

PENNSYLVANIA GAMING CONTROL BOARD

[58 PA. CODE CHS. 401, 403, 407, 421, 423, 427,
431, 433, 435, 451, 461, 471, 481, 491, 495, 497
AND 499]

Draft Temporary Regulations

The Pennsylvania Gaming Control Board (Board), under authority in 4 Pa.C.S. § 1202 (relating to general and specific powers), has drafted temporary regulations to facilitate the prompt implementation of 4 Pa.C.S. Part II (relating to gaming), enacted by the act of July 5, 2004 (P. L. 572, No. 71). Upon adoption of the regulations by the Board, the Board's temporary regulations will be added in Part VII (relating to Gaming Control Board). By publishing these temporary regulations in draft form, the Board seeks public comment prior to the adoption of the regulations.

Contact Person

Interested persons are invited to submit written comments, suggestions or objections to the draft temporary regulations to the Pennsylvania Gaming Control Board, Office of Communications, P. O. Box 69060, Harrisburg, PA 17106-9060. Comments must be postmarked by May 3, 2005.

THOMAS A. DECKER,
Chairperson

Annex A

TITLE 58. RECREATION

PART VII. GAMING CONTROL BOARD

Subpart

- A. GENERAL PROVISIONS
- B. LICENSING
- C. RECORDKEEPING
- D. SLOT MACHINE TESTING AND CERTIFICATION
- E. FEES
- F. MINORITY AND WOMEN'S BUSINESS ENTERPRISES
- G. PRACTICE AND PROCEDURE

Subpart A. GENERAL PROVISIONS

Chap.

- 401. PRELIMINARY PROVISIONS
- 403. BOARD OPERATIONS AND ORGANIZATION
- 407. PUBLIC ACCESS TO BOARD RECORDS

CHAPTER 401. PRELIMINARY PROVISIONS

Sec.

- 401.1. Purpose.
- 401.2. Scope.
- 401.3. Construction.
- 401.4. Definitions.
- 401.5. Jurisdiction.

§ 401.1. Purpose.

The purpose of this part is to facilitate the implementation of the act.

§ 401.2. Scope.

(a) This subpart governs the practice and procedure before the Board.

(b) This subpart is intended to supersede the applicability of 1 Pa. Code Part II (relating to the General Rules of Administrative Practice and Procedure) to practice and procedure before the Board.

§ 401.3. Construction.

(a) This part shall be liberally construed to secure the just, speedy and inexpensive determination of every ac-

tion or proceeding to which it is applicable. The Board at any stage of an action or proceeding may disregard an error or defect of procedure which does not affect the substantive rights of the parties.

(b) The Board at any stage of an action or proceeding may waive a requirement of this part when necessary or appropriate, if the waiver does not adversely affect a substantive right of a participant as determined by the Board.

(c) Subsections (a) and (b) supersede 1 Pa. Code § 31.2 (relating to liberal construction).

§ 401.4. Definitions.

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

Act—The Pennsylvania Race Horse Development and Gaming Act, 4 Pa.C.S. §§ 1101—1904.

Affiliate or affiliated company—A person that directly or indirectly, through one or more intermediaries or controls, is controlled by or is under common control with a specified person.

Applicant—A person, officer, director or key employee, who on his own behalf or on behalf of another, is applying for permission to engage in an act or activity which is regulated under this part. In cases in which the applicant is a corporation, foundation, organization, business trust, estate, limited liability company, trust, partnership, limited partnership, association or a form of legal business entity, the Board will determine the associated persons whose qualifications are necessary as a precondition to the licensing of the applicant.

Application—A written request, in a form approved by the Board, for permission to engage in an act or activity which is regulated under the act. The term includes supplements, reports, documentation or other information requested by the Board as part of the application process.

Application fee—The amount of nonrefundable money required to be paid for an application submitted to the Board.

Approved, approval or approve—When used in reference to an application submitted to the Commissions to conduct harness or thoroughbred race meetings or the Board to authorize and regulate the placement and operation of slot machines, the terms refer to the date that an application to the Commissions or the Board is granted regardless of the pendency of administrative or judicial appeals or other legal action challenging the decision of either Commission or the Board.

Associated equipment—Any equipment or mechanical, electromechanical or electronic contrivance, component or machine used in connection with gaming, including linking devices which connect to progressive slot machines or slot machines, replacement parts, equipment which affects the proper reporting of gross revenue, computerized systems for controlling and monitoring slot machines, including the central control computer and devices for weighing or counting money.

Authority—An authority created by the Commonwealth which purchases State gaming receipts under section 1202 of the act (relating to general and specific powers).

Authorized personnel—A member or designated employee of the Board or a designated employee or agent of the Bureau.

Background investigation—A security, criminal, credit and suitability investigation of a person as provided for in this part. The investigation shall include the status of taxes owed to the United States and to the Commonwealth and its political subdivisions.

Backside area—Areas of the racetrack facility that are not generally accessible to the public and which include facilities commonly referred to as barns, track kitchens, recreation halls, backside employee quarters and training tracks, and roadways providing access thereto. The term does not include areas of the racetrack facility which are generally accessible to the public, including the various buildings commonly referred to as the grandstand or the racing surfaces, paddock enclosures and walking rings.

Board—The Pennsylvania Gaming Control Board established under section 1201 of the act (relating to Pennsylvania Gaming Control Board established).

Bonds—Bonds, notes, instruments, refunding notes and bonds and other evidences of indebtedness or obligations, which an authority issues to fund the purchase of State gaming receipts.

Bureau—The Bureau of Investigations and Enforcement of the Board.

Central control computer—A central site computer controlled by the Department and accessible by the Board to which all slot machines communicate for the purpose of auditing capacity, real-time information retrieval of the details of a financial event that occurs in the operation of a slot machine, including coin in, coin out, ticket in, ticket out, jackpots, machine door openings and power failure, and remote machine activation and disabling of slot machines.

Cheat—

(i) To alter without authorization the elements of chance, method of selection or criteria which determine:

- (A) The result of a slot machine game.
 - (B) The amount or frequency of payment in a slot machine game.
 - (C) The value of a wagering instrument.
 - (D) The value of a wagering credit.
- (ii) The term does not include altering for required maintenance and repair.

Clerk—The Clerk to the Board.

Commission or Commissions—The State Horse Racing Commission or the State Harness Racing Commission, or both, as the context may require.

Complainants—Persons who complain to the Board or Bureau of an act or omission by an applicant licensee, permittee or person, or claimed violation of the act, or of this part, or of an order of the Board.

Confidential information—

(i) Background investigation information, including all information provided under section 1310(a) of the act (relating to slot machine license application character requirements), submitted in connection with an application required for the issuance of a license or permit under this part, Board rules, discovery procedures, or cross-examination or that is provided as a courtesy to a party in a formal proceeding received by the Board or the Department as well as records obtained or developed by the Board or the Department as part of an investigation related to an applicant or licensee containing the following:

(A) Personal information, including home addresses, telephone numbers, Social Security numbers, educational records, memberships, medical records, tax returns and declarations, actual or proposed compensation, financial account records, credit-worthiness, or financial condition relating to an applicant or permittee or the immediate family thereof.

(B) Business information shall be documents and information relating to proprietary information, trade secrets, patents or exclusive licenses, architectural and engineering plans, security information, and information relating to competitive marketing materials and strategy which may include customer-identifying information or customer prospects for services subject to competition.

(C) Security information, including risk prevention plans, detection and countermeasures, emergency management plans, security and surveillance plans, equipment and usage protocols, and theft and fraud prevention plans and countermeasures.

(D) Information with respect to which there is a reasonable possibility that public release or inspection of the information would constitute an unwarranted invasion into personal privacy as determined by the Board.

(E) Record or information that is designated confidential by statute or the Board.

(F) Records of an applicant or licensee not required to be filed with the United States Securities and Exchange Commission by issuers that either have securities registered under section 12 of the Securities Exchange Act of 1934 (15 U.S.C.A. § 781) or are required to file reports under section 15D of the act (15 U.S.C.A. § 78o-6) of that act.

(G) Records considered nonpublic matters or information by the United States Securities and Exchange Commission as provided by 17 CFR 200.80 (relating to Commission records and information).

(ii) The following information is exempted from the definition of confidential information:

(A) Records containing information received by the Board or the Department or information obtained or developed as part of an investigation related to the applicant or licensee may be disclosed to state or Federal law enforcement agencies or entities when the Attorney General or a court of competent jurisdiction determines that the information contains evidence of a possible violation of laws, rules or regulations enforced by those agencies or entities.

(B) Records from an applicant may be disclosed to the applicant, licensee or permittee upon written request. Records from an applicant may be disclosed to a person with the written consent of the applicant, licensee or permittee.

(C) Records containing information from an applicant that is already in the public domain or subsequently becomes a part of the public domain by an action by the applicant.

Controlling interest—A person shall be deemed to have the ability to control a publicly traded corporation, or to elect one or more of the members of its board of directors, if the holder owns or beneficially holds 5% or more of the securities of the publicly traded domestic or foreign corporation, partnership, limited liability company or other form of legal entity, unless the presumption of control or ability to elect is rebutted by clear and convincing evidence. A person who is a holder of securities

of a privately held domestic or foreign corporation, partnership, limited liability company or other form of legal entity shall be deemed to possess a controlling interest unless the presumption of control is rebutted by clear and convincing evidence.

Conviction—A finding of guilt or a plea of guilty or nolo contendere, whether or not a judgment of sentence has been imposed as determined by the law of the jurisdiction in which the prosecution was held. The term does not include a conviction that has been expunged or overturned or for which an individual has been pardoned or an order of Accelerated Rehabilitative Disposition.

Department—The Department of Revenue of the Commonwealth.

Federal tax identification number—The Social Security number of an individual or the Employer Identification Number of a business, fiduciary or other person.

Final order—Includes the following:

(i) An order by the Board which approves, issues, renews, revokes, suspends, conditions, denies issuance or renewal of a license,

(ii) An action by the Board which affects personal or property rights, privileges, immunities, duties, liabilities or obligations, disposes of all claims and of all parties before the Board.

(iii) An action by the Board which is designated by the Board as final.

Financial backer—An investor, mortgagee, bondholder, note holder or other sources of equity or capital provided to an applicant or licensed entity.

Formal record—The pleadings in a matter or proceeding, a notice or Board order initiating the matter or proceeding, and if a hearing is held, the following shall be included in the formal record: transcript of hearing, exhibits received in evidence, exhibits offered but not received in evidence, offers of proof, motions, stipulations, subpoenas, proofs of service, determinations made by the Board thereon, and certifications to the Board.

Fund—The State Gaming Fund established under section 1403 of the act (relating to establishment of State Gaming Fund and net slot machine revenue distribution).

Gaming employee—

(i) An employee of a slot machine licensee, including:

- (A) Cashiers.
- (B) Change personnel.
- (C) Counting room personnel.
- (D) Slot attendants.
- (E) Hosts or other persons authorized to extend complimentary services.
- (F) Machine mechanics or computer machine technicians.
- (G) Security personnel.
- (H) Surveillance personnel.
- (I) Supervisors and managers.

(ii) The term includes employees of a person holding a supplier's license whose duties are directly involved with the repair or distribution of slot machines and associated equipment sold or provided to the licensed facility within this Commonwealth as determined by the Board. The term does not include bartenders, cocktail servers or other persons engaged solely in preparing or serving food

or beverages, clerical or secretarial personnel, parking attendants, janitorial, stage, sound and light technicians and other nongaming personnel as determined by the Board under section 1322(c) of the act (relating to slot machine accounting controls and audits).

Gross terminal revenue—The total of wagers received by a slot machine minus the total of:

(i) Cash or cash equivalents paid out to patrons as a result of playing a slot machine which are paid to patrons either manually or paid out by the slot machine.

(ii) Cash paid to purchase annuities to fund prizes payable to patrons over a period of time as a result of playing a slot machine.

(iii) Personal property distributed to a patron as the result of playing a slot machine. This does not include travel expenses, food, refreshments, lodging or services.

(iv) The term does not include counterfeit money or tokens, coins or currency of other countries which are received in slot machines, except to the extent that they are readily convertible to United States currency, cash taken in fraudulent acts perpetrated against a slot machine licensee for which the licensee is not reimbursed or cash received as entry fees for contests or tournaments in which the patrons compete for prizes.

Horsemen of this Commonwealth—A thoroughbred or standardbred horse owner or trainer who enters and runs his horse at a licensed racing entity in the current or prior calendar year and meets the requirements of the horsemen's organization of which he is a member to participate in the receipt of benefits therefrom. The term includes an employee of a trainer who meets the requirements of the horsemen's organization of which he is a member to participate in the receipt of benefits therefrom.

Horsemen's organization—A trade association which represents the majority of owners and trainers who own and race horses at a licensed racetrack.

IRS—The Internal Revenue Service of the United States.

Institutional investor—A retirement fund administered by a public agency for the exclusive benefit of Federal, state or local public employees, investment company registered under the Investment Company Act of 1940 (15 U.S.C.A. §§ 80a-1—80a-64), collective investment trust organized by banks under Part Nine of the Rules of the Comptroller of the Currency, closed end investment trust, chartered or licensed life insurance company or property and casualty insurance company, banking and other chartered or licensed lending institution, investment advisor registered under the Investment Advisors Act of 1940 (15 U.S.C.A. §§ 80b-1—80b-21), and other persons as the Board may determine consistent with this part.

Issued, issuance or issue—When used in reference to an application submitted to the State Horse Racing Commission or the State Harness Racing Commission to conduct harness or thoroughbred race meetings or the Board to authorize the placement and operation of slot machines, the terms refer to the date when a determination by the Commissions or the Board approving an application brought before the agencies becomes final, binding and nonappealable and is not subject to a pending legal challenge.

Key employee—An individual who is employed in a director or department head capacity and who is empowered to make discretionary decisions that regulate slot

machine operations, including the general manager and assistant manager of the licensed facility, director of slot operations, director of cage and credit operations, director of surveillance, director of marketing, director of management information systems, director of security, comptroller and any employee who supervises the operations of these departments or to whom these department directors or department heads report and other positions which the Board will determine based on detailed analyses of job descriptions as provided in the internal controls of the licensee as approved by the Board under section 1322(c) of the act. All other gaming employees unless otherwise designated by the Board, will be classified as non-key employees.

Key employee qualifier—An individual employed by a person who is a slot machine licensee, manufacturer licensee or supplier licensee who holds a management or supervisory position or who controls the operations of the licensee. The term includes: officers; directors; persons who directly or indirectly hold any beneficial interest in or ownership of the securities of a licensee; a person who has the ability to control the licensee, has a controlling interest in the licensee, elects a majority of the board of directors of the licensee, or otherwise has the ability to control the licensee; a lender, other than a bank or lending institution which makes a loan or holds a mortgage or other lien acquired in the ordinary course of business; an underwriter; and an employee of a slot machine licensee, manufacturer licensee or supplier licensee required to be licensed by the Board.

Licensed entity—A slot machine licensee, manufacturer licensee, supplier licensee or other person licensed by the Board under this part.

Licensed facility—The physical land-based location and associated areas at which a licensed gaming entity is authorized to place and operate slot machines.

Licensed gaming entity or slot machine licensee—A person that holds a slot machine license under this part.

Licensed racetrack or racetrack—The term includes the physical facility and grounds where a person has obtained a license from either the State Horse Racing Commission or the State Harness Racing Commission to conduct live thoroughbred or harness race meetings respectively with pari-mutuel wagering.

Licensed racing entity—A legal entity that has obtained a license to conduct live thoroughbred or harness horse race meetings respectively with pari-mutuel wagering from either the State Horse Racing Commission or the State Harness Racing Commission under the Race Horse Industry Reform Act.

License fee—The amount of money required to be paid for the application, issuance or renewal of any type of license required by the act, this part, or as directed by the Board.

Manufacturer—A person who manufactures, builds, rebuilds, fabricates, assembles, produces, programs, designs or otherwise makes modifications to slot machines or associated equipment for use or play of slot machines in this Commonwealth for gaming purposes.

Manufacturer license—A license issued by the Board authorizing a manufacturer to manufacture or produce slot machines or associated equipment for use in this Commonwealth for gaming purposes.

Manufacturer licensee—A manufacturer that obtains a manufacturer license.

Manufacturer's serial number—The unique number permanently assigned to a slot machine by a slot machine manufacturer for identification and control purposes, which number shall be affixed to the outside of the slot machine cabinet in a location as approved by the Board.

Municipality—A city, borough, incorporated town or township.

Net terminal revenue—The amount of the gross terminal revenue less the tax and assessments imposed by sections 1402, 1403, 1405 and 1407 of the act.

Nonprimary location—A facility in which pari-mutuel wagering is conducted by a licensed racing entity other than the racetrack where live racing is conducted.

Occupation permit—A permit authorizing an individual to be employed or work as a gaming employee at a licensed facility.

Permit fee—The amount of money required to be paid for the application, issuance or renewal of any type of permit required by the act, this part, or as directed by the Board.

Permittee—A holder of a permit issued under this part.

Person—A natural person, corporation, foundation, organization, business trust, estate, limited liability company, licensed corporation, trust, partnership, limited liability partnership, association or a form of legal business entity.

Progressive payout—A slot machine wager payout that increases in a monetary amount based on the amounts wagered in a progressive system.

Progressive system—A computerized system linking slot machines in one or more licensed facilities within this Commonwealth and offering one or more common progressive payouts based on the amounts wagered.

Qualified majority—A vote by the Board consisting of at least one member of the Board who is a gubernatorial appointee and each of the four legislative appointees.

Race Horse Industry Reform Act—45 P. S. §§ 325.101—325.402.

Respondents—Persons subject to the jurisdiction of the Board, who are required to respond to an order or notice issued by the Board or the Bureau instituting a proceeding or investigation.

Revenue- or tourism-enhanced location—A location within this Commonwealth determined by the Board, which will maximize net revenue to the Commonwealth or enhance year-round recreational tourism within this Commonwealth, in comparison to other proposed facilities and is otherwise consistent with this part and its declared public policy purposes.

SEC—The United States Securities and Exchange Commission.

Securities—As defined in the Pennsylvania Securities Act of 1972 (70 P. S. §§ 1-101—1-703).

Slot machine—

(i) A mechanical or electrical contrivance, terminal, machine or other device approved by the Board which, upon insertion of a coin, bill, ticket, token or similar object therein or upon payment of consideration, including the use of an electronic payment system, except a credit card or debit card, is available to play or operate, the play or operation of which, whether by reason of skill or application of the element of chance, or both, may deliver or entitle the person playing or operating the

contrivance, terminal, machine or other device to receive cash, billets, tickets, tokens or electronic credits to be exchanged for cash or to receive merchandise or anything of value, whether the payoff is made automatically from the machine or manually. A slot machine:

- (A) May utilize spinning reels or video displays, or both.
- (B) May or may not dispense coins, tickets or tokens to winning patrons.
- (C) May use an electronic credit system for receiving wagers and making payouts.
- (ii) The term includes associated equipment necessary to conduct the operation of the contrivance, terminal, machine or other device.

Slot machine license—A license issued by the Board authorizing a person to place and operate slot machines under this part.

Slot machine licensee—A person that holds a slot machine license.

State gaming receipts—Revenues and receipts required by this part to be paid into the State Gaming Fund, the Pennsylvania Race Horse Development Fund and the Pennsylvania Gaming Economic Development and Tourism Fund, and all rights, existing on _____ (*Editor's Note: The blank refers to the effective date of adoption of these temporary regulations.*) or coming into existence after _____, (*Editor's Note: The blank refers to the effective date of adoption of these temporary regulations*) to receive any of those revenues and receipts.

State Treasurer—The State Treasurer of the Commonwealth.

Supplier—A person that sells, leases, offers or otherwise provides, distributes or services slot machines or associated equipment for use or play of slot machines in this Commonwealth at a licensed gaming facility.

Supplier license—A license issued by the Board authorizing a supplier to provide products or services related to slot machines or associated equipment to licensed gaming entities.

Supplier licensee—A supplier that holds a supplier license.

Trade secret—A private formula, pattern, device, cost study or compilation of information which is used in a business and which, if disclosed, would provide the opportunity to obtain an advantage over competitors who do not know or use it.

§ 401.5. Jurisdiction.

The Board will have exclusive jurisdiction over all matters within the scope of its powers under the act.

CHAPTER 403. BOARD OPERATIONS AND ORGANIZATION

- Sec. 403.1. Participation at meetings and voting.
- 403.2. Meetings.
- 403.3. Board office hours.
- 403.4. Public communication.

§ 403.1. Participation at meetings and voting.

(a) *Qualified majority vote.* Action by the Board including the approval, issuance, denial or conditioning of a license or the making of an order or the ratification of a permissible act done or order made by one or more of the members of the Board shall require a qualified majority vote.

(b) *Majority vote.* Action by the Board to suspend, revoke, not renew, void or require forfeiture of a license or permit previously issued by the Board, to impose an administrative fine or penalty or to issue cease and desist orders under section 1201 of the act (relating to Pennsylvania Gaming Control Board established), shall require a majority vote of all the Board members.

(c) *Member abstention.* If a Board member has a disqualifying interest in a voting matter, a member shall disclose the nature of his disqualifying interest, disqualify himself and abstain from voting in a proceeding in which his impartiality may be reasonably questioned, including instances when he knows that he possesses a substantial financial interest in the subject matter of the proceeding or an interest that could be substantially affected by the outcome of the proceeding. If it is a legislative appointee member that has disqualified himself, the qualified majority shall consist of the remaining three legislative appointees and at least two gubernatorial appointees.

(d) *Disqualifying interest.* When a member has disqualified himself, his abstention from voting shall apply only to the singular voting matter that led to his disqualification and not apply to other matters under consideration by the Board for which he is otherwise qualified.

§ 403.2. Meetings.

(a) *Public sessions.* The proceedings of all public sessions shall be conducted in accordance with 65 Pa.C.S. Chapter 7 (relating to Sunshine Act) and the act of June 21, 1957 (P. L. 390, No. 212) (65 P. S. §§ 66.1—66.9), known as the Right-to-Know Law.

(b) *Regularly scheduled meetings.* The Board will meet in Harrisburg once a month, and on other dates, times and locations as the Chairperson of the Board determines.

(c) *Record of proceedings.* The Board will cause to be kept a record of all proceedings held at public meetings of the Board. A verbatim transcript of those proceedings will be prepared by the Board.

§ 403.3. Board office hours.

Board offices will be open from 9 a.m. to 5 p.m. on business days except Saturdays, Sundays and legal holidays or unless otherwise directed by the Chairperson.

§ 403.4. Public communication.

Requests for information regarding the Board may be directed to:

Office of Communications
Pennsylvania Gaming Control Board
P. O. Box 69060
Harrisburg, Pennsylvania 17106-9060

CHAPTER 407. PUBLIC ACCESS TO BOARD RECORDS

- Sec. 407.1. Case files.
- 407.2. Minutes of public meeting and annual report.
- 407.3. Extensions of time to review folders.

§ 407.1. Case files.

(a) *Records.* Formal records in proceedings before the Board or the Bureau shall contain a file for nonconfidential records and a file for confidential records.

(b) *Contents.* Contents of folders containing records relating to a particular proceeding shall conform to the following:

(1) A nonconfidential file shall contain formal records, complaints, petitions, answers, replies, motions, briefs, orders and opinions that are subject to disclosure. The file shall also include correspondence, reports and other materials that are subject to disclosure.

(2) A confidential folder shall contain confidential information, as defined in § 401.4 (relating to definitions), which may include formal records, complaints, petitions, answers, replies, motions, briefs, orders and opinions. The file shall also include correspondence, reports and other materials that are not subject to disclosure.

(c) *Access.* Access to formal records shall conform to the following:

(1) Nonconfidential formal records shall be available for inspection upon request made during normal Board business hours.

(2) Requests for confidential formal records shall be made to determine if the material may be released for inspection. The Board or the Bureau will review the request and provide its determination and notice to the requestor within 30 days of the request.

§ 407.2. Minutes of public meeting and annual report.

Minutes of public meetings and annual reports shall be available for public inspection and copying upon request to the Office of the Clerk during normal Board business hours and for a certain cost for copying as the Board may determine through a schedule published in the *Pennsylvania Bulletin*.

§ 407.3. Extensions of time to review folders.

For good cause, the Board may extend the time limits applicable to requests for access to documents. In the case of documents displaying no need for confidentiality, or, conversely, documents containing information which the Board considers improper for public inspection, the Board may direct the appropriate treatment thereof.

Subpart B. LICENSING

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421.	GENERAL PROVISIONS
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CHAPTER 421. GENERAL PROVISIONS

Sec.	
421.1.	General requirements.
421.2.	Licensed entities.
421.3.	Disqualification criteria.
421.4.	Investigations; supplementary information.

§ 421.1. General requirements.

(a) A license issuance, renewal or other licensing approval issued by the Board is deemed a revocable privilege. No person holding a license, renewal, or other licensing approval is deemed to have any rights therein.

(b) An application submitted under the act constitutes the seeking of a privilege, and the burden of proving qualification is on the applicant.

(c) An application for license, renewal or other licensing approval from the Board will constitute a request to the Board for a decision on the applicant's general suitability, financial suitability, character, integrity, and ability to engage in, or be associated with, gaming activity in this Commonwealth. By filing an application with the Board, the applicant specifically consents to investigation to the extent deemed appropriate by the

Board. The investigation may include a background investigation of the applicant, employees of the applicant, all persons having a controlling interest in the applicant and other persons as determined by the Board.

(d) By applying for a license, renewal or other licensing approval from the Board, the applicant agrees to abide by all provisions of the act.

(e) An applicant shall waive liability as to the Board, its members, its employees, the Commonwealth and its instrumentalities for damages resulting from disclosure or publication in any manner, other than a willfully unlawful disclosure or publication, or material or information acquired during an investigation of the individual.

(f) The applicant agrees to consent to executing all releases required by the Board.

§ 421.2. Licensed entities.

Licenses that may be issued by the Board include:

(1) Manufacturer's license, which authorizes the approved licensee to manufacture, build, rebuild, fabricate, assemble, produce, program, design or otherwise make modifications to slot machines or associated equipment for use or play of slot machines in this Commonwealth in accordance with the act.

(2) Supplier's license, which authorizes the approved licensee to sell, lease, offer or otherwise provide, distribute or service slot machines or associated equipment for use or play of slot machines in this Commonwealth in accordance with the act.

(3) Slot machine license, which authorizes the approved licensee to place and operate slot machines in this Commonwealth in accordance with the act.

(4) Key employee qualifier license, which authorizes the approved key employee qualifier, as defined in § 401.4 (relating to definitions), to be employed in a designated position by an applicant or holder of a manufacturer license, a supplier license or a slot machine license.

(5) Key employee license, which authorizes the approved key employee, as defined in § 401.4, to be employed in a designated position by an applicant or holder of a manufacturer license, supplier license or slot machine license.

§ 421.3. Disqualification criteria.

A manufacturer license, a supplier license or a slot machine license or a renewal thereof, may be denied, suspended or revoked to or from a person or applicant who has failed to provide to the satisfaction of the Board that the person or applicant or any of the persons required to be qualified, are in fact qualified in accordance with the act and with this part, who has violated the act or this part, who is disqualified under the criteria set forth in the act, who has materially departed from representation made in the application for licensure, or who has failed to comply with applicable Federal or state laws or regulations. A suspension, nonrenewal or denial of a license or license application may be made for a sufficient cause consistent with the act and the public interest.

§ 421.4. Investigations; supplementary information.

The Board may make an inquiry or investigation concerning an applicant, licensee or any person involved with an applicant or licensee as it may deem appropriate either at the time of the initial application and licensure or at any time thereafter. It shall be the continuing duty

of all applicants and licensees to provide full cooperation to the Board in the conduct of the inquiry or investigation and to provide supplementary information requested by the Board.

CHAPTER 423. APPLICATIONS

Sec.	
423.1.	General requirements.
423.2.	Application processing.
423.3.	License issuance.
423.4.	Incomplete applications.
423.5.	Application withdrawal.

§ 423.1. General requirements.

(a) Every application shall be submitted on forms supplied or approved by the Board and shall contain all information and documents as required by the Board.

(b) The applicant shall file with the application all supplemental forms provided by the Board. The forms require full disclosure of all details relative to the applicant's suitability to conduct business in this Commonwealth.

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

(d) An applicant shall submit evidence to the Board of the applicant's financial stability, integrity and responsibility. In determining an applicant's financial fitness, the Board's review will include, but not be limited to: the applicant's bank references, business and personal income and disbursement schedules, annual financial statements and tax returns, whether the applicant has adequate financing available to pay all current obligations, and whether the applicant is likely to be able to adequately cover all existing and foreseeable obligations in the future.

(e) All information provided to the Board shall be true and complete. If there is any change in the information provided to the Board, the applicant shall promptly file a written amendment in a form prescribed by the Board.

(f) The application and any amendments or supplements shall be sworn to or affirmed by the applicant before a notary public.

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

(h) Neither the Commonwealth, the Board, Pennsylvania State Police, any agency or authorized designee or agent of the Board that the Board requests to conduct background investigations, nor the employees of any of the foregoing, may be held liable for any inaccurate or incomplete information obtained through an investigation.

(i) An applicant that submits a document which is in a language other than English to the Board with an application or in response to a request for information from the Board or the Board's agents shall also submit an English translation of the non-English language document. The translation shall include the signature, printed

name, address and telephone number of the translator and a verification by the translator of the truth and accuracy of the translation.

§ 423.2. Application processing.

(a) Upon a determination that all prerequisites for filing have been met, the Board will:

(1) Accept the application for filing and cause it to be docketed.

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

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

(4) Request the Bureau to promptly conduct an investigation and provide the information necessary to determine the qualifications of the applicant and a matter relating to the application.

(5) Request the Pennsylvania State Police to provide criminal history background investigations, determine employee eligibility consistent with § 435.1 (relating to general provisions), conduct fingerprinting, receive handwriting exemplars, photograph applicants and perform duties as directed by the Board.

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

(7) Request the Department of Labor and Industry to perform an unemployment compensation tax clearance review and a workers compensation tax clearance review.

(8) Make requests of any agencies, entities or persons to conduct investigations or evaluations on behalf of the Board or the Bureau or to provide information, as deemed necessary by the Board.

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

§ 423.3. License issuance.

(a) In addition to criteria provided under the act, the Board will not issue or renew a license to an applicant or licensee unless the Board finds that the applicant has established it has met the following criteria:

(1) The applicant has developed and implemented or agreed to develop and implement a diversity plan to assure that all persons are accorded equality of opportunity in employment and contracting by the applicant, its contractors, subcontractors, assignees, lessees, agents, vendors and suppliers.

(2) The applicant has paid all required fees.

(3) The applicant has fulfilled any conditions required by the Board or provided by the act.

(4) The applicant in all other respects is found suitable consistent with the laws of the Commonwealth and is otherwise qualified to be issued a license or permit.

(b) Nothing contained in the act is intended or may be construed to create an entitlement to a license by any person.

§ 423.4. Incomplete applications.

(a) The Board will not consider an application that is incomplete. An application will be deemed incomplete if it fails to include one or more of the following requirements:

- (1) Applicable fees paid.
- (2) Information and accompanying documentation required by the Board.

(b) If an application is deemed incomplete, the Board will notify the applicant of the deficiencies in the application and permit the applicant to revise the application and resubmit the application to the Board within a time period prescribed by the Board.

(c) Refusal to provide information as requested by the Board, its designees or agents or the Pennsylvania State Police shall result in the immediate denial of a license or permit.

§ 423.5. Application withdrawal.

(a) Except as provided in subsection (e), a written notice of withdrawal of application may be filed by an applicant at any time prior to the Board's final decision.

(b) No application will be permitted to be withdrawn unless the applicant first establishes to the satisfaction of the Board that withdrawal of the application would be consistent with the public interest and the policies of the act.

(c) The Board has the authority to direct that an applicant permitted to withdraw his application is not eligible to apply again for licensure, permit or registration until a designated time as the Board determines.

(d) Unless the Board otherwise directs, no fee or other payment relating to an application shall become refundable by reason of withdrawal of the application.

(e) When a hearing on an application has been requested by a party or directed by the Board, the Board will not permit withdrawal of the application after either of the following:

- (1) The application matter has been assigned to a hearing examiner authorized by law to hear a matter.
- (2) The Board has made a determination to hear the application matter directly.

CHAPTER 427. MANUFACTURER LICENSES

Sec.

- 427.1. Manufacturer license requirements.
 427.2. Manufacturer licensing standards and application.
 427.3. Alternative manufacturer licensing standards.

§ 427.1. Manufacturer license requirements.

(a) In determining whether an applicant shall be licensed as a manufacturer under this section, the Board will consider whether the person satisfies one or more of the criteria listed in this section, whether the applicant manufactures devices, machines, or equipment, which are or have one of the following:

- (1) Specifically designed for use in the operation of a slot machine licensee.
- (2) Needed to conduct an authorized game.
- (3) The capacity to affect the outcome of the play of a game.
- (4) The capacity to affect the calculation, storage, collection, or control of gross revenue.

(b) An applicant for or holder of a manufacturer license shall have a continuing duty to:

(1) Notify the Board of a material change in the information, materials, and documents submitted in the license application or renewal application submitted by the applicant or licensee or a change in circumstances that may render the applicant or licensee ineligible, unqualified or unsuitable to hold the license under the licensing standards and requirements of the act of this part.

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

(c) In accordance with section 1317 of the act (relating to supplier and manufacturer licenses application), a person, its affiliates, intermediary, subsidiary or holding companies, who has applied for or who is applying for or holds a manufacturer's license or a slot machine license is not eligible to apply for or hold a supplier license.

§ 427.2. Manufacturer licensing standards and application.

(a) The standards and requirements for qualification for a manufacturer license are set forth as follows and in section 1317 of the act (relating to supplier and manufacturer licenses applications). The applicant shall submit:

- (1) A nonrefundable application fee.
- (2) An original and seven copies of the Manufacturer/Supplier Application and Disclosure Information Form for the applicant that has applied for the license under this part.
- (3) A plan of the diversity goals in the ownership, participation and operation of licensed entities in this Commonwealth, as set forth in section 1212 of the act (relating to diversity goals of board) and Chapter 481 (relating to general provisions), signed by the chief executive officer of the applicant.
- (4) An application from every key employee qualifier as specified by the Manufacturer/Supplier Application and Disclosure Form or as determined by the Board, which shall consist of the following:
 - (i) An original and one copy of the Multi-Jurisdictional Personal History Disclosure Form with a nonrefundable deposit of \$5,000 per application for each key employee qualifier, as defined in § 401.4 (relating to definitions).
 - (ii) The applicant may be subject to additional charges based on the actual expenses incurred by the Board in conducting the background investigation.

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

(6) Properly executed forms for Consents to Inspections, Searches and Seizures; Waivers of Liability for Disclosures of Information and Consents to Examination of Accounts and Records in forms as prescribed by the Board.

(7) The applicant, or its affiliate, intermediary, subsidiary or holding company shall affirm that it does not hold a direct or indirect ownership interest in a supplier applicant or licensee, or employs, directly or indirectly, an officer, director, supervisory or principal employee of a supplier applicant or licensee.

(8) Other information or documentation required by the Board.

(b) Each application for manufacturer's license will include the production of financial books, records, information, documentation and assurances to satisfy the Board of the following:

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

(2) That all key employee qualifiers individually qualify under the standards of section 1317 of the act.

(3) The integrity of all financial backers, investors, mortgagees, bondholders, and holders of indentures, notes or other evidences of indebtedness, either in effect or proposed, which bears any relationship to the applicant.

(4) The suitability of the applicant and all key employee qualifiers of the applicant based on the satisfactory results of:

(i) A background investigation of all owners, officers, board of directors and key employees or their equivalent in other jurisdictions.

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

(iii) A current unemployment compensation tax clearance review and a workers compensation tax clearance review performed by the Department of Labor and Industry.

(c) The applicant, licensee, holding affiliate, intermediary or subsidiary company thereof, or an officer, director or key employee thereof, is prohibited from making a contribution of money or in-kind contribution to a candidate for nomination or election to a public office in this Commonwealth or to a political committee or State party in this Commonwealth or to a group, committee or association organized in support of a candidate, political committee or State party, as set forth in section 1513 of the act (relating to political influence).

(d) Neither the applicant nor a person directly related to the applicant may be a party in an ongoing civil proceeding in which the applicant is seeking to overturn or otherwise challenge a decision or order of the Board or Commissions, pertaining to the approval, denial or conditioning of a license to conduct thoroughbred or harness horse race meetings respectively with pari-mutuel wagering, or to operate slot machines in this Commonwealth.

§ 427.3. Alternative manufacturer licensing standards.

(a) The Board may, upon written request of a manufacturer license applicant, issue a manufacturer license to an applicant who holds a similar license in another jurisdiction within the United States if:

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

(2) A completed application has been filed by the applicant.

(3) The applicant has otherwise met all statutory requirements for licensure.

(4) The applicant has provided current, updated information to the Board associated with a similar license in a jurisdiction related to its financial viability and suitability.

(5) The applicant has no administrative or enforcement actions pending in another jurisdiction.

(6) There are no pending or ongoing investigations of possible material violations by the applicant in another jurisdiction.

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

CHAPTER 431. SUPPLIER LICENSES

Sec.

431.1. Supplier license requirements.

431.2. Supplier licensing standards and application.

431.3. Supplier requirements and prohibitions.

§ 431.1. Supplier license requirements.

(a) In determining whether an applicant will be licensed as a supplier under this section, the Board will consider whether the person satisfies the criteria listed in this section, whether the person sells, leases, offers or otherwise provides, distributes or services slot machines or associated equipment at a licensed gaming facility which:

(1) Are specifically designed for use in the conduct of slot machine gaming.

(2) Are needed to conduct slot machine gaming.

(3) Have the capacity to affect the outcome of the play of a slot machine.

(4) Have the capacity to affect the calculation, storage, collection or control of gross receipts.

(b) An applicant for or holder of a supplier license shall have a continuing duty to do all of the following:

(1) Notify the Board of a material change in the information, materials, and documents submitted in the license application or renewal application submitted by the applicant or licensee or a change in circumstances that may render the applicant or licensee ineligible, unqualified or unsuitable to hold the license under the licensing standards and requirements of the act.

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

(c) In accordance with section 1317 of the act (relating to supplier and manufacturer licenses application), a person, its affiliates, intermediary, subsidiary or holding companies, who has applied for or who holds a manufacturer's license or a slot machine license is not eligible to apply for or hold a supplier license.

(d) Slot monitoring computer systems, casino management computer systems, player tracking computer systems, slot accounting computer systems, ticket-in/ticket-out computer systems, bonusing computer systems, wide-area progressive computer systems, and all computer systems and associated computer system equipment are excluded from a requirement that they be provided through a licensed supplier as set forth in this part. Persons or entities providing these computer systems to

slot machine licensees, including manufacturers, may employ individuals to service and repair computer systems and associated computer system equipment.

§ 431.2. Supplier licensing standards and application.

(a) The standards and requirements for qualification for a supplier license are set forth as follows and in section 1317 of the act (relating to supplier and manufacturer licenses application). The applicant shall submit:

- (1) A nonrefundable application processing fee.
- (2) An original and seven copies of the Manufacturer/Supplier Application and Disclosure Information Form for the applicant that has applied for the license under this part.
- (3) A plan of the diversity goals in the ownership, participation and operation of licensed entities in this Commonwealth, as set forth in section 1212 of the act (relating to diversity goals of board) and Chapter 481 (relating to general provisions), signed by the chief executive officer of the applicant.
- (4) An application from every key employee qualifier as specified by the Manufacturer/Supplier Application and Disclosure Form or as determined by the Board, which shall consist of the following:
 - (i) An original and one copy of the Multi-Jurisdictional Personal History Disclosure Form with a nonrefundable deposit of \$5,000 per application for each key employee qualifier, as defined in § 401.4 (relating to definitions).
 - (ii) The applicant may be subject to additional charges based on the actual expenses incurred by the Board in conducting the background investigation.
 - (5) Copies of all filings required by the United States Securities and Exchange Commission including all annual reports filed with the United States Securities Exchange Commission, under sections 13 or 15D of the Securities Exchange Act of 1934 (15 U.S.C.A. §§ 78m and 78o-6), quarterly reports filed with the United States Securities Exchange Commission, under sections 13 or 15D of the Securities Exchange Act of 1934, current reports filed with the United States Securities Exchange Commission, under sections 13 or 15D of the Securities Exchange Act of 1934, proxy statements issued by the applicant during the 2 immediately preceding fiscal years.
 - (6) All properly executed forms for Consents to Inspections, Searches and Seizures; Waivers of Liability for Disclosures of Information and Consents to Examination of Accounts and Records in forms as prescribed by the Board.
 - (7) The applicant, or its affiliate, intermediary, subsidiary or holding company shall affirm that it does not hold a direct or indirect ownership interest in a manufacturer or slot machine license applicant or licensee, or employs, directly or indirectly, an officer, director, supervisory or principal employee of a manufacturer or slot machine license applicant or licensee.
 - (8) Other information or documentation required by the Board.

(b) Each application for a supplier's license shall include the production of financial books, records, information, documentation and assurances to satisfy the Board of:

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

(2) That all key employee qualifiers individually qualify under the standards of section 1317 of the act.

(3) The integrity of all financial backers, investors, mortgagees, bondholders, and holders of indentures, notes or other evidences of indebtedness, either in effect or proposed, which bears a relationship to the applicant.

(4) The suitability of the applicant and all key employee qualifiers of the applicant based on the satisfactory results of:

- (i) A background investigation of all owners, officers, board of directors and key employees or their equivalent in other jurisdictions.
- (ii) A current tax clearance review performed by the Department.
- (iii) A current unemployment compensation tax clearance review and a workers compensation tax clearance review performed by the Department of Labor and Industry.

(c) The applicant, licensee, holding affiliate, intermediary or subsidiary company thereof, or an officer, director or key employee thereof, is prohibited from making a contribution of money or in-kind contribution to a candidate for nomination or election to a public office in this Commonwealth or to a political committee or State party in this Commonwealth or to a group, committee or association organized in support of a candidate, political committee or state party, as set forth in section 1513 of the act (relating to political influence).

(d) Neither the applicant nor a person directly related to the applicant may be a party in an ongoing civil proceeding in which the applicant is seeking to overturn or otherwise challenge a decision or order of the Board or Commissions, pertaining to the approval, denial or conditioning of a license to conduct thoroughbred or harness horse race meetings respectively with pari-mutuel wagering, or to operate slot machines in this Commonwealth.

§ 431.3. Supplier requirements and prohibitions.

A licensed supplier shall be the sole and exclusive authorized source of slot machines or associated equipment, as provided in section 1317 of the act (relating to supplier and manufacturer licenses application), that are sold, leased, offered or otherwise provided for use or play, distributed, serviced or repaired at a licensed gaming entity. Every licensed supplier shall:

- (1) Establish a principal place of business in this Commonwealth within 1 year of the Board's approval of the supplier license and maintain a principal place of business throughout the period during which the license is held.
- (2) Only employ technicians that have been approved by a licensed manufacturer.
- (3) Maintain at all times an adequate inventory of replacement parts and supplies for slot machine operation and support.
- (4) At the time of licensure, have assets or available lines of credit to support the sale, financing, servicing and repair of all slot machines to be placed in service by the supplier. The assets and available lines of credit shall be from sources independent of slot machine manufacturers and licensed gaming entities.
- (5) Upon request of the Board, submit to the Board for review an agreement with a licensed manufacturer or with a licensed gaming entity and detailed business plans. The Board's review may include all financing

arrangements, inventory requirements, warehouse requirements, warehouse space, technical competency, compensative agreements and other terms or conditions to ensure the financial independence of the licensed supplier from the licensed manufacturer and licensed gaming entity.

CHAPTER 433. LICENSE RENEWAL

Sec.
433.1. Renewal of manufacturer and supplier license.

§ 433.1. Renewal of manufacturer and supplier license.

(a) A license issued under this part shall be valid for 1 year and for all subsequent renewals. An application for renewal shall be filed by a licensed entity, conducting business on a regular or continuing basis, no later than 60 days prior to the expiration of the license.

(b) The licensed entity shall complete and file an original and seven copies of a Manufacturer/Supplier License Renewal Application Form which shall, without limitation, disclose all changes in ownership of the licensed entity, and the new owner shall be required to submit an application for licensure and evidence that he is qualified for licensure.

(1) The licensed entity shall disclose all changes in personnel who are to be qualified by the Board.

(2) The licensed entity shall pay a license renewal fee when the Renewal Application Form is filed.

(3) Once a Renewal Application Form has been filed and the renewal fee has been paid, the original license shall remain in effect until the Board has determined that the licensed entity has complied with all conditions of licensure as originally provided by the Board, or the Board has determined that an adverse material change in a condition of the original license has occurred which shall result in the nonrenewal of the license.

CHAPTER 435. EMPLOYEES

Sec.
435.1. General provisions.
435.2. Key employee qualifier license.
435.3. Key employee license.
435.4. Occupation permit.

§ 435.1. General provisions.

(a) The issuance or renewal of a license or permit by the Board is a revocable privilege. No individual holding a license or permit under this part will be deemed to have a property interest in the license or permit.

(b) It shall be the affirmative responsibility of each individual applying for a license or permit under this part to establish his individual qualifications. All information provided to the Board must be true and complete. If there is a change in the information provided to the Board, an applicant shall promptly file a written amendment in a manner prescribed by the Board. An individual who fails to cooperate with the Board in its review of an application under this part will not be granted a license or permit.

(c) An individual applying for a license or permit under this part shall provide all information required by the act and this part and satisfy all requests for information pertaining to qualification in a form required by the Board. An individual who fails to provide information, documentation and disclosures required by this part or the Board or who fails to reveal a fact material to qualification will not be granted a license or permit under this part. An applicant shall waive liability as to the Board, its employees, the Commonwealth and its instrumentalities for damages resulting from disclosure or

publication in a manner, other than a willfully unlawful disclosure or publication, or material or information acquired during an investigation of the individual.

(d) An individual applying for a license or permit under this part shall have the continuing duty to provide assistance or information required by the Board or the Bureau, and to cooperate in an inquiry, investigation or hearing conducted by the Board or the Bureau. If, upon issuance of a formal request for information, evidence or testimony, an applicant, licensee or permittee refuses to comply with requests for assistance or information, the application, license or permit will be denied or revoked by the Board.

(e) An individual who receives a license or permit under this part shall have the continuing duty to report an arrest or conviction for an offense under 18 Pa.C.S. (relating to Crimes and Offenses), of an offense under 75 Pa.C.S. § 3802 (relating to driving under influence of alcohol or controlled substance) or of a comparable offense in other United States or foreign jurisdictions to the Board.

(f) An individual may not be employed by a slot machine licensee, manufacturer licensee or supplier licensee in any capacity unless the individual is a citizen of the United States or can demonstrate that he holds a current and valid work authorization and is not restricted from working in the capacity for which employment is sought or held. Authorization to work in the United States may be demonstrated by submitting one of the following:

(1) A permanent resident alien card.

(2) A temporary employment authorization card.

(3) A document which the Board deems to be sufficient evidence or authorization.

(g) No applicant, licensee or permittee may give or provide, or offer to give or provide, compensation or reward or a percentage or share of the money or property played or received through gaming in consideration for obtaining a license or permit to participate in gaming operations.

(h) An individual regulated by this part shall have a duty to inform the Board and the Bureau of an action which the individual believes would constitute a violation of the act. No person who so informs the Board or the Bureau will be discriminated against by an applicant, licensee or person for supplying the information.

(i) An individual who submits a document under this part in a language other than English to the Board or the Pennsylvania State Police with an application for a license or permit or in response to a request for information from the Board or the Pennsylvania State Police shall also submit an English translation of the non-English language document. The translation shall include the signature, printed name, address and telephone number of the translator and a verification by the translator of the truth and accuracy of the translation.

(j) Sixty days prior to the expiration of a license or permit under this part, a licensee or permittee may submit a renewal application to the Board. If the renewal application meets all the requirements of this part, the Board may renew the license. A new background investigation is not required unless ordered by the Board. All licensees and permittees shall provide an updated photograph at least every 2 years.

(k) If the Board receives a complete renewal application but fails to act upon the application prior to the

expiration of the license or permit, the license or permit shall continue in effect until acted upon by the Board.

(l) A reference to a slot machine licensee, manufacturer licensee or supplier licensee under this chapter includes an applicant for a slot machine license, manufacturer license or supplier license in addition to a person who is already licensed.

(m) The Board will maintain a list of all individuals who have applied for a license or permit under this part as well as a record of all actions taken with respect to each applicant.

§ 435.2. Key employee qualifier license.

(a) An individual employed by a person who is a slot machine licensee, a manufacturer licensee, or a supplier licensee as a key employee qualifier, as defined in § 401.4 (relating to definitions), shall obtain a key employee qualifier license from the Board.

(b) An application for licensure as a key employee qualifier shall be on a form prescribed by the Board and include the following:

(1) The name and address of the individual to include the home address and history of residence and all current business addresses.

(2) Daytime and evening telephone numbers.

(3) Date of birth.

(4) Physical description.

(5) Social Security number.

(6) Citizenship, resident alien status or authorization to work in the United States.

(7) Marital history.

(8) Military history.

(9) Employment history, including gaming-related employment.

(10) Verification of an applicant's employment or an offer of employment from a slot machine licensee or a supplier.

(11) A description of the employment responsibilities of the individual and their relationship to the operation of the slot machine licensee, manufacturer licensee or supplier licensee and of all education, training and experience that qualifies the individual for the position.

(12) Consent to a background investigation, including a signed, dated and notarized release authorization necessary to obtain information from governmental agencies and other institutions.

(13) The individual's criminal history records information and arrests or criminal charges brought against the individual.

(14) A photograph from the Commonwealth Photo Imaging Network.

(15) A set of fingerprints consistent with section 1802 of the act (relating to submission of fingerprints).

(16) A list of civil judgments consistent with section 1310(b) of the act (relating to slot machine license application character requirements).

(17) Details relating to a similar license obtained in another jurisdiction.

(18) A tax clearance certificate from the Department.

(19) The appropriate filing fee.

(20) Information required by the Board.

(c) In addition to the information under subsection (b), the Board may require letters of reference under section 1310(b) of the act.

(d) After review of the information submitted under subsection (b), including the background investigation, the Board may issue a key employee qualifier license if the individual applicant has proven by clear and convincing evidence that he is a person of good character, honesty and integrity and is qualified to hold a key employee qualifier license.

(e) A license under this chapter will be nontransferable.

(f) An individual who receives a license under this chapter need not obtain an additional license as a key employee.

§ 435.3. Key employee license.

(a) An individual employed by a slot machine licensee, manufacturer licensee or supplier licensee as a key employee as defined by the act shall obtain a key employee license from the Board.

(b) An application for licensure as a key employee shall be on a form prescribed by the Board and include the following:

(1) The name and address of the individual, to include the home address and history of residence and all business addresses.

(2) Daytime and evening telephone numbers.

(3) Date of birth.

(4) Physical description.

(5) Social Security number.

(6) Citizenship, resident alien status or authorization to work in the United States.

(7) Marital history.

(8) Military history.

(9) Employment history, including gaming related employment.

(10) Verification of an applicant's employment or an offer of employment from a slot machine licensee, manufacturer licensee or a supplier licensee.

(11) A description of the employment responsibilities of the individual and a statement of all education, training and experience that qualifies the individual for the position.

(12) Consent to a background investigation, including a signed, dated and notarized release authorization necessary to obtain information from governmental agencies and other institutions.

(13) The individual's criminal history records and arrests or criminal charges brought against the individual.

(14) A photograph from the Commonwealth Photo Imaging Network.

(15) A set of fingerprints consistent with section 1802 of the act (relating to submission of fingerprints).

(16) A list of civil judgments consistent with section 1310(b) of the act (relating to slot machine license application character requirements).

(17) Details relating to a similar license obtained in another jurisdiction.

- (18) A tax clearance certificate from the Department.
- (19) The appropriate filing fee.
- (20) Information required by the Board.

(c) In addition to the information under subsection (b), the Board may require letters of reference from law enforcement agencies under section 1310(b) of the act.

(d) After review of the information submitted under subsection (b), including the background investigation, the Board may issue a key employee license if the individual applicant has proven by clear and convincing evidence that he is a person of good character, honesty and integrity and is qualified to hold a license as a key employee.

(e) A license under this chapter will be nontransferable.

§ 435.4. Occupation permit.

(a) An individual employed by a slot machine licensee or a supplier licensee as a gaming employee as defined by section 1103 of the act (relating to definitions) and § 401.4 (relating to definitions) shall apply for and receive an occupation permit from the Board.

(b) An application for an occupation permit shall be on a form prescribed by the Board and include the following:

- (1) The name and address of the individual, to include the home address and residence history and all business addresses.
- (2) Daytime and evening telephone numbers.
- (3) Date of birth.
- (4) Physical description.
- (5) Social security number.
- (6) Citizenship, and, if applicable, resident alien status, including employment authorization.
- (7) Marital history.
- (8) Military history.
- (9) Employment history, including gaming-related employment.
- (10) Verification of an applicant's employment or an offer of employment from a slot machine licensee or a supplier licensee.
- (11) A description of the employment responsibilities of the individual and a statement of all education, training and experience that qualifies the individual for the position.
- (12) Consent to a background investigation by the Board, including a signed, dated and notarized release authorization necessary to obtain information from governmental agencies and other institutions.
- (13) The individual's criminal history record, and arrests or criminal charges brought against the individual.
- (14) A photograph from the Commonwealth Photo Imaging Network.
- (15) Fingerprints consistent with section 1802 of the act (relating to submission of fingerprints).
- (16) Details relating to a similar license obtained in another jurisdiction.
- (17) A tax clearance certificate from the Department.
- (18) The appropriate filing fee.
- (19) Information required by the Board.

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

(d) After review of the information submitted under subsection (b), including a background investigation, the Board may issue a permit if the individual has proven that he is a person of good character, honesty and integrity and is qualified to hold an occupation permit.

(e) An individual who wishes to receive an occupation permit under this chapter may provide the slot machine licensee or supplier with written authorization to file the application on the individual's behalf.

(f) A license under this chapter will be nontransferable.

Subpart C. RECORDKEEPING

Chap.

451. LICENSEE RECORDKEEPING REQUIREMENTS

CHAPTER 451. LICENSEE RECORDKEEPING REQUIREMENTS

Sec.

451.1. Recordkeeping generally.

§ 451.1. Recordkeeping generally.

(a) All manufacturer, supplier and slot machine licensees shall maintain in a place secure from theft, loss or destruction, adequate records of business operations which shall be made available to the Board upon request. These records shall include:

- (1) All correspondence with the Board and other governmental agencies on the local, state and Federal level.
- (2) All correspondence concerning gaming equipment with a licensed slot machine operator or other licensed entity.
- (3) Copies of all promotional material and advertising.
- (4) A personnel file on each employee of the licensee, including sales representatives.
- (5) Financial records of all transactions concerning gaming equipment with a licensed slot machine operator or other licensed entity.
- (6) Copies of all tax returns, reports and other tax documents filed with a taxing entity of the Federal government as well as a state or local taxing entity for 7 years or a longer period as prescribed by the taxing entity.

(b) Except as provided in subsection (a)(6) (relating to tax documents), the records listed in subsection (a) will be held for at least 5 years.

Subpart D. SLOT MACHINE TESTING AND CERTIFICATION

Chap.

461. SLOT MACHINE TESTING AND CERTIFICATION REQUIREMENTS

CHAPTER 461. SLOT MACHINE TESTING AND CERTIFICATION REQUIREMENTS

Sec.

461.1. Protocol requirements.

461.2. Testing and certification generally.

§ 461.1. Protocol requirements.

In accordance with section 1324 of the act (relating to protocol information), all licensed slot machine manufacturers and suppliers shall be required to enable all slot machine terminals to communicate with the Department's Central Control Computer for the purpose of transmitting

auditing program information and activating and disabling slot machine terminals.

§ 461.2. Testing and certification generally.

(a) In accordance with section 1320 of the act (relating to slot machine testing and certification standards), all slot machine terminals to be deployed in this Commonwealth shall be tested and certified prior to operation and use in a licensed facility in this Commonwealth.

(b) All slot machines operated in this Commonwealth must be approved by the Board.

(c) The Board has the authority to require either of the following procedures with respect to testing and certifying a slot machine:

(1) Accept other gaming jurisdiction certification under section 1320 of the act.

(2) Utilize the services of a slot machine testing and certification facility to conduct the testing.

(d) Within 3 years, the Board will establish a slot machine testing and certification facility, through an assessment paid by manufacturer licensees.

(e) The Board will require payment of all costs for the testing and certification of all slot machines through procedures prescribed by the Board.

(f) The Board will require the licensee seeking approval of the slot machine to pay all costs of transportation, inspection and testing.

Subpart E. FEES

**Chap.
471. FILING FEES**

CHAPTER 471. FILING FEES

Sec.	
471.1.	Fees generally.
471.2.	Obligation to pay fees; nonrefundable nature of fees.
471.3.	Schedule of fees for manufacturer and supplier licenses.

§ 471.1. Fees generally.

(a) In accordance with section 1208 of the act (relating to collection of fees and fines), the Board has the power and duty to levy and collect fees from various applicants, licensees and permittees to fund the operations of the Board.

(b) A pleading or other document for which a filing fee is required to be charged will be received, but will not be deemed filed, until the filing fee, bond letter of credit or other cost that may be required by statute or regulation has been paid.

(c) The fees collected by the Board will be deposited into the State Gaming Fund as established in section 1403 of the act (relating to establishment of State Gaming Fund and net slot machine revenue distribution).

(d) Fees shall be paid by money order or check made payable to the "Commonwealth of Pennsylvania." Cash will not be accepted by the Board.

§ 471.2. Obligation to pay fees; nonrefundable nature of fees.

(a) A fee obligation arising in accordance with the act or this part shall be due and payable notwithstanding the withdrawal or abandonment of an application or the termination in a manner of an existing license.

(b) Except as otherwise provided in section 1209 of the act (relating to slot machine license fee), amounts actually paid by the applicant, licensee or permittee in accordance with the act and this part are not refundable.

§ 471.3. Schedule of fees for manufacturer and supplier licenses.

(a) In accordance with section 1208 of the act (relating to collection of fees and fines), the Board has the power and duty to levy and collect fees from applicants for manufacturer's licenses and supplier's licenses. The licensing fee schedule shall be as follows:

(1) *Manufacturer's license fee schedule.* The fees for obtaining and renewing a manufacturer's license are as follows:

(i) Initial application fee: \$2,500.

(ii) License issuance fee: \$50,000.

(iii) Annual renewal fee: \$25,000.

(2) *Supplier's license fee schedule.* The fees for obtaining and renewing a supplier's license are as follows:

(i) Initial application fee: \$2,500.

(ii) License issuance fee: \$25,000.

(iii) Annual renewal fee: \$10,000.

(b) To recover the cost of the investigation and consideration of license and permit applications by manufacturers and suppliers, each application for a manufacturer license or a supplier license must be accompanied by a nonrefundable fee of \$5,000 per key employee and key employee qualifier. If the cost of the background investigations exceeds \$5,000, the Board will require the manufacturer or supplier applicant to pay additional costs associated with the investigations.

(c) On or after July 5, 2006, and annually thereafter, the Board may increase the fees imposed under this section by an amount not to exceed an annual cost-of-living adjustment calculated as set forth in section 1208(2) of the act.

Subpart F. MINORITY AND WOMEN'S BUSINESS ENTERPRISES

**Chap.
481. GENERAL PROVISIONS**

CHAPTER 481. GENERAL PROVISIONS

Sec.	
481.1.	Statement of purpose and policy.
481.2.	Definitions.
481.3.	Diversity participation.
481.4.	Establishment of diversity plan required.
481.5.	Report of participation.

§ 481.1. Statement of purpose and policy.

(a) This part establishes and prescribes the procedures for promoting and ensuring that licensed entities, licensed facilities, and applicants for licensure foster participation and diversity in all aspects of their gaming operations in this Commonwealth.

(b) It is the policy of the Board to promote and ensure that licensed entities, licensed facilities and applicants for licensure conduct all aspects of their operations in a manner that assures diversity of opportunity as follows:

(1) In the ownership, participation and operation of licensed entities and licensed facilities in this Commonwealth.

(2) Through the ownership, participation and operation of business enterprises associated with or utilized by licensed entities and licensed facilities.

(3) Through the provision of goods and services utilized by licensed entities and licensed facilities.

(c) It is further the policy of the Board to promote and ensure diversity in employment and contracting by a licensed entity, licensed facility or an applicant for a license and its contractors, subcontractors, assignees, lessees, agents, vendors and suppliers.

§ 481.2. Definitions.

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

Diversity plan—A plan developed by a licensed entity, licensed facility or an applicant for a license which promotes and ensures diversity in ownership, participation and operation of licensed facilities or licensed entities; and in employment and contracting by a licensed facility and licensed entity.

Minority—The ethnic/racial categories identified in employer survey reports that are required by the United States Equal Opportunity Commission and the Office of Federal Contract Compliance Programs of the United States Department of Labor under section 709 of Title VII of the Civil Rights Act of 1964 (42 U.S.C.A. § 2000(e)-8) or by subsequent amendments to that Federal act.

Participation plan—An obligation imposed by a licensed entity, licensed facility or applicant as part of its contract with a contractor that requires the contractor to perform the contract through the utilization of minority or women owned business enterprises for a specified minimum percentage of the value of the contract.

§ 481.3. Diversity participation.

(a) The Board will compile a list of the minority and women's business enterprises that are certified by the Bureau of Minority and Women's Business Enterprises of the Department of General Services under 68 Pa.C.S. Part I (relating to Commonwealth Procurement Code) and will make the list available to all licensed entities, licensed facilities and applicants for licensure. The list developed by the Board will be reviewed annually to determine that each minority business enterprise and women's business enterprise continue to remain eligible for participation as minority and women's business enterprises.

(b) The list of minority business enterprises and women's business enterprises compiled by the Board may be relied upon by a licensed entity, licensed facility or applicant to establish the eligibility of the enterprise as a minority or women's business enterprise for the purpose of promoting and ensuring minority and women's business participation.

§ 481.4. Establishment of diversity plan required.

(a) Each licensed entity, licensed facility or applicant in its application for licensure, shall include a diversity plan that establishes a separate goal of diversity in the ownership, participation, and operation of, and employment at, the licensed entity or licensed facility or by the applicant. The Board will determine whether the stated goals set forth in each diversity plan are reasonable and represent a good faith effort to assure that all persons are accorded equality of opportunity in contracting and employment by a licensed entity, licensed facility or an applicant for a license, and its contractors, subcontractors, assignees, lessees, agents, vendors and suppliers.

(b) A licensed entity, licensed facility or applicant may achieve its diversity goals through one of the following:

(1) Contracting or transacting directly with minority and women's business enterprises.

(2) Contracting with a nonminority business enterprise under terms and conditions that establish a participation plan.

(c) Onsite audits may be performed on an annual basis or at the discretion of the Board to ensure compliance with this subpart.

§ 481.5. Report of participation.

(a) As part of an application to renew a license under the act and this part, each licensed entity or licensed facility shall file a report with the Board concerning the performance of its diversity plan. The report shall contain all of the following:

(1) Employment data, including information on minority and women representation in the workforce in all job classifications; salary information; and information on recruitment and training, including executive and managerial level recruitment and training; and retention and outreach efforts.

(2) The total number and value of all contracts or transactions awarded for goods and services.

(3) The total number and value of all contracts or transactions awarded to minority and women's business enterprises.

(4) The total number and value of all contracts awarded that contain a participation plan.

(5) The total number and value of all subcontracts to be awarded to minority and women's business enterprises under contracts containing a participation plan.

(6) An identification of each subcontract actually awarded to a minority or women's business enterprise under contracts containing a participation plan during each calendar quarter and the actual value of each such subcontract.

(7) An identification of each contract or transaction awarded to a minority or women's business enterprise.

(8) A comprehensive description of all efforts made by the licensed entity, licensed facility or applicant to monitor and enforce the participation plan.

(9) Information on minority and women investment, equity ownership, and other ownership or management opportunities initiated or promoted by the licensed entity or licensed facility.

(10) Other information deemed necessary by the Board to ensure compliance with the act and this part.

(b) The Board will use the report required under subsection (a) to monitor compliance with this part. The Board may request that the Bureau of Minority and Women's Business Enterprises, of the Department of General Services, assist the Board in determining whether the licensed entity, licensed facility or applicant complies with the requirements of this part.

Subpart G. PRACTICE AND PROCEDURE

Chap.	
491.	GENERAL RULES OF PRACTICE
495.	DOCUMENTARY FILINGS
497.	TIME
499.	REPRESENTATION BEFORE THE BOARD

CHAPTER 491. GENERAL RULES OF PRACTICE

Sec.	
491.1.	Office of the Clerk.
491.2.	Filing generally.

§ 491.1. Office of the Clerk.

(a) The Board will have within its organization an Office of the Clerk whose duties will be as follows:

(1) Provide information as to practice and procedure before the Board, under this subpart.

(2) Receive and docket applications and pleadings and other documents filed with the Board. Receipt and transmission of the information may be by electronic means, only under a policy established by the Board.

(b) All filings and requests for practice and procedure information should be directed to:

Office of the Clerk
Pennsylvania Gaming Control Board
P. O. Box 69060
Harrisburg, Pennsylvania 17106-9060

(c) The Clerk will maintain a docket of all proceedings, and each proceeding as initiated will be assigned an appropriate designation. The docket will be available for inspection and copying by the public during the Board's office hours.

§ 491.2. Filing generally.

(a) Pleadings and other documents filed with the Board must clearly designate the docket number or similar identifying symbols, if any, employed by the Board, and set forth a short title. The identity of the individual making the submission, including name, mailing address, and status (for example—party, attorney for a party, and the like) shall appear on the document.

(b) Pleadings, including documents filed under this chapter, must also comply with Chapter 495 (relating to documentary filings).

(c) In a proceeding when, upon inspection, the Board is of the opinion that a pleading tendered for filing does not comply with this subpart or this title or, if it is an application or similar document, does not sufficiently set forth required material or is otherwise insufficient, the Board may decline to accept it for filing and may return it without filing, or the Board may accept it for filing and advise the person tendering it of the deficiency and require that the deficiency be corrected.

(d) The Board may order redundant, immaterial, obscene or otherwise inappropriate comments stricken from documents filed with it.

CHAPTER 495. DOCUMENTARY FILINGS

Sec.

495.1.	Form of documentary filings generally.
495.2.	Form of documents.
495.3.	Incorporation by reference.
495.4.	Single pleading covering more than one matter.
495.5.	Execution of documents.
495.6.	Verification.
495.7.	Number of copies.

§ 495.1. Form of documentary filings generally.

(a) Applications, petitions, complaints, answers or similar documents shall be divided into numbered paragraphs.

(b) Copies of contracts, agreements, permits or other writings referred to in the application or petition may be attached as exhibits. Copies of writings or orders already of record with the Board need not be attached to the application or petition if reference by docket number is made to the proceeding in which they were filed.

(c) Pleadings or other documents filed with the Board in a proceeding shall clearly show the docket number or similar identifying symbols, if any, and title of the proceeding before the Board. They shall also show, in the title of a particular pleading or other document filed, the name of the person on whose behalf the filing is made. If more than one person is involved, a single name only need be included in the title.

(d) Subsections (a)—(c) supersede 1 Pa. Code § 31.5 (relating to communications and filings generally).

§ 495.2. Form of documents.

(a) The method of receipt and transmission of information will be under a policy established by the Board.

(b) Subsection (a) supersedes 1 Pa. Code § 33.2 (relating to form).

§ 495.3. Incorporation by reference.

(a) Except as otherwise provided in subsection (b), documents on file with the Board may be incorporated by reference into a subsequently filed pleading or other document. A document may be so incorporated only by reference to the specific document and to the prior filing and docket number at which it was physically filed.

(b) No document which has been on file with the Board for more than 7 years may be incorporated by reference in a current document unless the person filing the current document first makes inquiry to the Office of the Clerk and ascertains that the earlier document continues to be readily available in the active records of the Board.

§ 495.4. Single pleading covering more than one matter.

(a) Except as otherwise provided under this chapter, a single pleading may be accepted for filing with respect to a particular transaction and one or more related transactions and shall be deemed to be a single filing for purposes of the computation of fees under Chapter 471 (relating to filing fees).

(b) If, upon review, the Board determines that the transactions are not closely related or otherwise properly joined, the Board will direct that the single pleading be refiled as two or more separate pleadings, each subject to a separate filing fee.

(c) Subsections (a) and (b) supersede 1 Pa. Code § 33.4 (relating to single pleading or submittal covering more than one matter).

§ 495.5. Execution of documents.

(a) *Signature.* Except as may be otherwise ordered or requested by the Board, the original copy of a pleading, or other document shall be signed in ink by the party in interest, or by his attorney, as required by subsection (b), and show the office and post office address of the party or attorney. Other copies filed shall conform thereto.

(b) *Subscription.*

(1) A pleading or other document filed with the Board shall be subscribed by one of the following:

(i) The person filing the documents, and severally if there is more than one person so filing.

(ii) An officer if it is a corporation, trust, association or other organized group.

(iii) An officer or employee thereof if it is another agency, a political subdivision, or other governmental authority, agency or instrumentality.

(iv) An attorney having authority with respect thereto.

(2) A document filed by a corporation, trust, association or other organized group, may be required to be supplemented by appropriate evidence of the authority of the officer or attorney subscribing the documents.

(c) *Effect.*

(1) The signature of the person subscribing a document filed with the Board constitutes a certificate by the individual that:

(i) The person has read the document being subscribed and filed, and knows the contents thereof.

(ii) The document has been subscribed and executed in the capacity specified upon the document with full power and authority to do so, if executed in a representative capacity.

(iii) The document is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification or reversal of existing law, to the best of the person's knowledge, information and belief formed after reasonable inquiry.

(iv) The document is not interposed for an improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation.

(2) If a document is signed in violation of this subsection, the Board, upon motion or upon its own initiative, may impose upon the person who signed it, a represented party, or both, an appropriate sanction, which may include striking the document, dismissal of the proceeding or the imposition of civil penalties under section 1518 of the act (relating to prohibited acts; penalties).

(d) *Supersession.* Subsections (a) and (b) are identical to 1 Pa. Code § 33.11 (relating to execution). Subsection (c) supersedes 1 Pa. Code § 33.11.

§ 495.6. Verification.

(a) Applications, petitions, formal complaints, motions and answers thereto containing an averment of fact not appearing of record in the action or containing a denial of fact shall be personally verified by a party thereto or by an authorized officer of the party if a corporation or association. Verification means a signed written statement of fact supported by oath or affirmation or made subject to the penalties of 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities). If verification is required, notarization is not necessary.

(b) The verification form should comply substantially with the following:

VERIFICATION

I, _____, hereby state that the facts above set forth are true and correct (or are true and correct to the best of my knowledge, information and belief) and that I expect to be able to prove the facts. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 (relating to Unsworn Falsification to Authorities)

Date: _____ (Signature)

(c) When an affidavit is used, the form should comply substantially with the following:

AFFIDAVIT

I, _____ (Affiant) being duly sworn (affirmed) according to law, depose and say that (I am authorized to make this affidavit on behalf of _____ corporation, being the holder of the office of _____ with that corporation,) and that the facts above set forth are true and correct (or are true and correct to the best of my knowledge, information and belief) and (I or corporation) expect to be able to prove the facts.

(Signature of Affiant)

Sworn and subscribed before me this _____ day of _____, 20 ____.

(Signature of official administering oath)

(d) An individual who executes a pleading or other document knowing that it contains a false statement and who causes it to be filed with the Board shall be subject to prosecution of a misdemeanor of the second degree in violation of 18 Pa.C.S. § 4904(a).

(e) Subsections (a)—(d) supersede 1 Pa. Code § 33.12 (relating to verification).

§ 495.7. Number of copies.

(a) An original and seven copies of pleadings or documents other than correspondence shall be furnished to the Board at the time of filing, except as may be otherwise required by statute or ordered or requested by the Board.

(b) In the case of applications and petitions, one of the copies filed with the Board may be filed without exhibits.

(c) In the case of complaints or petitions, when more than one respondent is named, an additional copy of the complaint or petition shall be filed for each additional respondent.

(d) Subsections (a)—(c) supersede 1 Pa. Code § 33.15 (relating to number of copies).

CHAPTER 497. TIME

- Sec. 497.1. Date of filing.
- 497.2. Computation of time.
- 497.3. Issuance of Board orders.
- 497.4. Effective dates of Board orders.
- 497.5. Extensions of time and continuances.

§ 497.1. Date of filing.

(a) Whenever a pleading or other document is required or permitted to be filed under this part or by statute, it will be deemed to be filed on one of the following dates:

(1) On the date actually received in the Office of the Office of the Clerk.

(2) On the date deposited with an overnight express package delivery service as shown on the express delivery receipt attached to or included within the envelope containing the document.

(3) On the date deposited in the United States mail as shown by the United States Postal Service stamp on the envelope or on a United States Postal Service Form 3817 certificate of mailing. A mailing envelope stamped by an in-house postage meter is insufficient proof of the date of mailing.

(b) Failure to include a legible delivery receipt with the document may result in an untimely filing.

(c) Except as otherwise permitted by the Board, a document transmitted by facsimile or electronically to the Board will not be accepted for filing within the meaning of this section.

(d) Subsections (a)—(c) supersede 1 Pa. Code § 31.11 (relating to timely filing required).

§ 497.2. Computation of time.

(a) Except as otherwise provided by statute, in computing a period of time prescribed or allowed by this title or by statute, the day of the act, event or default after which the designated period of time begins to run is not included. The last day of the period is included, unless it is Saturday, Sunday or a legal holiday in this Commonwealth, in which event the period shall run until the end of the next day which is neither a Saturday, Sunday nor a holiday. Intermediate Saturdays, Sundays and legal holidays shall be included in the computation.

(b) Except as otherwise provided by statute, in computing a period of time prescribed or allowed by this title or by statute which is measured by counting a specified number of days backward from a scheduled future act, event or default, the day of the scheduled future act, event or default is not included. The day on which the prescribed or allowed action is to occur shall be included, unless it is a Saturday, Sunday or a legal holiday in this Commonwealth, in which event the day of the prescribed or allowed action shall run until the next preceding day which is neither a Saturday, Sunday nor a holiday. A part-day holiday shall be considered as a holiday. Intermediate Saturdays, Sundays and legal holidays are included in the computation.

(c) Subsections (a) and (b) supersede 1 Pa. Code § 31.12 (relating to computation of time).

§ 497.3. Issuance of Board orders.

(a) In computing a period of time involving the date of the issuance of an order by the Board, the day of issuance of an order will be the date the Office of the Clerk enters the order. An order will not be made public prior to its entry except when, in the Board's judgment, the public interest so requires. The date of entry of an order may or may not be the day of its adoption by the Board. The Clerk will clearly indicate on each order the date of its adoption by the Board and the date of its entry.

(b) The date of entry of an order which is subject to review by the Supreme Court of Pennsylvania is governed by 2 Pa.C.S. Chapter 7, Subchapter A (relating to judicial review of Commonwealth agency action). The date of issuance of an order shall be deemed to be the date of entry for the purposes of computing the time for appeal under an applicable statute relating to judicial review of Board action.

(c) Subsections (a) and (b) are identical to 1 Pa. Code § 31.13 (relating to issuance of agency orders).

§ 497.4. Effective dates of Board orders.

(a) An order of the Board promulgating regulations shall be effective upon publication in the *Pennsylvania Bulletin* unless otherwise specially provided in the order.

(b) Except as provided in subsection (a), an order of the Board will be effective as of the date of entry unless otherwise specially provided in the order.

(c) Subsections (a) and (b) supersede 1 Pa. Code § 31.14 (relating to effective dates of agency orders).

§ 497.5. Extensions of time and continuances.

(a) Extensions of time shall be governed by the following:

(1) Except as otherwise provided by statute, whenever under this part or by order of the Board, or notice given thereunder, an act is required or allowed to be done at or within a specified time, the time fixed or the period of time prescribed may, by the Board, for good cause be extended upon motion made before expiration of the period originally prescribed or as previously extended. Upon motion made after the expiration of the specified period, the act may be permitted to be done where reasonable grounds are shown for the failure to act.

(2) Requests for the extension of time in which to file briefs shall be filed at least 5 days before the time fixed for filing the briefs unless the Board, for good cause shown allows a shorter time.

(b) Except as otherwise provided by statute, requests for continuance of hearings or for extension of time in which to perform an act required or allowed to be done at or within a specified time by this title or by order of the Board, shall be by motion in writing, timely filed with the Board, stating the facts on which the application rests, except that during the course of a proceeding, the requests may be made by oral motion in the hearing before the Board. Only for good cause shown will requests for continuance be considered. The requests shall be submitted at least 5 days prior to the hearing date.

(c) Subsections (a) and (b) supersede 1 Pa. Code § 31.15 (relating to extensions of time).

CHAPTER 499. REPRESENTATION BEFORE THE BOARD

Sec.	
499.1.	Appearance in person.
499.2.	Appearance by attorney.
499.3.	Other representation prohibited at hearings.
499.4.	Notice of appearance or withdrawal.
499.5.	Form of notice of appearance.
499.6.	Contemptuous conduct.
499.7.	Suspension and disbarment.

§ 499.1. Appearance in person.

(a) Individuals may represent themselves.

(b) In adversarial proceedings, partnerships, corporations, trusts, associations, agencies, political subdivisions and government entities shall be represented only under § 499.2 (relating to appearance by attorney). For purposes of this section, without limitation, a request for licensure under sections 1302, 1304, 1305, 1315 and 1317 of the act or a license or permit determined by the Board, shall be considered to be an adversarial proceeding.

(c) Subsections (a) and (b) supersede 1 Pa. Code § 31.21 (relating to appearance in person).

§ 499.2. Appearance by attorney.

(a) Individuals, partnerships, associations, corporations or governmental entities may be represented in a proceeding by an attorney at law admitted to practice before the Supreme Court of Pennsylvania.

(b) An attorney licensed in a jurisdiction which does not accord like privileges to members of the bar of this Commonwealth may appear before the Board with the permission of the Board consistent with Pa.B.A.R. 301 (relating to admission pro hac vice).

(c) Subsections (a) and (b) supersede 1 Pa. Code § 31.22 (relating to appearance by attorney).

§ 499.3. Other representation prohibited at hearings.

(a) Participants, individuals, partnerships, associations, corporations or governmental entities may not be represented at a hearing before the Board except as:

(1) Stated in §§ 499.1 and 499.2 (relating to appearance in person; and appearance by attorney).

(2) Otherwise permitted by the Board in a specific case.

(b) Subsection (a) supersedes 1 Pa. Code § 31.23 (relating to other representation prohibited at hearings).

§ 499.4. Notice of appearance or withdrawal.

(a) An individual appearing without representation before the Board shall file with the Office of the Clerk an address for service of a notice or other written communication. A change in address which occurs during the course of the proceeding shall be reported to the Office of the Clerk promptly.

(b) An attorney whose name and address appears in a representative capacity on an initial pleading filed with the Office of the Clerk shall be considered to have entered an appearance in that proceeding. An attorney who enters the matter at a later stage of the proceeding shall file with the Office of the Clerk a written notice of the appearance, which shall state his name, address and telephone number and the name and address of the person on whose behalf he appears. The notice shall be served on the participants in the proceeding. A change in address which occurs during the course of the proceeding shall be reported to the Office of the Clerk promptly.

(c) A person appearing or practicing before the Board in a representative capacity may be required to file a power of attorney with the Board showing his authority to act in that capacity.

(d) An attorney who wishes to withdraw an appearance shall file with the Office of the Clerk a written notice of withdrawal. The notice shall be served on the participants.

(e) Subsections (a)—(d) supersede 1 Pa. Code § 31.24 (relating to notice of appearance).

§ 499.5. Form of notice of appearance.

(a) The form of notice of appearance is as follows:

COMMONWEALTH OF PENNSYLVANIA BEFORE THE PENNSYLVANIA GAMING CONTROL BOARD

In the Matter of:
[File, Docket or other identifying No.:]

NOTICE OF APPEARANCE

Please enter my appearance in the above-designated matter on behalf of _____ .

I am authorized to accept service on behalf of said participant in this matter.

[CHECK ONE]

[] On the basis of this notice, I request a copy of each document hereafter issued by the Board in this matter.

[] I am already receiving or have access to a copy of each document issued by the Board in this matter and do not on the basis of this notice require an additional copy.

Signature

Attorney Identification Number

Name (Printed)

P. O. address

City, state and zip code

Telephone Number
(including area code)

(b) Subsection (a) supersedes 1 Pa. Code § 31.25 (relating to form of notice of appearance).

§ 499.6. Contemptuous conduct.

(a) Contemptuous conduct at a hearing before the Board shall be grounds for exclusion from the hearing and for summary suspension without a hearing for the duration of the hearing.

(b) Subsection (a) is identical to 1 Pa. Code § 31.27 (relating to contemptuous conduct).

§ 499.7. Suspension and disbarment.

(a) The Board may deny, temporarily or permanently, the privilege of appearing or practicing before it to a person who is found by the Board, after notice and opportunity for hearing in the matter, to have done one or more of the following:

(1) Lacked the requisite qualifications to represent others.

(2) Engaged in unethical, contemptuous or improper conduct before the Board.

(3) Repeatedly failed to follow Board directives.

(b) For the purpose of subsection (a), practicing before the Board shall include:

(1) Transacting business with the Board.

(2) The preparation of a statement, opinion or other paper by an attorney, accountant, engineer or other expert, filed with the Board in a pleading or other document with the consent of the attorney, accountant, engineer or other expert.

(3) Appearances at a hearing before the Board.

(c) Subsections (a) and (b) are identical to 1 Pa. Code § 31.28 (relating to suspension and disbarment).

(Editor's Note: The following Proposed Regional Supplier Amendments were introduced but not acted upon by the Board at its April 12, 2005, meeting. The following is printed for public comment.)

Proposed Regional Supplier Amendments

Add to § 427.2

(e) Preference will be given to applicants for manufacturer licenses who can demonstrate that they either have established or will establish within 60 days after licensure, a bona fide place of business in the Commonwealth and is or will, within such timeframe, be capable of performing all functions required of a manufacturer licensee.

Add to § 431.2(a)

(9) submit a detailed business plan including, without limitation, the type of good to be supplied and services to be provided through purchase, lease, contract, or otherwise; projected economic benefit to the region in which it is seeking to be licensed; projected number of jobs to be created; opportunities to be created for minority and women owned businesses; and its intended principal place of business to be located within this Commonwealth within one year of issuance of its license;

(10) A statement setting forth whether the applicant has an existing place of business in the Commonwealth; the location of any such business; and the nature of any such business.

(11) a notarized statement, attesting that the applicant is qualified to be issued a comparable license in any jurisdiction in the United States that licenses gaming and gaming related activities. The statement shall be subject to review, investigation and verification by the Board. Inability to meet the qualifications for issuance of a comparable license in any jurisdiction in the United States shall disqualify the applicant from receiving a supplier license.

(12) a notarized statement, attesting that neither the applicant, nor its affiliate, intermediary, subsidiary or holding company holds any direct or indirect ownership interest in any licensed manufacturer or any slot machine license applicant or licensee, or employs, directly or indirectly, any officer, director, key employee, supervisory or principal employee of a licensed manufacturer or slot machine licensee, signed by the chief executive officer of the applicant.

Add to § 431.3(1)

Preference will be given to applicants for supplier licenses who can demonstrate that they either have established or will establish within 60 days after licensure, a bona fide place of business in the Commonwealth and is, or within such timeframe, will be capable of performing all functions required of a supplier licensee.

Add to § 431.3 by replacing current paragraph (5) and adding:

(5) A manufacturer may only sell, or otherwise provide, slot machines, progressive slot machines, parts or associated equipment to a licensed supplier and a licensed slot machine facility may only purchase, lease, contract for or agree to receive slot machines, progressive slot machines, parts or associated equipment from a licensed supplier.

(6) A licensed slot machine facility may not purchase, lease, contract for, agree to receive or in any way transfer into or out of the Commonwealth a slot machine or associated equipment to or from its affiliated company or companies except through a licensed supplier.

(7) A licensed manufacturer may not apply for and is ineligible to receive a supplier license.

(8) The Board will establish five distinct supplier regions within the Commonwealth taking into consideration relevant demographic and market information.

(9) No less than five and no more than 10 supplier licenses shall be issued within each region. In determining the number of supplier licenses to be issued within a region, the Board will consider the potential market area within the region, the level of supplier services projected to be required in the region and the impact of the number of supplier licenses to be issued on the financial viability of each supplier operation within the specified region.

(10) The Board shall cause to be published in the Pennsylvania Bulletin a description of each supplier region in the Commonwealth and the number of supplier licenses to be issued within each region.

(11) A licensed supplier may only sell, lease, offer or otherwise provide, distribute, market, maintain, repair or service slot machines, progressive slot machines, parts or associated equipment and perform slot machine related services within its designated region.

(12) Licensed slot machine facilities may only purchase, lease, contract for or agree to receive slot machines, progressive slot machines, parts or associated equipment and slot machine related services from a licensed supplier within its designated region.

(13) All agreements between a licensed manufacturer and a licensed supplier shall be subject to review and approval of the Board. The Board will not recognize nor approve any agreement between a manufacturer and a supplier entered into prior to Board approval of the manufacturer and supplier for licensure under the act and this subpart. Review of any agreement between a licensed manufacturer and a licensed supplier shall include, but not be limited to, all financing arrangements, inventory requirements, warehouse space requirements and technical training requirements. Such agreements:

(i) may or may not prohibit the licensed supplier from selling or leasing slot machines or slot machine replacement parts of other licensed manufacturers; Provided, however, that a licensed supplier may not be the exclusive supplier for more than one licensed manufacturer.

(ii) shall not extend beyond the term of the supplier license in effect on the date the agreement is entered into or one year, whichever is longer.

(14) All agreements between a licensed supplier and a licensed slot machine facility shall be subject to review and approval of the Board. This review shall include, but not be limited to, the proposed method of financing the purchase or lease of slot machines, progressive slot machines, parts or associated equipment and the method used to determine the compensation to be received by the licensed slot machine supplier.

(15) A licensed slot machine facility shall not dispose, sell or deliver of a slot machine or associated equipment to anyone other than a licensed supplier. A licensed slot machine facility shall not sell, deliver or dispose of a slot machine or associated equipment without the prior written approval of the Board. A slot machine facility licensee

shall not request approval to sell, deliver or dispose of a slot machine or associated equipment to a licensed supplier unless the devices have been marked for such activity. Applications for approval to sell, deliver or dispose of a slot machine or associated equipment must be made, processed and determined in such manner and using such forms as the Board may prescribe.

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