Pursuant to the authority vested in the Commissioner of Health by sections 2999-cc(2)(y) and (4) and 2999-ee of the Public Health Law, Article 4 of Subchapter E of Chapter II of Title 18 (Social Services) of the Official Compilation of Codes, Rules and Regulations of the State of New York is amended, to be effective on filing with the Secretary of State, by adding Part 538 to read as follows:

Part 538 State Reimbursement for Telehealth Services

Section 538.1 Authorized providers. For purposes of medical assistance reimbursement during the federally declared public health emergency related to the COVID-19 pandemic, all Medicaid providers authorized to provide in-person services are authorized to provide such services via telehealth, as long as such telehealth services are appropriate to meet a patient’s health care needs and are within a provider’s scope of practice.

Section 538.2 Acceptable telehealth modalities. In addition to the telehealth modalities set forth in section 2999-cc of the public health law, reimbursement shall be made for telehealth services provided by use of telephone and other audio-only technologies.

This notice is intended to serve only as a notice of emergency adoption. This agency intends to adopt this emergency rule as a permanent rule and will publish a notice of proposed rule making in the *State Register* at some future date. The emergency rule will expire March 21, 2022.

Text of rule and any required statements and analyses may be obtained from: Katherine Ceroalo, DOH, Bureau of Program Counsel, Reg. Affairs Unit, Room 2438, ESP Tower Building, Albany, NY 12237, (518) 473-7488, email: regsqna@health.ny.gov

Regulatory Impact Statement

Statutory Authority:

Public Health Law section 2999-cc(2)(y) provides the Commissioner of Health with the authority to determine, in consultation with the Commissioners of the Office of Mental Health, the Office of Addiction Services and Supports, or the Office for People with Developmental Disabilities, other categories of providers authorized to provide telehealth services.

Public Health Law section 2999-cc(4) requires promulgation of regulations to cover the modality of audio-only telephone communication as telehealth in the medical assistance and child health insurance programs.

Public Health Law section 2999-ee provides the Commissioner of Health with the authority to specify in regulation additional acceptable modalities for the delivery of health care services via telehealth, including audio-only telephone communications, in consultation with the Commis-