

RULES AND REGULATIONS

Title 58—RECREATION

PENNSYLVANIA GAMING CONTROL BOARD

[58 PA. CODE CH. 401a, 423a, 427a,
433a, 435a, 436a AND 513a]

Employee and Horsemen's Organization Revisions

The Pennsylvania Gaming Control Board (Board), under the general authority in 4 Pa.C.S. § 1202(b)(14) and (30) (relating to general and specific powers) and the specific authority in 4 Pa.C.S. §§ 1308, 1311, 1311.1, 1311.2, 1317.2, 1321, 1406 and 1518(a)(13), amends Chapters 401a, 423a, 427a, 433a, 435a, 436a and 513a to read as set forth in Annex A.

Purpose of the Final-Form Rulemaking

To improve clarity and the effectiveness of the Board's regulations, this final-form rulemaking amends provisions regarding horsemen's organizations, wagering restrictions and other sections of the regulations.

Explanation of Amendments

Section 427a.3(a) (relating to manufacturer license term and renewal) is amended to specify that the initial license is valid for 1 year from the date of approval by the Board rather than issuance of the license. This amendment will accommodate instances in which a license is approved but not yet issued, such as when the licensee has not yet paid the licensing fee. The renewal date will start from the date of approval by the Board.

Section 433a.9(b) (relating to principal license term and renewal) is amended so only principals of manufacturers and suppliers, eligible for initial licensure, are required to complete an initial annual renewal. Unlike slot machine licensees, licensed manufacturers and suppliers are subject to an initial 1-year renewal. The manufacturer or supplier license, however, can only be renewed if the principals, including the affiliates, intermediaries, subsidiaries, holding companies, officers, directors and owners, also apply for renewal and are investigated. If, however, a person is applying for a principal license with a manufacturer or supplier that has already completed that initial 1-year renewal, the principal would not be subject to an initial annual renewal.

Amendments to § 435a.1 (relating to general provisions) clarify provisions governing which licensed, permitted or registered individuals are prohibited from engaging in gaming as well as the duration and scope of the limitation.

Subsection (k) has been amended to clarify that the prohibition on gaming applies to a holder of a license or permit who is currently employed by or affiliated with a slot machine licensee. The duration of the prohibition was moved into subsection (k) from subsection (n).

Subsection (l) was added restricting employees who are not otherwise required to obtain a permit or registration from wagering in the licensed facility where they work. They may wager at another licensed facility or at the same facility where they worked once their employment has ended.

Subsection (m) applies the wagering restrictions to employees of manufacturers, suppliers and gaming re-

lated gaming service providers who are at the licensed facility in performance of their job duties.

Language was added to § 435a.2 (relating to key employee license) prohibiting a key employee from performing any job functions of a key employee unless the employee has received a temporary or permanent credential. Additionally, the number of copies required to be submitted as part of an application for a key employee license has been reduced from three to one. Because of changes in the Bureau of Licensing's (Bureau) internal procedures, three copies are no longer needed.

Additionally, subsections (g)—(j) regarding waivers of the key employee licensing requirement have been deleted. These provisions were never used. Instead, the Bureau has relied on the definition of "key employee" to determine whether or not licensure is required.

In § 435a.3 (relating to occupation permit), the number of copies required to be submitted as part of an application for an occupation permit has been reduced from three to one. As previously stated, changes to the Bureau's internal procedures now only require one copy of the application. The scope of subsections (a), (e) and (f) has been expanded to cover both registered and certified gaming service providers and certified gaming related gaming service providers.

As was done in §§ 435a.2 and 435a.3, § 435.5 (relating to nongaming employee registration) has been amended to reduce the number of copies required for an application for a nongaming employee registration from three to one and the scope of these provisions has been expanded to cover both registered and certified gaming service providers. The term "licensed entity" was changed to "slot machine licensee" because other types of licensed entities, such as manufacturers and suppliers, do not have nongaming employees. Nongaming employees are specific to slot machine licensees and certified and registered gaming service providers.

In § 435a.7 (relating to emergency credentials), like employees of the slot machine licensee, employees of manufacturers, suppliers, gaming service providers, gaming related gaming service providers and gaming junket enterprises may now also be issued emergency credentials by Board staff.

Section 435a.8(a) (relating to temporary credentials for principals, key employees and gaming employees) was amended to permit the Board to issue temporary credentials to gaming employees as well as principals and key employees. Additionally, the language specifying when the Board may issue a temporary credential has been deleted as there are instances when the investigation has been done but the individual will not be issued a permit. Subsection (d) was added to allow Board staff to add conditions such as restricting the use of a temporary credential for a limited purpose or type of event.

The amendments to Chapter 436a (relating to horsemen's organizations) incorporate the requirements formerly in Chapter 436b, which has been rescinded. Additionally, § 436a.1 (relating to definitions) is amended for clarity and to reflect the terms used in the horsemen's organization regulations. The terms "director" and "officer" are combined in the final-form rulemaking into the definition of "representative." Representatives now include not only the president, vice president, secretary, and the like, but also a person who represents the

horsemen's organization in matters regarding the agreements with a licensed racing entity.

In § 436a.2 (relating to horsemen's organization notification), horsemen's organizations will no longer complete a registration application but will file the notification form with the Bureau. The organization will be required to file an updated notification form within 30 days of a change in information.

In § 436a.3 (relating to permitting of representatives and fiduciaries), amendments were made for clarity and the renewal term for permits was amended from 1 year to 3 years in conformity with amendments to 4 Pa.C.S. Part II (relating to gaming).

In § 436a.4 (relating to responsibilities of horsemen's organizations, representatives and fiduciaries), amendments were made for clarity and this section was reorganized so all reporting requirements are now in subsection (e). Additionally, the cross reference to the audit requirements in Article XVII-O of The Fiscal Code (72 P. S. § 1701-O) was also added to this section.

The reporting requirement in § 436a.5(6) (relating to fiduciaries) was moved to § 436a.4(e).

Section 513a.2 (relating to exclusion requirements) was amended so only those individuals over 21 years of age are permitted on the gaming floor unless the individual is over 18 years of age and authorized to be on the gaming floor for employment purposes. This amendment is consistent with amendments to 4 Pa.C.S. § 1518(a)(13) (relating to prohibited acts; penalties).

Comment and Response Summary

Notice of proposed rulemaking was published at 41 Pa.B 1903 (April 9, 2011). During the comment period, the Board received comments from the Pennsylvania Horsemen's Benevolent and Protective Association (PHBPA), a joint letter from the Pennsylvania Harness Horsemen's Association (PHHA) and the Meadows Standardbred Owner's Association (MSOA) as well as e-mails from eight members of the general public. On June 8, 2011, the Board received comments from the Independent Regulatory Review Commission (IRRC).

In § 423a.4 (relating to deficient and abandoned applications), IRRC asked how long the Bureau will hold an application before declaring it abandoned and whether the applicant will be notified. A specific time period cannot be designated in this subsection. Typically, the Bureau will declare an application abandoned after attempting, through multiple channels, to contact the individual or entity. The Bureau has closed applications in the past when repeated attempts to have applicants complete applications have been unsuccessful, such as when the company is no longer in business. An applicant is notified of the closure of the application through the Board order which is sent to the last known address. For clarity and to reflect this practice, the Board amended subsections (b)—(d).

The proposed rulemaking added a definition of "publicly traded" to § 433a.1 (relating to definitions). IRRC commented that the definition only addressed one of the three statutory definitions of "publicly traded" and inquired as to why and whether the definition of "publicly traded corporation" in § 401a.3 (relating to definitions) would be updated.

The definition of "publicly traded corporation" in § 401a.3 is amended to include classes of securities that are listed on a foreign exchange. There is an inconsistency between the definition of "controlling interest,"

which acknowledges both domestic and foreign corporations, and the definition of "publicly traded," which addresses only securities regulated under the Securities Exchange Act of 1934 (15 U.S.C.A. §§ 78a—78pp). This results in different treatment for foreign versus domestically held, publicly traded stock. For instance, if a person passively owns more than 1% but less than 5% of an entity that is required to be licensed, and that entity is publicly traded on a domestic exchange, that person would not be required to be licensed. However, if the person had the same interest in a security listed on a foreign exchange, that person would currently be required to be licensed as a principal. This presents practical problems because of the nature of publicly traded stock which is exchanged daily.

This amendment treats domestic and foreign stock exchanges equally, provided that the Bureau determines that the foreign exchange has similar listing and reporting requirements as those exchanges regulated under the Securities Exchange Act of 1934. The Bureau has reviewed and determined that exchanges in Canada, Australia and Japan have similar listing and reporting requirements as those regulated under the Securities Exchange Act of 1934.

The definition of "publicly traded" that was proposed to be added to § 433a.1 was deleted as unnecessary.

Proposed § 435a.1(k)—(n) addressed wagering restrictions and prohibited licensed, permitted or registered individuals from wagering at licensed facilities in this Commonwealth. Eight members of the general public, several of whom are currently permit holders in this Commonwealth, commented that the wagering restrictions were too broad and requested that the Board consider lifting the prohibition. IRRC asked the Board to explain the rationale for the prohibition.

Wagering restrictions protect the integrity of gaming and reduce the likelihood of dealer collusion and theft. After careful consideration, a review of the wagering restrictions in other gaming jurisdictions and based on the Board's experience to date, the Board believes that limiting the wagering restrictions to the licensed facilities in which the employee works strikes a fair and appropriate balance while still protecting the integrity of gaming. The Board therefore amended the wagering restrictions so employees of and those associated with (principals) a slot machine licensee can wager in licensed facilities except the licensed facilities in which they are currently employed or affiliated. Additionally, an employee shall wait for 30 days after the person is no longer in a position requiring a license, permit or registration before the person can wager in the licensed facility in which he was previously employed or associated.

The Board also amended the wagering restrictions with respect to manufacturers, suppliers, gaming related gaming service providers and gaming junket enterprises. Employees of manufacturers, suppliers and gaming related gaming service providers may not wager in the licensed facility in which they are installing table games, devices or slot machines while on duty. Employees and qualifiers of gaming junket enterprises are prohibited from wagering in the facility in which the gaming junket enterprise has an ongoing contractual agreement.

Gaming service provider employees and qualifiers (providers of nongaming related goods or services such as construction company employees and owners) may wager in licensed facilities in this Commonwealth.

Section 435a.8(d) specifies that Board staff may impose conditions on a temporary credential. IRRC commented

that the language is vague and does not establish a binding norm. IRRC suggested adding the conditions the Board would impose.

By statute, the Board has the discretion to condition a license, including a temporary license, which by definition is conditional. There are numerous instances in which the Board may issue a temporary credential, all of which have different criteria and conditions for their issuance. For instance: a temporary credential could be issued to dealers of a tournament, which is valid for only a specific event or duration of time; gaming service providers could be issued temporary credentials to complete specific work, which would be a condition of the license; temporary principal credentials expire but can be renewed. Because the conditions imposed vary depending on the type of temporary credential issued, the Board is not adding specific conditions to the temporary credential regulations.

Section 436a.1 contains the definitions used throughout Chapter 436a. PHHA suggested that the Board amend the definition of “representative.” As previously mentioned, the definition was amended to incorporate persons who are authorized to represent a horsemen’s organization. The language in subparagraph (ii) of the definition was taken directly from the definition of “horsemen’s organization representative” with no substantive revisions. The persons that the Board is intending to capture are persons who do not otherwise fall into subparagraph (i) of the definition but do have the authority to represent horsemen’s organizations.

Section 436a.2 was amended to require horsemen’s organizations to complete a notification form instead of a registration. IRRC and PHHA inquired as to what information would be required on the new notification form and recommended that the Board specify in the regulation what type of information would be required.

The Board has not included in the regulations for any other class of applicant all of the information an applicant is required to submit with his application. With respect to horsemen’s organizations, there were no substantive amendments to the application form, which requires submission of the same information as was previously required. The application form was simply renamed a notification instead of a registration because “registration” has specific licensing implications that were not intended for horsemen’s organizations. Additionally, the Board did delete the \$2,000 application fee every 4 years.

Proposed § 436a.4 required horsemen’s organizations to ensure that the funds allocated for thoroughbred jockeys and standardbred drivers are paid in accordance with 4 Pa.C.S. Part II. IRRC recommended that the final-form rulemaking be amended to include a specific citation to 4 Pa.C.S. Part II. The Board agreed and amended the final-form rulemaking accordingly.

Section 436a.6 (relating to health and pension benefit plans) previously required horsemen’s organizations to submit contracts for health and pension benefit plans at least 90 days prior to the expiration. PHHA/MSOA, PHBPA and IRRC commented that 90 days was an unreasonable time period and suggested a 30-day time period. The Board agreed and has amended the final-form rulemaking as requested.

Affected Parties

This final-form rulemaking will affect applicants for and holders of licenses, permits and registrations issued by the Board as well as horsemen’s organizations.

Fiscal Impact

Commonwealth. This final-form rulemaking will not have fiscal impact on the Board or other Commonwealth agencies.

Political subdivisions. This final-form rulemaking will not have direct fiscal impact on political subdivisions of this Commonwealth.

Private sector. Individuals applying for a license, permit or registration will not have to submit as many copies of the applications. The cost and time savings from this change is expected to be negligible. Additionally, horsemen’s organizations will no longer file a registration application but will file a notification form. The cost savings from this change is \$2,000 every 4 years since there is not an application fee associated with the notification form.

General public. This final-form rulemaking will not have fiscal impact on the general public.

Paperwork Requirements

Individuals applying for a license, permit or registration will have to provide only one copy, instead of three copies, of the applications. Horsemen’s organizations will complete a notification form and file the necessary statements. There will not be a reduction in the amount of paperwork for horsemen’s organizations.

Effective Date

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

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on March 30, 2011, the Board submitted a copy of the notice of proposed rulemaking, published at 41 Pa.B. 1903 (April 9, 2011), to IRRC and the Chairpersons of the House Gaming Oversight Committee and the Senate Community, Economic and Recreational Development Committee for review and comment.

Under section 5(c) of the Regulatory Review Act, IRRC and the House and Senate 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 Department has considered all comments from IRRC, the House and Senate Committees and the public.

Under section 5.1(j.2) of the Regulatory Review Act (71 P. S. § 745.5a(j.2)), on July 18, 2012, the final-form rulemaking was deemed approved by the House and Senate Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on July 19, 2012, 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.

Order

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

(a) The regulations of the Board, 58 Pa. Code Chapters 401a, 423a, 427a, 433a, 435a, 436a and 513a, are amended by amending §§ 401a.3, 423a.4, 427a.3, 433a.9, 435a.1, 435a.2, 435a.3, 435a.5, 435a.7, 435a.8, 436a.1, 436a.2, 436a.3, 436a.4, 436a.5, 436a.6 and 513a.2 to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

(Editor's Note: Sections 401a.3, 427a.3 and 435a.7 were not included in the proposed rulemaking published at 41 Pa.B. 1903.)

(Editor's Note: Section 433a.1 included in the proposed rulemaking published at 41 Pa.B. 1903 has not been adopted.)

(b) The Chairperson of the Board shall certify this order 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.

WILLIAM H. RYAN, Jr.,
Chairperson

(Editor's Note: See 42 Pa.B. 5875 (September 15, 2012) for a statement of policy by the Board relating to this final-form rulemaking.)

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 42 Pa.B. 4992 (August 4, 2012).)

Fiscal Note: Fiscal Note 125-144 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 58. RECREATION

PART VII. GAMING CONTROL BOARD

Subpart A. GENERAL PROVISIONS

CHAPTER 401a. PRELIMINARY PROVISIONS

§ 401a.3. Definitions.

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

* * * * *

Publicly traded corporation—A person other than an individual which:

(i) Has a class or series of securities registered under the Securities Exchange Act of 1934 (15 U.S.C.A. §§ 78a—78pp) or on a foreign stock exchange determined by the Bureau of Licensing to have similar listing and reporting requirements to exchanges that are regulated under the Securities Exchange Act of 1934.

(ii) Is a registered management company under the Investment Company Act of 1940.

(iii) Is subject to the reporting obligations imposed by section 15(d) of the Securities Exchange Act of 1934 (15 U.S.C.A. § 78o(d)) by reason of having filed a registration statement which has become effective under the Securities Act of 1933 (15 U.S.C.A. §§ 77a—77aa).

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Subpart B. LICENSING, PERMITTING, CERTIFICATION AND REGISTRATION

CHAPTER 423a. APPLICATIONS

§ 423a.4. Deficient and abandoned applications.

(a) If an application is found to be deficient, Board staff will notify the applicant of the deficiencies in the application and permit the applicant to cure the deficiencies within a time period prescribed by Board staff.

(b) Failure to provide the information necessary to cure the deficiencies required under subsection (a) may result in the denial of the application or in the application being declared abandoned. The Bureau of Licensing may close and declare abandoned an incomplete or deficient application which is not recommended for denial.

(c) An applicant whose application is denied will be subject to the restrictions on filing a new application in § 423a.7 (relating to restriction on application after denial or revocation). An applicant whose application has been declared abandoned may file a new application at any time.

(d) When an application is denied or declared abandoned under subsection (b), the applicant will be given written notice of this action.

CHAPTER 427a. MANUFACTURERS

§ 427a.3. Manufacturer license term and renewal.

(a) The initial manufacturer license will be valid for 1 year from the date of approval of the license by the Board. Renewals of a manufacturer license will be valid for 3 years from the date of the approval of the renewal of the license by the Board.

(b) A Manufacturer License Renewal Application Form and renewal fee shall be filed at least 2 months prior to the expiration of the current license.

(c) A manufacturer license for which a completed renewal application and fee has been received by the Board will continue in effect for an additional 6 month period or until acted upon by the Board, whichever occurs first.

CHAPTER 433a. PRINCIPAL LICENSES

§ 433a.9. Principal license term and renewal.

(a) A principal license or renewal will be valid for 3 years from the date on which the license or renewal is approved by the Board.

(b) Notwithstanding subsection (a), a principal of a manufacturer or supplier which is eligible for its initial license shall be subject to an initial annual renewal for each slot machine or table game license held by the manufacturer or supplier. Principal renewals thereafter will be valid for 3 years from the date of the approval of the renewal of the license by the Board.

(c) A renewal application and renewal fee shall be filed at least 2 months prior to the expiration of the current license.

(d) A principal license for which a completed renewal application and fee has been received by the Board will continue in effect until the Board sends written notification to the holder of the principal license that the Board has approved or denied the license.

CHAPTER 435a. EMPLOYEES

§ 435a.1. General provisions.

(a) An individual seeking a key employee license, occupation permit or nongaming employee registration shall apply to the Board as required by this chapter.

(b) In addition to the materials required under §§ 435a.2, 435a.3 and 435a.5 (relating to key employee license; occupation permit; and nongaming employee registration), an applicant shall:

(1) Promptly provide information requested by the Board relating to its application or regulation and cooperate with the Board in investigations, hearings, and enforcement and disciplinary actions.

(2) Comply with the general application requirements in Chapters 421a and 423a (relating to general provisions; and applications).

(c) An individual who receives a license, permit or registration under this part shall have the continuing duty to report to the Board an arrest, charge, indictment or conviction for:

(1) An offense involving moral turpitude.

(2) An offense under 18 Pa.C.S. (relating to crimes and offenses).

(3) An offense under 75 Pa.C.S. (relating to vehicles) which is punishable by 1 year or more.

(4) An offense under section 13 of The Controlled Substance, Drug, Device and Cosmetic Act (35 P. S. § 780-113(a)) regarding prohibited acts; penalties.

(5) Any felony offense.

(6) Comparable offenses in other states or foreign jurisdictions.

(d) The holder of a key employee license, occupation permit, or nongaming employee registration shall provide an updated photograph at the request of the Board.

(e) An individual may not be employed in this Commonwealth by an applicant for or holder of a license, certification or registration under this part 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.

(f) A principal or key employee license will not be issued to an individual who has been convicted of a felony offense in any jurisdiction.

(g) A principal or key employee license will not be issued to an individual who has been convicted of a misdemeanor gambling offense in any jurisdiction, unless 15 years have elapsed from the date of conviction for the offense.

(h) A permit will not be issued to an individual who has been convicted of a felony offense or misdemeanor gambling offense in any jurisdiction unless 15 years have elapsed from the date of conviction for the offense.

(i) When considering an application for a registration from an individual who has been convicted of a felony or misdemeanor gaming offense in any jurisdiction, an application for a permit from an individual who has been convicted of a felony or misdemeanor gaming offense in any jurisdiction when 15 years have elapsed from the date of the conviction for the offense, or an application for a license from an individual who has been convicted of a

misdemeanor gaming offense in any jurisdiction when 15 years have elapsed from the date of the conviction for the offense, Board will consider:

(1) The nature and duties of the applicant's position with the licensed entity.

(2) The nature and seriousness of the offense or conduct.

(3) The circumstances under which the offense or conduct occurred.

(4) The age of the applicant when the offense or conduct was committed.

(5) Whether the offense or conduct was an isolated or a repeated incident.

(6) Evidence of rehabilitation, including good conduct in the community, counseling or psychiatric treatment received and the recommendation of persons who have substantial contact with the applicant.

(j) For purposes of this section, a felony offense is any of the following:

(1) An offense punishable under the laws of this Commonwealth by imprisonment for more than 5 years.

(2) An offense which, under the laws of another jurisdiction, is either:

(i) Classified as a felony.

(ii) Punishable by imprisonment for more than 5 years.

(3) An offense under the laws of another jurisdiction which, if committed in this Commonwealth, would be subject to imprisonment for more than 5 years.

(k) An individual who holds a license, permit or registration and is currently employed by or associated with a slot machine licensee may not wager at any slot machine or table game in the licensed facility in which the licensee, permittee or registrant is currently employed or associated. The licensed, permitted or registered individual shall wait at least 30 days following the date that the individual is no longer employed in a position that requires a license, permit or registration before the individual may wager at the licensed facility.

(l) An employee of a slot machine licensee who is not required to obtain a license, permit or registration may not wager at the licensed facility in which the employee is currently employed.

(m) An individual who holds a license, permit or registration and is currently employed by a manufacturer, manufacturer designee, supplier or gaming related gaming service provider may not wager at any slot machine or table game in the licensed facility in which the individual is servicing or installing table games, table game devices, slot machines or associated equipment while the individual is at the licensed facility in the performance of the individual's job duties.

(n) An individual who is a qualifier of a gaming junket enterprise or an individual who is employed as a gaming junket representative may not wager at any slot machine or table game at the licensed facility at which the gaming junket enterprise has an ongoing contractual agreement.

(o) An individual required to obtain a license or permit by this part shall demonstrate that he is current and not in arrears on any financial obligation owed to the Commonwealth or any subdivision thereof, including court-ordered child-support payments.

(p) An applicant for an occupation permit or nongaming employee registration shall be at least 18 years of age.

(q) Slot machine licensees, manufacturers, manufacturer designees, suppliers, gaming service providers and gaming related gaming service providers that hire an individual who holds a license, permit or registration issued by the Board shall contact the Bureau of Licensing to confirm that the individual's license, permit or registration is in good standing prior to allowing the individual to work in the licensed facility.

§ 435a.2. Key employee license.

(a) An individual may not perform duties associated with a position that requires a key employee license prior to receiving a temporary or permanent credential unless otherwise authorized by the Board. An applicant for a key employee license shall submit:

(1) An original and one copy of a completed Multi-Jurisdictional Personal History Disclosure Form.

(2) An original and one copy of a completed Principal/Key Employee Form—Pennsylvania Supplement to the Multi-Jurisdictional Personal History Disclosure Form.

(3) Executed releases requested by the Board, including releases whereby the applicant consents to the release of information requested under section 1 of the Freedom of Information Act (5 U.S.C.A. § 552).

(4) The nonrefundable application fee posted on the Board's web site (www.pgcb.pa.gov).

(b) In addition to the materials required under subsection (a), an applicant for a key employee license shall:

(1) Promptly provide information requested by the Board relating to an application and cooperate with the Board in investigations, hearings, and enforcement and disciplinary actions.

(2) Comply with the general application requirements in Chapters 421a and 423a (relating to general provisions; and applications).

(c) In addition to the information under subsections (a) and (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) An applicant for a key employee license will be required to reimburse the Board for additional costs, based on the actual expenses incurred by the Board, in conducting the background investigation.

(e) After reviewing the information submitted under subsections (a), (b) and (c), and the results of the applicant's background investigation, the Board may issue a key employee license if the individual has proven that he is a person of good character, honesty and integrity and is eligible and suitable to be licensed as a key employee.

(f) A license issued under this section will be valid for employment with any licensed entity.

§ 435a.3. Occupation permit.

(a) An applicant for an occupation permit shall submit:

(1) An original and one copy of the Gaming Employee Application and Disclosure Information Form or an electronic application using the SLOTS Link system. When an application for an occupational permit is filed using SLOTS Link, the additional documents required, including releases, shall be submitted to the Board:

(i) Within 5 days of the submission of the SLOTS Link application by an applicant for or holder of a slot machine license.

(ii) Within 10 days of the submission of the SLOTS Link application by an applicant for or holder of a manufacturer, manufacturer designee, or supplier license or a gaming related gaming service provider certification or gaming service provider registration or certification.

(2) The nonrefundable application fee posted on the Board's web site (www.pgcb.pa.gov).

(3) Verification of an offer of employment from a licensed entity.

(b) In addition to the materials required under subsection (a), an applicant for an occupation permit shall:

(1) Promptly provide information requested by the Board relating to his application and cooperate with the Board in investigations, hearings, and enforcement and disciplinary actions.

(2) Comply with the general application requirements in Chapters 421a and 423a (relating to general provisions; and applications).

(c) An applicant for an occupation permit may be required to reimburse the Board for additional costs, based on the actual expenses incurred by the Board, in conducting the background investigation.

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

(e) An individual who wishes to receive an occupation permit under this chapter may authorize an applicant for or holder of a slot machine, management company, manufacturer, manufacturer designee or supplier license or gaming related gaming service provider certification or gaming service provider registration or certification to file an application on the individual's behalf.

(f) A permit issued under this section shall be valid for employment with any licensed entity, any certified gaming related gaming service provider or any registered or certified gaming service provider.

§ 435a.5. Nongaming employee registration.

(a) An applicant for a nongaming employee registration shall submit:

(1) An original and one copy of the Nongaming Employee Registration Form or an electronic application using the SLOTS Link system. When an application for a nongaming employee registration is filed using SLOTS Link, the additional documents required, including releases, shall be submitted to the Board:

(i) Within 5 days of the submission of the SLOTS Link application by an applicant for or holder of a slot machine license.

(ii) Within 10 days of the submission of the SLOTS Link application by an applicant for or holder of a manufacturer, manufacturer designee, or supplier license or an applicant for or holder of a gaming service provider registration or certification.

(2) The nonrefundable application fee posted on the Board's web site (www.pgcb.pa.gov).

(b) In addition to the materials required under subsection (a), an applicant for a nongaming employee registration shall:

(1) Promptly provide information requested by the Board relating to his application and cooperate with the Board in investigations, hearings, and enforcement and disciplinary actions.

(2) Comply with the general application requirements in Chapters 421a and 423a (relating to general provisions; and applications).

(c) After review of the information required under subsections (a) and (b), the Board may register the individual if the individual has proven that he is eligible and suitable to be registered under this section.

(d) An individual who wishes to receive a nongaming employee registration under this chapter may authorize an applicant for or holder of a slot machine license or a gaming service provider registration or certification to file an application on the individual's behalf.

(e) A registration issued under this section is valid for employment with any slot machine licensee or registered or certified gaming service provider.

§ 435a.7. Emergency credentials.

(a) A principal, key employee, gaming employee or nongaming employee of the slot machine licensee, manufacturer, manufacturer designee, supplier, gaming service provider, gaming related gaming service provider or gaming junket enterprise who does not have the credential issued to him on his person, or whose credential has been stolen, lost or destroyed, may obtain an emergency credential from the Board staff to enable the employee to perform the employee's duties at the licensed facility.

(b) An employee seeking an emergency credential shall present himself to a casino compliance representative at the Board office at the licensed facility. Prior to issuing the emergency credential, the casino compliance representative will verify:

(1) The identity of the individual requesting the emergency credential.

(2) That the employee holds a valid license, permit or registration.

(3) That fewer than 12 emergency credentials have been issued to the employee in the past 12 months.

(c) The following provisions apply to emergency credentials:

(1) They will be valid for a time period not to exceed 72 hours.

(2) They shall be returned to the Board office at the licensed facility.

§ 435a.8. Temporary credentials for principals, key employees and gaming employees.

(a) A temporary credential may be issued by the Board to a principal, key employee or gaming employee.

(b) A temporary credential issued under this section is void a maximum of 180 days after the date of its issuance.

(c) The Board may extend the expiration date of a temporary credential if the Board determines additional time is needed to complete an investigation for licensure.

(d) Board staff may impose conditions on the holders of temporary credentials.

CHAPTER 436a. HORSEMEN'S ORGANIZATIONS

§ 436a.1. Definitions.

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

Fiduciary—A person who is entrusted by a horsemen's organization or its members to hold or manage funds received for horsemen under section 1406 of the act (relating to distributions from Pennsylvania Race Horse Development Fund) or who exercises control or discretionary authority over selection or management of a health or pension benefit plan, disposition of its assets or distribution of its funds.

Health benefits—A plan, fund or program which is maintained by a horsemen's organization and provides healthcare benefits to horsemen, their families and employees and others designated by the rules and eligibility requirements of the organization consistent with the act.

Horsemen—A thoroughbred or standardbred horse owner or trainer who enters and runs a horse at a licensed racing entity in the current or prior calendar year and meets the membership requirements of a horsemen's organization to participate in the receipt of benefits there from.

Horsemen's organization—A trade association which represents the majority of horsemen at a licensed racetrack and which exists for the purpose, in whole or in part, of negotiating a horsemen's contract and resolving grievances, disputes or other matters with management of a licensed racing entity.

Pension benefits—Any plan, fund or program which is maintained by a horsemen's organization and provides retirement income to horsemen, their families and employees and any others designated by the rules and eligibility requirements of the organization consistent with the act.

Representative—

(i) A president, vice president, secretary, treasurer, director, governing body member or any individual routinely performing corresponding functions authorized to act on behalf of the horsemen's organization.

(ii) An individual, not otherwise specified in subparagraph (i), who is authorized to act on behalf of a horsemen's organization or members thereof in matters regarding horsemen's agreements with a licensed racing entity or who promotes, facilitates or otherwise influences the relations between a horsemen's organization and a licensed racing entity.

§ 436a.2. Horsemen's organization notification.

(a) A horsemen's organization or affiliate representing horsemen shall file a completed Horsemen's Organization Notification Form and supporting documentation with the Bureau of Licensing within 90 days of selection as a horsemen's organization or affiliate representing horsemen.

(b) A horsemen's organization or affiliate representing horsemen shall file an updated version of the Horsemen's Organization Notification Form and supporting documentation with the Bureau of Licensing within 30 days of a change in the information contained therein.

(c) Horsemen's organization notifications will be valid for 4 years from the date on which the notification is filed with the Bureau of Licensing.

(d) Renewals shall be filed no later than 60 days prior to the expiration of the current notification period.

§ 436a.3. Permitting of representatives and fiduciaries.

(a) Every representative or fiduciary shall be permitted in accordance with this section.

(b) Every representative or fiduciary shall file a completed Horsemen's Permit Application Form with the permit fee posted on the Board's web site (www.pgcb.pa.gov).

(c) Applicants and permittees under this section shall be subject to the general application requirements of Chapters 421a and 423a (relating to general provisions; and applications).

(d) Permits issued under this section will be valid for 3 years from the date on which the permit is approved by the Board.

(e) Renewals will be valid for 3 years and shall be filed at least 60 days prior to the expiration of the current permit.

(f) A permit for which a completed renewal application and fee has been received by the Board will continue in effect until the Board sends written notification to the permittee that the Board has approved or denied the renewal of the permit.

(g) If a representative or fiduciary is denied a permit required by this section, that representative or fiduciary shall be precluded from engaging in any activity involving gaming funds allocated to, received by or distributed from the horsemen's organization.

(h) A person who is a third-party provider of a health or pension benefit plan to a horsemen's organization shall be exempt from the requirements of this section.

§ 436a.4. Responsibilities of horsemen's organizations, representatives and fiduciaries.

(a) Horsemen's organizations, representatives and fiduciaries shall ensure that the funds allocated to the horsemen and horsemen's organizations are used for the benefit of all horsemen of this Commonwealth.

(b) Funds allocated to horsemen's organizations for benevolent programs must be kept separate and apart from funds acquired from other sources and may not be used for the personal benefit of any representative or fiduciary of a horsemen's organization except to the extent that the representative or fiduciary is a participant in the benevolent programs on the same basis as other eligible program participants.

(c) Horsemen's organizations shall ensure that the funds allocated for thoroughbred jockeys and standardbred drivers are paid in accordance with section 1406(a) of the act (relating to distributions from Pennsylvania Race Horse Development Fund) and that the distribution of these proceeds is reflected in the annual audit required under section 1406(e) of the act and Article XVII-O of The Fiscal Code (72 P. S. § 1701-O).

(d) Horsemen's organizations shall maintain adequate records of receipts and distributions of the funds allocated to them under the act.

(e) Horsemen's organizations shall file with the Board:

(1) A quarterly report, due by the 20th day of the month following the end of each calendar quarter, which shall account for:

(i) The amounts received from the Pennsylvania Race Horse Development Fund through the Category 1 licensee conducting live racing into the account established by and for the benefit of the horsemen under section 1406(a) of the act.

(ii) The amounts distributed for purse supplements from the account established by and for the benefit of the horsemen under section 1406(a) of the act.

(iii) The amounts received for health and pension benefits under section 1406(a) of the act.

(2) Two copies of the audited financial statements of the horsemen's organization and its affiliates, which comply with the requirements of section 1406(e) of the act and Article XVII-O of The Fiscal Code. Audited financial statements shall be filed within 90 days after the end of the organization's fiscal year and reflect funds received from the Pennsylvania Race Horse Development Fund which are used or intended to be used for purse supplements and health and pension benefits under section 1406(a) of the act. These filings will be available for public inspection during the normal operating hours of the Board at its Harrisburg office.

§ 436a.5. Fiduciaries.

Fiduciaries shall:

(1) Ensure that the funds received for the benefit of the horsemen are distributed pursuant to the act.

(2) Manage all health and pension benefit plans for the exclusive benefit of participants and beneficiaries.

(3) Carry out their duties in a prudent manner and refrain from conflict-of-interest transactions.

(4) Comply with limitations on certain plans' investments in particular securities and properties.

(5) Fund benefits in accordance with applicable law and plan rules.

(6) Provide documents to the Board as may be requested in the conduct of investigations or to ensure compliance with the act and this chapter.

§ 436a.6. Health and pension benefit plans.

(a) Contracts for health and pension benefit plans established for the benefit of members of a horsemen's organization shall be submitted to the Board at least 30 days prior to the proposed effective date of the contract. Contracts are not effective until approved by the Board.

(b) Administrative and overhead costs incurred by the horsemen's organization for the administration of health and pension benefit plans must be reasonable. Administrative costs that do not exceed 15% of the statutory allocation are considered reasonable.

Subpart J. EXCLUSION OF PERSONS

CHAPTER 513a. UNDERAGE GAMING

§ 513a.2. Exclusion requirements.

(a) An individual under 21 years of age may not enter or be on the gaming floor of a licensed facility except that an individual 18 years of age or older who is employed by a slot machine licensee, a gaming service provider, the Board or other regulatory or emergency response agency may enter and remain in that area while engaged in the performance of the individual's employment duties.

(b) An individual under 21 years of age, whether personally or through an agent, may not operate, use, play or place a wager on, a slot machine in a licensed facility.

(c) An individual under 21 years of age may not receive check cashing privileges, be rated as a player, or receive any complimentary service, item or discount as a result of, or in anticipation of, gaming activity.

(d) An individual under 21 years of age may not collect in any manner or in any proceeding, whether personally or through an agent, winnings or recover losses arising as a result of any gaming activity.

(e) Winnings incurred by an individual under 21 years of age shall be remitted to the Board to support compulsive and problem gambling programs of the Board.

(f) For the purposes of this section, winnings issued to, found on or about or redeemed by an individual under 21 years of age shall be presumed to constitute winnings and be subject to remittance to the Board.

[Pa.B. Doc. No. 12-1793. Filed for public inspection September 14, 2012, 9:00 a.m.]

PENNSYLVANIA GAMING CONTROL BOARD
[58 PA. CODE CH. 579]
Five Card Hi-Lo; Temporary Regulations

The Pennsylvania Gaming Control Board (Board), under its general authority in 4 Pa.C.S. § 13A03(b) (relating to temporary table game regulations) and the specific authority in 4 Pa.C.S. § 13A02(1) and (2) (relating to regulatory authority), adds Chapter 579 (relating to Five Card Hi-Lo) to read as set forth in Annex A.

Purpose of the Temporary Rulemaking

This temporary rulemaking adds Five Card Hi-Lo to the complement of games that are authorized for play in this Commonwealth.

Explanation of Chapter 579

Section 579.1 (relating to definitions) contains the definitions for terms used in Five Card Hi-Lo. Section 579.2 (relating to Five Card Hi-Lo table; physical characteristics) contains the requirements pertaining to the table and other equipment used in the play of the game.

Section 579.3 (relating to cards; number of decks) addresses the number of decks that are used in Five Card Hi-Lo and the frequency with which the decks are to be changed. Sections 579.4 and 579.5 (relating to opening of the table for gaming; and shuffle and cut of the cards) set forth the procedures for the inspection, shuffling and cutting of the cards before they are dealt.

Sections 579.6 and 579.7 (relating to Five Card Hi-Lo rankings; and wagers) set forth the rank of the cards for the purpose of determining a winning hand and specify which wagers are authorized for use at the game and when those wagers are to be placed.

Sections 579.8, 579.9 and 579.10 (relating to procedures for dealing the cards from a manual dealing shoe; procedures for dealing the cards from the hand; and procedures for dealing the cards from an automated dealing shoe) specify the procedures for the dealing of the cards to each patron and the dealer. Section 579.11 (relating to procedures for completion of each round of play) addresses how the dealer is to evaluate if a patron's hand is a winning hand. This section also addresses the procedures for collecting cards, collecting losing wagers and paying out winning wagers.

Section 579.12 (relating to payout odds) addresses the payout odds for all permissible wagers and § 579.13 (relating to irregularities) specifies how irregularities in the play of the game are to be handled.

Affected Parties

This temporary rulemaking allows certificate holders additional options on how to conduct table games at their licensed facilities.

Fiscal Impact

Commonwealth. The Board does not expect that this temporary rulemaking will have fiscal impact on the Board or other Commonwealth agencies. Internal control procedures submitted by certificate holders regarding table games rules submissions will be reviewed by existing Board staff.

Political subdivisions. This temporary rulemaking will not have direct fiscal impact on political subdivisions of this Commonwealth. Eventually, host municipalities and counties will benefit from the local share funding that is mandated by the act of January 7, 2010 (P. L. 1, No. 1).

Private sector. This temporary rulemaking will give certificate holders some additional flexibility as to how they conduct table games. It is anticipated that this temporary rulemaking will have an impact only on certificate holders, which are not small businesses.

General public. This temporary rulemaking will not have direct fiscal impact on the general public.

Paperwork Requirements

If a certificate holder elects to offer new games for play at the licensed facility, the certificate holder will be required to submit an updated Rules Submission reflecting the changes.

Effective Date

This temporary rulemaking will become effective upon publication in the *Pennsylvania Bulletin*.

Public Comments

While this temporary rulemaking will be effective upon publication, the Board is seeking comments from the public and affected parties as to how these temporary regulations might be improved. Interested persons are invited to submit written comments, suggestions or objections regarding this temporary rulemaking within 30 days after the date of publication in the *Pennsylvania Bulletin* to Susan A. Yocum, Assistant Chief Counsel, Pennsylvania Gaming Control Board, P. O. Box 69060, Harrisburg, PA 17106-9060, Attention: Public Comment on Regulation # 125-164.

Contact Person

The contact person for questions about this temporary rulemaking is Susan A. Yocum, Assistant Chief Counsel, (717) 346-8300.

Regulatory Review

Under 4 Pa.C.S. § 13A03(b), the Board's authority to adopt temporary regulations governing the rules of new table games does not expire. Additionally, temporary regulations adopted by the Board are not subject to sections 201—205 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201—1208), known as the Commonwealth Documents Law (CDL), the Regulatory Review Act (71 P. S. §§ 745.1—745.12) and sections 204(b) and 301(10) of the Commonwealth Attorneys Act (71 P. S.

§§ 732-204(b) and 732-301(10)). These temporary regulations expire 2 years after publication in the *Pennsylvania Bulletin*.

Findings

The Board finds that:

(1) Under 4 Pa.C.S. § 13A03(b), the temporary regulations are exempt from the Regulatory Review Act, sections 201—205 of the CDL and sections 204(b) and 301(10) of the Commonwealth Attorneys Act.

(2) The adoption of the temporary regulations 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:

(1) The regulations of the Board, 58 Pa. Code, are amended by adding §§ 579.1—579.13 to read as set forth in Annex A.

(2) The temporary regulations are effective September 15, 2012.

(3) The temporary regulations will be posted on the Board's web site and published in the *Pennsylvania Bulletin*.

(4) The temporary regulations are subject to amendment as deemed necessary by the Board.

(5) The Chairperson of the Board shall certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.

WILLIAM H. RYAN, Jr.,
Chairperson

Fiscal Note: 125-164. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART VII. GAMING CONTROL BOARD

Subpart K. TABLE GAMES

CHAPTER 579. FIVE CARD HI-LO

Sec.	
579.1.	Definitions.
579.2.	Five Card Hi-Lo table; physical characteristics.
579.3.	Cards; number of decks.
579.4.	Opening of the table for gaming.
579.5.	Shuffle and cut of the cards.
579.6.	Five Card Hi-Lo rankings.
579.7.	Wagers.
579.8.	Procedures for dealing the cards from a manual dealing shoe.
579.9.	Procedures for dealing the cards from the hand.
579.10.	Procedures for dealing the cards from an automated dealing shoe.
579.11.	Procedures for completion of each round of play.
579.12.	Payout odds.
579.13.	Irregularities.

§ 579.1. Definitions.

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

High hand—The three-card hand that is formed from the five cards dealt so as to have a point value higher than the two-card low hand.

Low hand—The two-card hand that is formed from the five cards dealt so as to have a point value lower than the three-card high hand.

Setting the hands—The process of forming a high hand and low hand from the five cards dealt.

§ 579.2. Five Card Hi-Lo table; physical characteristics.

(a) Five Card Hi-Lo shall be played at a table having betting positions for no more than six players on one side of the table and a place for the dealer on the opposite side of the table.

(b) The layout for a Five Card Hi-Lo table shall be submitted to the Bureau of Gaming Operations and approved in accordance with § 601a.10(a) (relating to approval of table game layouts, signage and equipment) and contain, at a minimum:

(1) The name or logo of the certificate holder.

(2) A separate betting area designated for the placement of the Ante Wager for each player.

(3) A separate betting area designated for the placement of the Play Wager for each player.

(4) Two separate areas designated for the placement of the high and low hands of each player.

(5) If the certificate holder offers the optional Tie Wager authorized under § 579.7(e)(1) (relating to wagers), a separate area designated for the placement of the Tie Wager for each player.

(6) If the certificate holder offers the optional Poker Bonus Wager authorized under § 579.7(e)(2), a separate area designated for the placement of the Poker Bonus Wager for each player.

(7) Inscriptions that advise patrons of the payout odds or amounts for all permissible wagers offered by the certificate holder. If the payout odds or amounts are not inscribed on the layout, a sign identifying the payout odds or amounts for all permissible wagers shall be posted at each Five Card Hi-Lo table.

(c) Each Five Card Hi-Lo table must have a drop box and a tip box attached on the same side of the gaming table as, but on opposite sides of, the dealer, as approved by the Bureau of Casino Compliance in accordance with § 601a.10(g). The Bureau of Casino Compliance may approve an alternative location for the tip box when a card shuffling device or other table game equipment prevents the placement of the drop box and tip box on the same side of the gaming table as, but on opposite sides of, the dealer.

(d) Each Five Card Hi-Lo table must have a discard rack securely attached to the top of the dealer's side of the table.

§ 579.3. Cards; number of decks.

(a) Except as provided in subsection (b), Five Card Hi-Lo shall be played with one deck of cards that are identical in appearance and one cover card.

(b) If an automated card shuffling device is utilized, Five Card Hi-Lo may be played with two decks of cards in accordance with the following requirements:

(1) The cards in each deck must be of the same design. The backs of the cards in one deck must be of a different color than the cards in the other deck.

(2) One deck of cards shall be shuffled and stored in the automated card shuffling device while the other deck is being used to play the game.

(3) Both decks of cards shall be continuously alternated in and out of play, with each deck being used for every other round of play.

(4) The cards from only one deck shall be placed in the discard rack at any given time.

(c) The decks of cards used in Five Card Hi-Lo shall be changed at least every:

- (1) Four hours if the cards are dealt by hand.
- (2) Eight hours if the cards are dealt from a manual or automated dealing shoe.

§ 579.4. Opening of the table for gaming.

(a) After receiving one or more decks of cards at the table, the dealer shall inspect the cards for any defects. The floorperson assigned to the table shall verify the inspection.

(b) After the cards are inspected, the cards shall be spread out face up on the table for visual inspection by the first player to arrive at the table. The cards shall be spread in horizontal fan shaped columns by deck according to suit and in sequence.

(c) After the first player is afforded an opportunity to visually inspect the cards, the cards shall be turned face down on the table, mixed thoroughly by a washing of the cards and stacked. Once the cards have been stacked, the cards shall be shuffled in accordance with § 579.5 (relating to shuffle and cut of the cards).

(d) If an automated card shuffling device is utilized and two decks of cards are received at the table, each deck of cards shall be spread for inspection, mixed, stacked and shuffled in accordance with subsections (a)—(c).

(e) If the decks of cards received at the table are preinspected and reshuffled in accordance with § 603a.16(u) or (v) (relating to cards; receipt, storage, inspection and removal from use), subsections (a)—(d) do not apply.

§ 579.5. Shuffle and cut of the cards.

(a) Immediately prior to commencement of play, unless the cards were reshuffled in accordance with § 603a.16(u) or (v) (relating to cards; receipt, storage, inspection and removal from use), after each round of play has been completed or when directed by the floorperson or above, the dealer shall shuffle the cards, either manually or by use of an automated card shuffling device, so that the cards are randomly intermixed. Upon completion of the shuffle, the dealer or device shall place the deck of cards in a single stack. The certificate holder may use an automated card shuffling device which, upon completion of the shuffling of the cards, inserts the stack of cards directly into a dealing shoe.

(b) If an automated card shuffling device is being used, which counts the number of cards in the deck after the completion of each shuffle and indicates whether 52 cards are present, and the device reveals that an incorrect number of cards are present, the deck shall be removed from the table.

(c) After the cards have been shuffled and stacked, the dealer shall:

(1) If the cards were shuffled using an automated card shuffling device, deal the cards in accordance with § 579.8, § 579.9 or § 579.10 (relating to procedures for dealing the cards from a manual dealing shoe; procedures for dealing the cards from the hand; and procedures for dealing the cards from an automated dealing shoe).

(2) If the cards were shuffled manually, cut the cards in accordance with the procedures in subsection (d).

(d) If a cut of the cards is required, the dealer shall place the cover card in the stack at least ten cards in from the top of the stack. Once the cover card has been inserted, the dealer shall take all cards above the cover card and the cover card and place them on the bottom of the stack. The stack of cards shall then be inserted into the dealing shoe for commencement of play.

(e) After the cards have been cut and before the cards have been dealt, a floorperson or above may require the cards to be recut if the floorperson determines that the cut was performed improperly or in any way that might affect the integrity or fairness of the game.

(f) If there is no gaming activity at a Five Card Hi-Lo table which is open for gaming, the cards shall be removed from the dealing shoe and discard rack and spread out on the table face down unless a player requests that the cards be spread face up on the table. After the first player arriving at the table is afforded an opportunity to visually inspect the cards, the procedures in § 579.4(c) (relating to opening of the table for gaming) and this section shall be completed.

(g) A certificate holder may utilize a dealing shoe or other device that automatically reshuffles and counts the cards, provided that the device is submitted to the Bureau of Gaming Laboratory Operations and approved in accordance with § 461a.4 (relating to submission for testing and approval), prior to its use in the licensed facility. If a certificate holder is utilizing the approved device, subsections (b)—(f) do not apply.

§ 579.6. Five Card Hi-Lo rankings.

(a) Each card dealt must have a point value. The point value of all face cards is their denomination. Jacks, queens and kings have a point value of 10. Aces have a point value of 11 if played in the high hand and a point value of 1 if played in the low hand.

(b) If the certificate holder offers the Poker Bonus Wager, authorized under § 579.7(e) (relating to wagers), the winning five-card Poker hands must be:

- (1) A royal flush, which is a hand consisting of an ace, king, queen, jack and 10 of the same suit.
- (2) A straight flush, which is a hand, other than a royal flush, consisting of five cards of the same suit in consecutive ranking.
- (3) A four-of-a-kind, which is a hand consisting of four cards of the same rank.
- (4) A full house, which is a hand consisting of a three-of-a-kind and a pair.
- (5) A flush, which is a hand consisting of five cards of the same suit, not in consecutive order.
- (6) A straight, which is a hand consisting of five cards of more than one suit and of consecutive rank.
- (7) A three-of-a-kind, which is a hand consisting of three cards of the same rank.
- (8) Two pairs, which is a hand consisting of two pairs.
- (9) One pair of 6s, 7s or better, depending on the payable selected by the certificate holder in its Rules Submission filed in accordance with § 601a.2 (relating to table games Rules Submissions), which is a hand consisting of two cards of the same rank.

(c) For purposes of subsection (b), an ace may be used to complete a straight flush or a straight formed with a 2, 3, 4 and 5 but may not be combined with any other sequence of cards (for example: queen, king, ace, 2 and 3).

§ 579.7. Wagers.

(a) Wagers at Five Card Hi-Lo shall be made by placing value chips, plaques or other Board-approved wagering instruments on the appropriate areas of the Five Card Hi-Lo layout. Verbal wagers accompanied by cash may not be accepted.

(b) Only players who are seated at a Five Card Hi-Lo table may wager at the game. Once a player has placed a wager and received cards, that player shall remain seated until the completion of the round of play. If a player leaves the table during a round of play, any wagers made by the player may be considered abandoned and may be treated as losing wagers.

(c) All wagers at Five Card Hi-Lo shall be placed prior to the dealer announcing "no more bets" in accordance with the dealing procedures in § 579.8, § 579.9 or § 579.10 (relating to procedures for dealing the cards from a manual dealing shoe; procedures for dealing the cards from the hand; and procedures for dealing the cards from an automated dealing shoe). A wager may not be made, increased or withdrawn after the dealer has announced "no more bets."

(d) To participate in a round of play and compete against the dealer's high and low hands, a player shall place an Ante Wager.

(e) A certificate holder may, if specified in its Rules Submission under § 601a.2 (relating to table games Rules Submissions), offer to each player who placed an Ante Wager, in accordance with subsection (d), the option of placing the following additional wagers:

(1) A Tie Wager that the total point value of either the high hand or the low hand of the player, or both, will tie the high or low hand of the dealer.

(2) A Poker Bonus Wager that the five cards dealt to the player will form a five-card Poker hand with a rank of a pair of 6s or better or a pair of 7s or better, as described in § 579.6(b) (relating to Five Card Hi-Lo rankings), depending on the pay table selected by the certificate holder.

(f) A certificate holder may, if specified in its Rules Submission under § 601a.2, permit a player to wager on two adjacent betting areas at a Five Card Hi-Lo table. If a certificate holder permits a player to wager on adjacent betting areas, the cards dealt to each betting area shall be played separately. If the two wagers are not equal, the player shall rank and set the hand with the larger wager before ranking and setting the other hand. If the amounts wagered are equal, each hand shall be played separately in a counterclockwise rotation with the first hand being ranked and set before the player proceeds to rank and set the second hand. Once a hand has been ranked, set and placed face down on the layout, the hands may not be changed.

§ 579.8. Procedures for dealing the cards from a manual dealing shoe.

(a) If a manual dealing shoe is used, the dealing shoe must be located on the table in a location approved by the Bureau of Casino Compliance in accordance with § 601a.10(g) (relating to approval of table game layouts, signage and equipment). Once the procedures required under § 579.5 (relating to shuffle and cut of the cards) have been completed, the stacked deck of cards shall be placed in the dealing shoe either by the dealer or by an automated card shuffling device.

(b) Prior to dealing any cards, the dealer shall announce "no more bets."

(c) Each card shall be removed from the dealing shoe with the hand of the dealer that is the closest to the dealing shoe and placed on the appropriate area of the layout with the opposite hand.

(d) The dealer shall, starting with the player farthest to the dealer's left and continuing around the table in a clockwise manner, deal one card at a time to each player who placed an Ante Wager in accordance with § 579.7(d) (relating to wagers) and to the dealer until each player and the dealer have five cards.

(e) After five cards have been dealt to each player and the dealer, the dealer shall remove the stub from the manual dealing shoe and, except as provided in subsection (f), place the stub in the discard rack without exposing the cards.

(f) If an automated card shuffling device, which counts the number of cards in the deck after the completion of each shuffle and indicates whether 52 cards are present, is not being used, the dealer shall count the stub at least once every 5 rounds of play to determine if the correct number of cards are still present in the deck. The dealer shall determine the number of cards in the stub by counting the cards face down on the layout.

(g) If the count of the stub indicates that 52 cards are in the deck, the dealer shall place the stub in the discard rack without exposing the cards.

(h) If the count of the stub indicates that the number of cards in the deck is incorrect, the dealer shall determine if the cards were misdealt. If the cards were misdealt (a player or the dealer has more or less than 5 cards) but 52 cards remain in the deck, all hands shall be void and all wagers shall be returned to the players. If the cards were not misdealt, all hands shall be void, all wagers shall be returned to the players and the entire deck of cards shall be removed from the table.

§ 579.9. Procedures for dealing the cards from the hand.

(a) If the cards are dealt from the dealer's hand, the following requirements shall be observed:

(1) An automated shuffling device shall be used to shuffle the cards.

(2) After the procedures required under § 579.5 (relating to shuffle and cut of the cards) have been completed, the dealer shall place the stacked deck of cards in either hand. After the dealer has chosen the hand in which to hold the cards, the dealer shall continue to use that hand whenever holding the cards during that round of play. The cards held by the dealer shall be kept over the table inventory container and in front of the dealer at all times.

(3) Prior to dealing any cards, the dealer shall announce "no more bets."

(b) The dealer shall deal each card by holding the deck of cards in the chosen hand and use the other hand to remove the top card of the deck and place it face down on the appropriate area of the layout. The dealer shall, starting with the player farthest to the dealer's left and continuing around the table in a clockwise manner, deal one card at a time to each player who placed an Ante Wager in accordance with § 579.7(d) (relating to wagers) and to the dealer until each player and the dealer have five cards.

(c) After five cards have been dealt to each player and the dealer, the dealer shall remove the stub from the

manual dealing shoe and, except as provided in subsection (d), place the stub in the discard rack without exposing the cards.

(d) If an automated card shuffling device, which counts the number of cards in the deck after the completion of each shuffle and indicates whether 52 cards are present, is not being used, the dealer shall count the stub at least once every 5 rounds of play to determine if the correct number of cards are still present in the deck. The dealer shall determine the number of cards in the stub by counting the cards face down on the layout.

(e) If the count of the stub indicates that 52 cards are in the deck, the dealer shall place the stub in the discard rack without exposing the cards.

(f) If the count of the stub indicates that the number of cards in the deck is incorrect, the dealer shall determine if the cards were misdealt. If the cards were misdealt (a player or the dealer has more or less than 5 cards), but 52 cards remain in the deck, all hands shall be void and all wagers shall be returned to the players. If the cards were not misdealt, all hands shall be void, all wagers shall be returned to the players and the entire deck of cards shall be removed from the table.

§ 579.10. Procedures for dealing the cards from an automated dealing shoe.

(a) If the cards are dealt from an automated dealing shoe, the following requirements shall be observed:

(1) After the procedures required under § 579.5 (relating to shuffle and cut of the cards) have been completed, the cards shall be placed in the automated dealing shoe.

(2) Prior to the shoe dispensing any stacks of cards, the dealer shall announce "no more bets."

(b) The dealer shall deliver the first stack of cards dispensed by the automated dealing shoe face down to the player farthest to the dealer's left who has placed an Ante Wager in accordance with § 579.7(d) (relating to wagers). As the remaining stacks are dispensed to the dealer by the automated dealing shoe, the dealer shall, moving clockwise around the table, deliver a stack face down to each of the other players who has placed an Ante Wager. The dealer shall then deliver a stack of five cards face down to the area designated for the placement of the dealer's cards.

(c) After each stack of five cards has been dispensed and delivered in accordance with subsection (b), the dealer shall remove the stub from the automated dealing shoe and, except as provided in subsection (d), place the cards in the discard rack without exposing the cards.

(d) If an automated card shuffling device, which counts the number of cards in the deck after the completion of each shuffle and indicates whether 52 cards are present, is not being used, the dealer shall count the stub at least once every 5 rounds of play to determine if the correct number of cards is still present in the deck. The dealer shall determine the number of cards in the stub by counting the cards face down on the layout.

(e) If the count of the stub indicates that 52 cards are in the deck, the dealer shall place the stub in the discard rack without exposing the cards.

(f) If the count of the stub indicates that the number of cards in the deck is incorrect, the dealer shall determine if the cards were misdealt. If the cards were misdealt (a player or the dealer has more or less than 5 cards), but 52 cards remain in the deck, all hands shall be void and all wagers shall be returned to the players. If the cards

were not misdealt, all hands shall be void, all wagers shall be returned to the players and the entire deck of cards shall be removed from the table.

§ 579.11. Procedures for completion of each round of play.

(a) After the dealing procedures required under § 579.8, § 579.9 or § 579.10 (relating to procedures for dealing the cards from a manual dealing shoe; procedures for dealing the cards from the hand; and procedures for dealing the cards from an automated dealing shoe) have been completed, each player shall examine his cards subject to the following limitations:

(1) Each player who wagers at a Five Card Hi-Lo table shall be responsible for setting his own hands and no person other than the dealer and the player to whom the cards were dealt may touch the cards of that player.

(2) Each player shall keep his five cards in full view of the dealer at all times.

(3) Once each player has set a high and low hand and placed the two hands face down on the appropriate area of the layout, the player may not touch the cards again.

(b) After each player has examined his cards, the dealer shall, beginning with the player farthest to the dealer's left and moving clockwise around the table, ask each player who placed an Ante Wager if he wishes to forfeit the Ante Wager and end his participation in the round of play or make a Play Wager in an amount equal to the player's Ante Wager. If a player:

(1) Has placed an Ante and a Tie Wager but does not make a Play Wager, the player shall forfeit both wagers.

(2) Has placed an Ante Wager and a Poker Bonus Wager but does not make a Play Wager, the player shall forfeit the Ante Wager but does not forfeit the Poker Bonus Wager.

(c) After each player who has placed an Ante Wager has either placed a Play Wager on the designated area of the layout or forfeited his wagers and hand, the dealer shall collect all forfeited wagers and associated cards and shall place the cards in the discard rack. If a player has placed a Poker Bonus Wager but did not place a Play Wager, the dealer shall leave the player's cards and the Poker Bonus Wager on the table until the wager is resolved in accordance with subsection (j).

(d) Each player who placed a Play Wager shall then set his hands by arranging the cards into a high hand and a low hand. When setting the two hands, the player shall add the point value of the cards placing the three higher value cards in the high hand and the two lower value cards in the low hand, provided that a player may place up to one ace in his low hand. For example, if a player is dealt an ace, jack, 10, 9 and 2, the high hand may contain the jack, 10 and 9 for a total point value of 29 and the two-card low hand would contain the ace and 2 for a total point value of 3.

(e) After all players have set their hands and placed the cards on the table, the five cards of the dealer shall be turned over and the dealer shall set his hands by arranging the cards into a high and low hand, provided that aces shall be placed in the dealer's high hand unless the dealer was dealt four aces. The dealer shall then place the two hands face up on the appropriate area of the layout.

(f) After the dealer has set a high hand and a low hand, the dealer shall reveal both hands of each player, beginning with the player farthest to the dealer's right

and continuing around the table in a counterclockwise direction. The dealer shall compare the total point value of the high and low hand of each player to the high and low hand of the dealer and shall announce if the Ante and Play Wagers of that player win, lose or are a tie.

(g) Ante and Play Wagers must:

(1) Win if the high hand of the player is higher in point value than the high hand of the dealer and the low hand of the player is lower in point value than the low hand of the dealer. The dealer shall pay the winning Ante and Play Wagers in accordance with the payout odds in § 579.12(a) (relating to payout odds).

(2) Lose and will immediately be collected if the high hand of the player ties or is lower in point value than the high hand of the dealer and the low hand of the player ties or is higher in point value than the low hand of the dealer.

(3) Tie and will be returned to the player if:

(i) The high hand of the player is higher in point value than the high hand of the dealer, but the low hand of the player is identical in point value or higher in point value than the low hand of the dealer.

(ii) The high hand of the player is identical in total point value to the high hand of the dealer or lower in total point value than the high hand of the dealer, but the low hand of the player is lower in total point value than the low hand of the dealer.

(h) A player may also qualify for an additional Ante Bonus Payout, regardless of the outcome of the player's Ante and Play Wagers in subsection (g), if a player has three or more aces in the player's hand. Ante Bonus Payouts shall be paid in accordance with § 579.12(b).

(i) Except as provided in subsection (j), after settling the player's Ante and Play Wagers, the dealer shall place the cards of the player in the discard rack.

(j) After settling the player's Ante and Play Wagers, the dealer shall settle the player's optional wagers as follows:

(1) If a player placed a Tie Wager in accordance with § 579.7(e)(1) (relating to wagers), the dealer shall:

(i) Pay winning Tie Wagers in accordance with § 579.12(c) if the high hand or low hand, or both, of the player is identical in point value with the high hand, low hand, or both, of the dealer.

(ii) Collect all losing Tie Wagers if the high hand or low hand of the player is not identical in point value with the high hand or low hand of the dealer.

(2) If a player placed a Poker Bonus Wager in accordance with § 579.7(e)(2), the dealer shall rearrange the five cards of the player to form the highest ranking Poker hand in accordance with § 579.6(b) (relating to Five Card Hi-Lo rankings). After rearranging the player's five cards, the dealer shall settle the player's Poker Bonus Wager as follows:

(i) If a player has a pair of 6s or better or a pair of 7s or better, depending on the payable selected by the certificate holder, the dealer shall pay the winning Poker Bonus Wager in accordance with § 579.12(d).

(ii) If a player does not have a pair of 6s or better or a pair of 7s or better, depending on the payable selected by the certificate holder, the dealer shall collect the Poker Bonus Wager.

(k) If a player has placed more than one optional wager, the dealer shall settle all of the player's optional wagers before placing the player's cards in the discard rack.

(l) All cards removed from the table shall be placed in the discard rack in a manner that permits the reconstruction of each hand in the event of a question or dispute.

§ 579.12. Payout odds.

(a) A certificate holder shall pay each winning Ante and Play Wager at odds of 1 to 1.

(b) The certificate holder shall pay an Ante Bonus Payout based on the amount of the player's Ante Wager at the odds in one of the following paytables selected by the certificate holder in its Rules Submission filed in accordance with § 601a.2 (relating to table games Rules Submissions):

<i>Hand</i>	<i>Paytable A</i>	<i>Paytable B</i>
Four aces and one 2	1,000 for 1	500 for 1
Four aces	100 for 1	50 for 1
Three aces	10 for 1	5 for 1
<i>Hand</i>	<i>Paytable C</i>	<i>Paytable D</i>
Four aces and one 2	200 for 1	100 for 1
Four aces	50 for 1	50 for 1
Three aces	5 for 1	5 for 1

(c) The certificate holder shall pay out winning Tie Wagers at the odds in the following payable:

<i>Hand</i>	<i>Payout</i>
Low hands tie	4 to 1
High hands tie	4 to 1
Both high and low hands tie	20 to 1

(d) The certificate holder shall pay out winning Poker Bonus Wagers at the odds in one of the following paytables selected by the certificate holder in its Rules Submission filed in accordance with § 601a.2:

<i>Hand</i>	<i>Paytable A</i>	<i>Paytable B</i>
Royal flush	250 to 1	500 to 1
Straight flush	50 to 1	100 to 1
Four-of-a-kind	25 to 1	40 to 1
Full house	15 to 1	15 to 1
Flush	10 to 1	8 to 1
Straight	8 to 1	6 to 1
Three-of-a-kind	5 to 1	4 to 1
Two pair	3 to 1	3 to 1
Pair of 7s or better	1 to 1	
Pair of 6s or better		1 to 1

§ 579.13. Irregularities.

(a) A card that is found face up in the shoe or the deck while the cards are being dealt may not be used in that round of play and shall be placed in the discard rack. If more than one card is found face up in the shoe or the deck during the dealing of the cards, all hands shall be void, all wagers shall be returned to the players and the cards shall be reshuffled.

(b) A card drawn in error without its face being exposed shall be used as though it were the next card from the shoe or the deck.

(c) If any player or the dealer is dealt an incorrect number of cards, all hands shall be void, all wagers shall be returned to the players and the cards shall be reshuffled.

(d) If an automated card shuffling device is being used and the device jams, stops shuffling during a shuffle or fails to complete a shuffle cycle, the cards shall be reshuffled.

(e) If an automated dealing shoe is being used and the device jams, stops dealing cards or fails to deal cards during a round of play, the round of play shall be void, all wagers shall be returned to the players and the cards

shall be removed from the device and reshuffled with any cards already dealt.

(f) If an automated card shuffling device or automated dealing shoe malfunctions and cannot be used, the automated card shuffling device or automated dealing shoe shall be covered or have a sign indicating that the automated card shuffling device or automated dealing shoe is out of order placed on the device before any other method of shuffling or dealing may be utilized at that table.

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