

# RULES AND REGULATIONS

## Title 49—PROFESSIONAL AND VOCATIONAL STANDARDS

STATE BOARD OF DENTISTRY  
[ 49 PA. CODE CH. 33 ]

### Corrective Amendment to 49 Pa. Code § 33.205(d)(2)(ii)

The State Board of Dentistry has discovered a discrepancy between the agency text of 49 Pa. Code § 33.205(d)(2)(ii) (relating to practice as a dental hygienist), as deposited with the Legislative Reference Bureau, and the official text published at 39 Pa.B. 6982, 6992 (December 12, 2009) and codified in the February, 2010 *Pennsylvania Code Reporter* (Master Transmittal Sheet No. 423), and as currently appearing in the *Pennsylvania Code*. The professional services in subsection (d)(2)(ii) should have referred to subsection (a)(2)—(6).

Therefore, under 45 Pa.C.S. § 901: The State Board of Dentistry has deposited with the Legislative Reference Bureau a corrective amendment to 49 Pa. Code § 33.205(d)(2)(ii). The corrective amendment to 49 Pa. Code § 33.205(d)(2)(ii) is effective December 12, 2009, the date the defective official text appeared in the *Pennsylvania Bulletin*.

The correct version of 49 Pa. Code § 33.205(d)(2)(ii) appears in Annex A, with ellipses referring to the existing text of the regulation.

#### Annex A

### TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

#### PART I. DEPARTMENT OF STATE

#### Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

#### CHAPTER 33. STATE BOARD OF DENTISTRY

#### Subchapter C. MINIMUM STANDARDS OF CONDUCT AND PRACTICE

#### § 33.205. Practice as a dental hygienist.

\* \* \* \* \*

##### (d) *Supervision.*

\* \* \* \* \*

(2) In subsection (c)(2) and (3) practice sites (public and private institutions and institutions under the jurisdiction of Federal, State or local health agencies), a dental hygienist shall provide professional services as follows:

\* \* \* \* \*

(ii) A dental hygienist may provide the professional services identified in subsection (a)(2)—(6) under the general supervision of a dentist. For the purposes of this paragraph, general supervision is defined as supervision by a dentist who authorizes and takes full professional responsibility for the provision of the services. A single authorization may, when appropriate, apply to one or more classes or categories of students/patients.

\* \* \* \* \*

[Pa.B. Doc. No. 10-360. Filed for public inspection February 26, 2010, 9:00 a.m.]

## Title 58—RECREATION

PENNSYLVANIA GAMING CONTROL BOARD  
[ 58 PA. CODE CHS. 435a, 461a,  
463a, 465a AND 501a ]

### Employees; Slot Machines; Accounting and Internal Controls; and Compulsive and Problem Gambling

The Pennsylvania Gaming Control Board (Board), under the general authority in 4 Pa.C.S. § 1202(b)(30) (relating to general and specific powers) and specific authority in 4 Pa.C.S. §§ 1207(3), (5) and (7), 1321 and 1322 (relating to regulatory authority of board; additional licenses and permits and approval of agreements; and slot machine accounting controls and audits), amends Chapters 435a, 461a, 463a, 465a and 501a to read as set forth in Annex A.

#### *Purpose of the Final-Form Rulemaking*

This final-form rulemaking contains a number of amendments that are designed to clarify various reporting requirements, add some additional flexibility and conform the Board's regulations to industry practice.

#### *Explanation of Amendments to Chapters 435a, 461a, 463a, 465a and 501a*

In § 435a.1 (relating to general provisions), subsection (i) has been amended by adding the phrase "of a slot machine licensee" after "employee" to clarify that the bar on wagering at a licensed facility does not apply to employees of vendors who work at the licensed facility if the employees are not required to obtain a gaming permit or nongaming registration.

Section 461a.4(m) (relating to submission for testing and approval) has been amended to require that the notification of any known or suspected defect or malfunction in any slot machine or associated equipment be made to the Bureau of Gaming Laboratory Operations and the casino compliance representatives at the licensed facility instead of to the "Board." Similarly, the Bureau of Gaming Laboratory Operations, not the Board, will provide the direction to the slot machine licensee regarding the continued operation of the slot machine or associated equipment.

A similar amendment has been made in § 461a.8(o) (relating to gaming vouchers) which will require that the notification of any malfunction in a gaming voucher system be provided to the Bureau of Gaming Laboratory Operations and the casino compliance representatives at the licensed facility within 24 hours of the malfunction instead of being provided to the Board.

Sections 461a.7(y), 461a.10(b) and 461a.22(b) (relating to slot machine minimum design standards; automated gaming voucher and coupon redemption machines; and automated jackpot payout machines) have been amended to allow the Bureau of Gaming Operations to approve alternate sizes for the signs that are required on the top and front of these machines. This will allow slot machine licensees some additional flexibility concerning the signs to accommodate the particular location or design of these machines.

In § 461a.25 (relating to disputes), the phrase "concerning the payment of alleged winnings" has been deleted to

broaden the application of this provision to any dispute between a patron and a slot machine licensee. This change recognizes the fact that the Board's casino compliance representatives work with patrons and the slot machine licensees to resolve a wide range of potential disputes.

Section 463a.5(a) (relating to slot machine master lists), has been amended to replace "Office" with "Bureau" to reflect the name change from the Office of Gaming Operations to the Bureau of Gaming Operations.

In § 465a.2 (relating to internal control systems and audit protocols), a new subsection (a)(9) has been added which requires slot machine licensees to include procedures to ensure that their employees comply with Chapter 435a (relating to employees) in their internal controls. This provision has been added to clarify that the slot machine licensees are expected to be proactive about having their employees comply with the various reporting requirements.

Section 465a.8(c) (relating to licensed facility) has been amended allow the Bureau of Gaming Operations to designate addition doors which must be alarmed instead of just the emergency exits from the gaming floor. Because the design of each licensed facility is unique, this is needed to ensure both patron safety and for security reasons.

In § 465a.9 (relating to surveillance system; surveillance department control; surveillance department restriction), subsection (c)(5)(iv) has been amended to require slot machine licensees to include photographs of individuals who are on the self-exclusion list in surveillance system's photo libraries. Most, if not all, of the slot machine licensees already do this so that their employees will be able to identify self-excluded individuals and prevent them from engaging in any gaming activities. Additionally, subsection (e)(7) has been amended to require that surveillance recordings be made of the entrances and exits to the main bank, vault and satellite cages in addition to the gaming floor, cashiers' cage and count room to monitor access to these sensitive areas.

Section 465a.15(c) (relating to cashiers' cage) has been revised to incorporate provisions for the use of computerized access systems for the double entry and exit system. As this technology has improved, more slot machine licensees are shifting away from keys and implementing electronic access systems.

In § 465a.16 (relating to accounting controls for the cashiers' cage), three changes have been made. First, the term "slot cashier" has been replaced with "cage cashier" in various subsections, since cage cashier is the more generally used term. Next, the issuance of gaming vouchers has been added as a function of cage cashiers. At some of the licensed facilities, patrons may request the cage cashier to issue a gaming voucher instead of cash as a matter of convenience. Lastly, the responsibility for the issuance, receipt and reconciliation of cash and gaming vouchers to and from automated bill breaker, automated gaming voucher and coupon redemption and automated jackpot payout machines, and preparation of related documentation has been moved from the list of responsibilities of cage cashiers to the list of responsibilities of main bank cashiers. This reflects current practice in the licensed facilities.

In § 465a.31 (relating to gaming day), the general language stating that the gaming day will be uniform and determined by the Board has been replaced with the actual time being used, which is 6 a.m. to 5:59.59 a.m.

Section 501a.5(a)(2) (relating to signage requirements) has been amended by replacing the requirement that the gambling problem toll free assistance message be posted within 50 feet of each ATM, cash dispensing or change machine in each facility with the requirement that the message be above or below the cash dispensing opening on all ATMs, automated gaming voucher and coupon redemption machines and any other machine that dispenses cash to patrons in the licensed facility. Having the information posted within 50 feet was not an effective way to provide this information to patrons.

#### *Comment and Response Summary*

Notice of proposed rulemaking was published at 39 Pa.B. 5018 (August 22, 2009).

The Board received comments from International Game Technology and Downs Racing, L.P. (Downs) during the public comment period. On October 21, 2009, the Independent Regulatory Review Commission (IRRC) also filed comments on the proposed rulemaking. All of these comments were reviewed by the Board and are discussed in detail in the following paragraphs.

Concerning the amendment to § 461a.7(y), IRRC stated that it is unclear how the approval of other sizes of the labels for slot machines would be obtained from the Bureau of Gaming Operations and asked if the slot machine licensee would have to seek a waiver under § 461a.24 (relating to waivers). IRRC had the same questions related to the amendments to §§ 461a.10(b) and 461a.22(b).

The placement of the labels on slot machines and other equipment is done as part of the opening process for a licensed facility or when a major reconfiguration of the licensed facility occurs. The Bureau of Gaming Operations will verify that the labels are positioned so that they can be read by the surveillance department. In some cases however, because of the particular placement or the design of a slot machine, it is not possible to use labels that meet the minimum size requirements specified in the regulations. In these situations, the Bureau of Gaming Operations will work with the slot machine licensee to use a smaller label as long as the label is clearly visible to the surveillance department. The slot machine licensee is not required to file a waiver request under § 461a.24 or any other paperwork; verbal approval is given by the Board personnel who are onsite working with the slot machine licensee. Because this informal process has worked well, the Board does not see a need to add additional procedural language to these sections.

In § 465a.2, IRRC and Downs questioned the need for and reasonableness of the new requirement in subsection (a)(9). Additionally, Downs stated that the new requirement in subsection (a)(9) represents a shifting of the Board's responsibility to oversee employee reporting to the slot machine licensee and will create additional paperwork.

Under Chapter 435a, employees have a continuing responsibility to report any event that might have an impact on their suitability to hold a permit or registration. This amendment does not alter that requirement or shift that responsibility to the slot machine licensees. However, slot machine licensees are expected to have procedures in place (that is, internal controls) to ensure that their employees are in compliance with all of the Board's regulations. For example, most slot machine licensees include materials relating to employee's responsibilities in their employee orientation and training pro-

grams, employee handbooks, and the like. Similarly, slot machine licensees are already required to inform the Board about inappropriate behavior by their employees. All this amendment does is require slot machine licensees to tell the Board what they are doing, as part of their internal controls, to ensure that their employees are complying with Chapter 435a.

In § 465a.8, IRRC stated that it is unclear how the designation of additional doors that will be required to be alarmed will occur.

As part of the opening process, personnel from the Bureau of Gaming Operations review all aspects of the licensed facility to ensure patron safety and the integrity of gaming operations. It is during this inspection process that the Bureau of Gaming Operations may identify additional doors that should be alarmed. The Bureau of Gaming Operations will then work directly with the slot machine licensee to make the necessary change prior to opening, or it will be included on the written deficiency list that is given to the slot machine licensee at the opening. The slot machine licensee will then have to cure the deficiency within a specified time period. Again, because issues are resolved as part of the opening process, the Board does not believe additional procedural requirements are needed in the regulation.

In § 465a.9, IRRC and Downs stated that subsection (c)(5)(iv) is not clear as to whether or not the photos of individuals who are on the self-exclusion list should be included in the same photo library as all current employees of the slot machine licensee, or if they should be in a separate photo library. Downs suggested that the photos of self-excluded individuals should be kept in a separate photo library from the current employee photo library. Additionally, Downs asked if the additional entrances listed in subsection (e)(7) must be covered by dedicated fixed cameras.

The staff agrees with Downs' suggestion that the photos of self-excluded individuals should be in a separate database and has amended the final-form regulation to reflect this change. This will make it easier for slot machine licensees' personnel to review or search for photos of self-excluded individuals.

Concerning the question of what type of camera should be used for surveillance of the main bank, vault and satellite cages, the Board's sole concern is that continuous coverage of these areas be provided. If the slot machine licensee can use one camera to cover two entrances or exits, that will be sufficient to meet the Board's continuous coverage requirement.

#### *Additional Revisions*

In § 465a.15, the Board has made additional revisions to subsection (c). More specifically, subsection (c)(2)(ii) has been amended to allow the security or surveillance departments to have control of the second door of a mantrap, so long as whoever controls the access to the first door does not control the access to the second door. This will give slot machine licensees some additional flexibility, while maintaining the required segregation of duties. Subsection (c)(3) has been revised to recognize the fact that more licensed facilities are using computerized access systems instead of keyed locks. Additionally, the existing and proposed language pertaining to computerized access systems has been deleted and replaced by new provisions in paragraph (4). This will consolidate the provisions related to computerized access systems and provide slot machine licensees some additional flexibility to tailor their systems to their unique physical layout.

#### *Affected Parties*

Slot machine licensees will be required to comply with the revised requirements contained in this rulemaking.

#### *Fiscal Impact*

##### *Commonwealth*

This final-form rulemaking will have no fiscal impact on the Board or other Commonwealth agencies.

##### *Political Subdivisions*

This final-form rulemaking will have no fiscal impact on political subdivisions of the Commonwealth.

##### *Private Sector*

Slot machine licensees may incur some slight costs to comply with the revised requirements. However, because most of these revisions simply clarify existing requirements or reflect current practices, the Board does not anticipate that slot machine licensees will experience any significant expense.

##### *General Public*

This final-form rulemaking will have no fiscal impact on the general public.

##### *Paperwork Requirements*

This final-form rulemaking will not create or eliminate any paperwork requirements for slot machine licensees or the Board.

##### *Effective Date*

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

##### *Contact Person*

The contact person for questions about this final-form rulemaking is Richard Sandusky, Director of Regulatory Review, (717) 214-8111.

##### *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on August 10, 2009, the Board submitted a copy of the proposed rulemaking, published at 39 Pa.B. 5018 (August 22, 2009) and a copy of the Regulatory Analysis Form to IRRC and to the House Gaming Oversight Committee and the Senate Community, Economic and Recreational Development Committee (Committees).

Under section 5(c) of the Regulatory Review Act, IRRC and the Committees were provided with copies of the comments received during the public comment period, as well as other documents when requested. In preparing the final-form rulemaking, the Board has considered all comments received from IRRC, the Committees and the public.

Under section 5.1(j.2) of the Regulatory Review Act (71 P. S. § 745.5a(j.2)), the final-form rulemaking was deemed approved by the Committees on January 20, 2010. Under section 5.1(e) of the Regulatory Review Act, IRRC met on January 21, 2010, and approved the final-form rulemaking.

##### *Findings*

The Board finds that:

(1) Public notice of intention to adopt these amendments was given under sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202) and the regulations thereunder, 1 Pa. Code §§ 7.1 and 7.2.

(2) The final-form rulemaking is necessary and appropriate for the administration and enforcement of 4 Pa.C.S. Part II (relating to gaming).

Order

The Board, acting under 4 Pa.C.S. Part II, orders that:

(a) The regulations of the Board, 58 Pa. Code Chapters 435a, 461a, 463a, 465a and 501a, are amended by amending §§ 435a.1, 461a.4, 461a.7, 461a.8, 461a.10, 461a.22, 461a.25, 463a.5, 465a.2, 465a.8, 465a.16, 465a.31 and 501a.5 to read as set forth at 39 Pa.B. 5018; and by amending §§ 465a.9 and 465a.15 to read as set forth in Annex A, with ellipses referring to the text of the existing regulation.

(b) The Chairperson of the Board shall certify this order, 39 Pa.B. 5018 and Annex A and deposit them with the Legislative Reference Bureau as required by law.

(c) This order shall take effect upon publication in the Pennsylvania Bulletin.

GREGORY C. FAJT,
Chairperson

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 40 Pa.B. 816 (February 6, 2010).)

Fiscal Note: Fiscal Note 125-103 remains valid for the final adoption of the subject regulations.

Annex A

Title 58. RECREATION

PART VII. GAMING CONTROL BOARD

Subpart E. SLOT MACHINES AND ASSOCIATED EQUIPMENT

CHAPTER 465a. ACCOUNTING AND INTERNAL CONTROLS

§ 465a.9. Surveillance system; surveillance department control; surveillance department restriction.

\* \* \* \* \*

(c) The surveillance system required in this section must include the following:

\* \* \* \* \*

(5) One or more monitoring rooms in the licensed facility which shall be staffed by employees of the slot machine licensee's surveillance department who shall at all times monitor the activities enumerated in paragraph (1). Each monitoring room shall be equipped with or serviced by:

\* \* \* \* \*

(iv) An updated photo library, consisting of photographs that are no more than 4 years old, of all current employees of the slot machine licensee and a separate

photo library that contains the photographs of individuals who are on the Board's self-exclusion list. These photo libraries shall be available to the Board and the State Police.

\* \* \* \* \*

(e) A slot machine licensee's surveillance system must continuously record, during the times and in the manner indicated in this subsection, transmissions from cameras used to observe the following locations, persons, activities or transactions:

\* \* \* \* \*

(7) The entrances and exits to the licensed facility, the gaming floor, the main bank, the vault, the cashiers' cage and any satellite cages and the count room.

\* \* \* \* \*

§ 465a.15. Cashiers' cage.

\* \* \* \* \*

(c) The cashiers' cage shall be designed and constructed to provide maximum security for the materials housed therein and the activities performed therein. Its design and construction must include:

\* \* \* \* \*

(2) A double door entry and exit system that will not permit a person to pass through the second door until the first door is securely locked. In addition, the following apply:

(i) The first door leading from the gaming floor of the double door entry and exit system must be controlled by the security department or the surveillance department.

(ii) The second door of the double door entry and exit system must be controlled by the cashiers' cage, security department or the surveillance department, provided that the first and second door may not be controlled by the same department.

\* \* \* \* \*

(3) If manual locks are used to secure each door of the double door entry and exit system, the keys to each door must be different from each other.

(4) A slot machine licensee may use a Board-approved computerized access system to meet the double door entry system requirements in paragraph (2) if:

(i) The computerized access system provides a functionally equivalent level of security.

(ii) The slot machine licensee includes provisions in the slot machine licensee's internal controls which will provide a functionally equivalent level of security when the computerized access system is not functioning.

\* \* \* \* \*

[Pa.B. Doc. No. 10-361. Filed for public inspection February 26, 2010, 9:00 a.m.]