also adopts and publishes from time to time certain policy, procedure, and instruction manuals. The latest of these manuals, the Accounting Practices and Procedures Manual as of March [2021] *2023*[1] (accounting manual), includes a body of accounting guidelines referred to as statements of statutory accounting principles (SSAPs). The accounting manual shall be used in the preparation of quarterly statements and the annual statement for [2021] *2023*, which will be filed in [2022] *2024*.

Section 83.4(f) and (p) are amended as follows:

(f)(1) Paragraph 6 of SSAP No. 25, "Affiliates and Other Related Parties", is not adopted. Insurance Law section 1501(c) provides that the superintendent may determine upon application that any person does not, or will not upon the taking of some proposed action, control another person. 10 NYCRR 98-1.9(d) authorizes the Commissioner of Health to make a similar determination with respect to organizations with a certificate of authority pursuant to Public Health Law article 44.

(2) Paragraphs [9 and 10] *11 and 12* of SSAP No. 25 are not adopted. Insurance Law section 4310(b) provides that certain article 43 corporations described therein may invest, in the aggregate, not more than three percent of their admitted assets in obligations, shares or other securities issued by a parent corporation which is organized as a not-for-profit entity or a corporation which is an affiliate or will be an affiliate after direct or indirect acquisition by the parent corporation. Insurance Law section 1407(a)(4) prohibits accident and health insurers and property/casualty insurers from investing in obligations, shares or other securities issued by a parent corporation or a corporation which is an affiliate or will be an affiliate after direct or indirect acquisition by the insurer. Further, loans and advances between a domestic controlled insurer and any person in its holding company system are subject to the reporting and approval thresholds prescribed in Insurance Law section 1505. Insurance Law section 1411(f) prohibits loans to officers and directors, except as permitted under Insurance Law section 1411(h)(2).

*****

(p) Paragraph 9 of SSAP No. 73, "Health Care Delivery Assets and Leasehold Improvements in Health Care Facilities", is [not] adopted[.] *with the following exception:* Durable medical equipment, furniture, medical equipment and fixtures, and leasehold improvements shall be depreciated utilizing a depreciation schedule no less conservative than that set forth in the latest revision of ESTIMATED USEFUL LIVES OF DEPRECIABLE HOSPITAL ASSETS (REVISED 2018 EDITION).[2] The document may also be viewed at the New York State Department of Financial Services' New York City office at One State Street, New York, NY 10004. Lease improvements in health care facilities shall be amortized against net income over the shorter of their estimated useful life or the remaining life of the original lease excluding renewal or option periods, using methods detailed in SSAP No. 19.

---

[1] ACCOUNTING PRACTICES AND PROCEDURES MANUAL AS OF MARCH [2021] 2023. © Copyright 1999 – [2021] 2023 by National Association of Insurance Commissioners, Kansas City, Missouri.

[2] Reproduced, with permission, from Estimated Useful Lives of Depreciable Hospital Assets, Revised 2018 Edition. Copyright 2018 by Health Forum, Inc. All right reserved. Printed with permission of Health Forum, Inc., in Chicago.

Text of proposed rule and any required statements and analyses may be obtained from: Michael Campanelli, New York State Department of Financial Services, One State Street, New York, NY 10004, (212) 480-5290, email: Michael.Campanelli@dfs.ny.gov

Data, views or arguments may be submitted to: Same as above.

Public comment will be received until: 60 days after publication of this notice.

Consensus Rule Making Determination

No person is likely to object to amendment of the rule that adopts the most recent edition of the Accounting Practices and Procedures Manual as of March 2023 ("2023 Accounting Manual"), published by the National Association of Insurance Commissioners ("NAIC"), and replaces the rule's current reference to the NAIC's Accounting Practices and Procedures Manual as of March 2021. The rule also makes non-substantive changes to subdivisions (f) and (p) of section 83.4 by updating the numbering of the paragraphs referenced in SSAP 25 of the 2023 Accounting Manual and clarifying language.

Adoption of the rule is necessary for the Department of Financial Services ("Department") to maintain its accreditation status with the NAIC. NAIC accreditation is a certification given to a state insurance regulator once the regulator has demonstrated that it has met and continues to meet baseline solvency regulation standards and various legal, financial, and organizational standards as determined by a committee of its peers.

The Department determines this rule to be a consensus rule, as defined in State Administrative Procedure Act ("SAPA") § 102(11), and it is proposed pursuant to SAPA § 202(1)(b)(i). Accordingly, this rulemaking is exempt from the requirement to file a Regulatory Impact Statement, Regulatory Flexibility Analysis for Small Businesses and Local Governments, and a Rural Area Flexibility Analysis.

Job Impact Statement

This rulemaking will not have any impact on jobs and employment opportunities, including self-employment opportunities. The amendment adopts the most recent edition published by the National Association of Insurance Commissioners ("NAIC") of the Accounting Practices and Procedures Manual as of March 2023 ("2023 Accounting Manual"), replacing the rule's current reference to the Accounting Practices and Procedures Manual as of March 2021. The rule also makes non-substantive changes to subdivisions (f) and (p) of section 83.4 by updating the numbering of the paragraphs referenced in SSAP 25 of the 2023 Accounting Manual and clarifying language.

Adoption of the rule is necessary for the Department of Financial Services to maintain its accreditation status with the NAIC. NAIC accreditation is a certification given to a state insurance regulator once the regulator has demonstrated that it has met and continues to meet baseline solvency regulation standards and various legal, financial, and organizational standards as determined by a committee of its peers.

New York State Gaming Commission

ERRATUM

A Notice of Proposed Rule Making, I.D. No. SGC-29-23-00004-P, regarding Attending Veterinarian Examinations in Thoroughbred Racing, published in the July 19, 2023, issue of the *State Register*, contained a formatting error. Rule text in section 4007.5(a), "No horse shall be qualified to start in any race unless entered by a licensed owner and in the charge of a licensed trainer," was inadvertently italicized. Only new material being proposed to be added to NYCRR should be italicized and this sentence already appears in the current section 4007.5 of Title 9 NYCRR.

PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED

Sports Wagering Advertising and Marketing

I.D. No. SGC-31-23-00010-P

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

Proposed Action: Amendment of section 5329.1; addition of sections 5329.37 and 5330.45 to Title 9 NYCRR.

Statutory authority: Racing, Pari-Mutuel Wagering and Breeding Law, sections 104(19), (24), 1307(1), (2)(p), 1367(4), (13), 1367-a(4)(a)(iii), (xiv), (xv), (e); L. 2021, ch. 59, part Y, section 7

Subject: Sports wagering advertising and marketing.

Purpose: To regulate advertising, marketing and promotions concerning sports wagering.

Text of proposed rule: Section 5329.1 of 9 NYCRR would be amended, and new sections 5329.37 and 5330.45 would be added to 9 NYCRR, to read as follows:

§ 5329.1. Definitions.

(a) Affiliate marketing partner means an entity or person who promotes, refers potential customers to, or conducts advertising, marketing or branding on behalf of, or to the benefit of, a casino sports wagering licensee or sports pool vendor pursuant to an agreement with such licensee or vendor. This definition shall not apply to general news media that are not focused on gaming, gambling or wagering matters.

* * *

Current subdivisions in section 5329.1 would be re-lettered as (b) through (q).

* * *

§ 5329.37. Advertising, marketing and promotions.

(a) Advertisements generally.

(1) Advertisements and promotions used by a casino sports wagering licensee or sports pool vendor shall comply with Racing, Pari-Mutuel Wa-

gering and Breeding Law section 1363 and comply with the responsible gaming requirements set forth in section 5325.6 of this Subchapter.

(2) Advertisements and promotions used by a casino sports wagering licensee or sports pool vendor shall disclose the identity of the casino sports wagering licensee or sports pool vendor.

(3) Each casino sports wagering licensee or sports pool vendor shall be responsible for the content and conduct of any and all advertising, marketing or branding done on its behalf or to its benefit, whether conducted by such licensee, an employee or agent of such licensee, or an affiliated entity of agent of such licensee pursuant to contract or agreement.

(4) No person who, or entity that, is not a casino sports wagering licensee or sports pool vendor shall advertise sports gambling in the State, unless the advertisement disclaims conspicuously that the wagering offerings are not available in the State.

(5) No person or entity shall advertise forms of illegal gambling in the State, unless the advertisement disclaims conspicuously that the wagering offerings are not available in the State.

(6) No casino sports wagering licensee or sports pool vendor may enter into an agreement with an affiliate marketing partner when the manner of compensation for such services is prohibited by Racing, Pari-Mutuel Wagering and Breeding Law section 1341(1).

(b) False, deceptive or misleading statements.

(1) No advertisement or promotion for sports wagering, including any material published or disseminated by an affiliate marketing partner, shall contain false, deceptive or misleading statements or elements, including, without limitation, those concerning:

(i) chances of winning;

(ii) the number of winners; or

(iii) the rules, terms or conditions of wagering.

A false, deceptive or misleading statement or element includes, without limitation, one that reasonably would be expected to confuse or mislead patrons in order to induce them to engage in sports wagering.

(2) A casino sports wagering licensee or sports pool vendor shall not, directly or indirectly (such as through an affiliate marketing partner):

(i) promote irresponsible or excessive participation in sports wagering;

(ii) suggest that social, financial or personal success is guaranteed by engaging in sports wagering;

(iii) imply or promote sports wagering as free of risk in general or in connection with a particular promotion or sports wagering offer;

(iv) describe sports wagering as "free", "cost free" or "free of risk" if the patron needs to incur any loss or risk the patron's own money to use or withdraw winnings from the wager;

(v) encourage patrons to "chase" losses or re-invest winnings;

(vi) suggest that betting is a means of solving or escaping from financial, personal, or professional problems;

(vii) portray, suggest, condone or encourage sports wagering behavior as a rite of passage or signifier of reaching adulthood or other milestones;

(viii) portray, suggest, condone or encourage sports wagering behavior that is socially irresponsible or could lead to financial, social or emotional harm;

(ix) state or imply that the chances of winning increase with increased time spent on sports wagering or increased money wagered; or

(x) be placed on any website or printed page or medium devoted primarily to responsible gaming.

(3) A casino sports wagering licensee, sports pool vendor, or affiliate marketing partner, shall not use misleading embedded keywords or similar methods in its platform to:

(i) attract persons under the wagering minimum age set forth in Racing, Pari-Mutuel Wagering and Breeding Law section 1332(1), self-excluded contestants or persons who are or may be problem gamblers; or

(ii) accomplish any other misleading or deceptive purpose.

(4) Each affiliate marketing partner shall disclose in its media, in a reasonably prominent manner (e.g., after a writer's byline, after editorial content, in an "about" link on a webpage that is accessible from the page on which editorial content appears), whether such affiliate marketing partner has agreed to promote, refer potential customers to, or conduct advertising, marketing or branding on behalf of, or to the benefit of, one or more casino sports wagering licensees or sports pool vendors. Each casino sports wagering licensee or sports pool vendor shall cause each of its affiliate marketing partners to comply with this paragraph.

(c) Marketing and promotions.

(1) In connection with the marketing, promoting, advertising or offering of any promotion or displaying or offering of such on a casino sports wagering licensee's or sports pool vendor's platform or platforms, or on any platform or platforms over which a casino sports wagering licensee or sports pool vendor exercises actual or constructive control, such licensee shall:

(i) clearly and conspicuously disclose material facts, terms and conditions of the promotion to potential contestants and adhere to such terms;

(ii) clearly and conspicuously disclose to consumers material limitations to the promotion;

(iii) obtain express informed consent from any consumer who must deposit money to take advantage of the promotion; and

(iv) if an offer requires a patron to wager a specific dollar amount to receive the complimentary item or promotional credit, the amount that the patron is required to wager of the patron's own funds shall be disclosed in the same size and style of font as the amount of the complimentary item or promotional credit, and the complimentary item or promotional credit shall not be described as free.

(2) No casino sports wagering licensee or sports pool vendor, or any employee, agent or vendor thereof, shall advise or encourage individual patrons to place a specific wager of any specific type, kind, subject or amount. The prohibition in this paragraph shall not apply to general advertising or promotional activities.

(3) Each direct advertisement of sports wagering shall clearly and conspicuously describe a method by which an individual may opt out of receiving future direct advertisements. Any request to opt out must be accomplished as soon as practicable and, in any event, no later than 15 days from the date of such request. If a direct advertisement is sent via electronic mail, the described opt-out method must include either an electronic mail address that will accomplish such opt-out or a link to an online website address at which such opt-out may be accomplished as simply as practicable. A direct advertisement sent other than by electronic mail shall include at least one of the following methods to opt out:

(i) telephone;

(ii) regular United States mail;

(iii) online website address or mobile application at which such opt-out may be accomplished as simply as practicable; or

(iv) electronic mail.

(d) Federal rules. A casino sports wagering licensee or sports pool vendor shall follow all rules concerning endorsements, including, without limitation, rules of the Federal Trade Commission.

(e) Marketing to underage persons. A casino sports wagering licensee or sports pool vendor shall not allow, conduct or participate in any advertising, marketing or branding for sports wagering that is aimed at persons under the wagering minimum age set forth in Racing, Pari-Mutuel Wagering and Breeding Law section 1332(1).

(1) Design. No sports wagering message shall be designed to appeal primarily to those below the legal age for sports wagering by depicting cartoon characters or by featuring entertainers or music that appeal primarily to audiences under the wagering minimum age set forth in Racing, Pari-Mutuel Wagering and Breeding Law section 1332(1), nor should any message suggest or imply that persons under the wagering minimum age set forth in Racing, Pari-Mutuel Wagering and Breeding Law section 1332(1) engage in sports wagering.

(2) Composition of audience. Sports wagering advertising and marketing shall not be placed in broadcast, cable, radio, print or digital communications where the reasonably foreseeable percentage of the composition of the audience that is persons under the wagering minimum age set forth in Racing, Pari-Mutuel Wagering and Breeding Law section 1332(1) is greater than the percentage of the population in the State that is under such age, such population as measured by the most recent competed decennial census.

(3) Use of logos, trademarks and brand names. No sports wagering messages, including logos, trademarks or brand names, shall be used or licensed for use on clothing, toys, games or game equipment intended primarily for persons below the wagering minimum age set forth in Racing, Pari-Mutuel Wagering and Breeding Law section 1332(1). To the extent that promotional products carry sports wagering messages or brand information, a sports pool licensee and its employees shall use commercially reasonable efforts to distribute such products only to those who have reached the legal age for sports wagering.

(4) College and university media. Sports wagering shall not be promoted or advertised in college- or university-owned news assets (e.g., school newspapers, radio, telecasts) or advertised on college or university campuses, except that generally available advertising that is not targeted to the area of a college or university campus shall not be prohibited by this paragraph.

(5) Depiction of underage persons. No advertisement for sports wagering shall depict a person under the wagering minimum age set forth in Racing, Pari-Mutuel Wagering and Breeding Law section 1332(1); students; schools or colleges; or school or college settings, except where such image may incidentally depict a person under the wagering minimum age set forth in Racing, Pari-Mutuel Wagering and Breeding Law section 1332(1) or is an image of a professional athlete during a type of sporting event on which wagering is permitted.

(6) Endorsements. No advertisement for sports wagering shall state or imply an endorsement by a person under the wagering minimum age set forth in Racing, Pari-Mutuel Wagering and Breeding Law section 1332(1) (other than professional athletes); college athletes; schools or colleges; or college athletic associations.

(f) Age notices in online content. Owned websites or profi¬les that include sports betting content, including social media pages and sites, shall include a reminder of the legal age for sports wagering in the State.

(g) Retention. A registrant shall maintain records of each television, radio, print, digital or other advertisement for a period of at least four years from the date such advertisement last appears and shall make each such record available to the commission upon request.

(h) Direction to cease. Any person or entity, upon notice from the commission, shall cease, as expeditiously as possible, to offer advertising, marketing or a promotion that violates this section.

* * *

§ 5330.45. Advertising, marketing and promotions.

The provisions of section 5329.37 of this Subchapter are incorporated herein and shall apply also to each mobile sports wagering licensee and mobile sports wagering vendor licensee.

Text of proposed rule and any required statements and analyses may be obtained from: Kristen M. Buckley, Gaming Commission, One Broadway Center, P.O. Box 7500, Schenectady, New York 12301-7500, (518) 388-3332, email: gamingrules@gaming.ny.gov

Data, views or arguments may be submitted to: Same as above.

Public comment will be received until: 60 days after publication of this notice.

This rule was not under consideration at the time this agency submitted its Regulatory Agenda for publication in the Register.

Regulatory Impact Statement

1. STATUTORY AUTHORITY: Racing, Pari-Mutuel Wagering and Breeding Law ("Racing Law") section 104(19) grants authority to the Gaming Commission ("Commission") to promulgate rules and regulations that it deems necessary to carry out its responsibilities.

Racing Law section 104(24) authorizes the Commission to regulate sports wagering.

Racing Law section 1307(1) authorizes the Commission to adopt regulations that it deems necessary to protect the public interest in carrying out the provisions of Racing Law Article 13.

Racing Law section 1307(2)(p) authorizes the Commission to govern the gaming-related advertising of licensees, their employees and agents, with the view toward assuring that such advertisements are not deceptive.

Racing Law section 1367(4) authorizes the Commission to promulgate regulations to govern the conduct of sports wagering.

Racing Law sections 1367(13) and 1367-a(4)(a)(xiv) and (xv) authorize the Commission to promulgate rules concerning responsible play and problem gaming information in regard to mobile sports wagering.

Racing Law section 1367-a(4)(a)(iii) authorizes the Commission to promulgate rules concerning prohibiting minors from participating in sports wagering.

Racing Law section 1367-a(4)(e) provides that mobile sports wagering operators shall not target prohibited sports bettors, minors, or self-excluded persons.

Section 7 of Part Y of Chapter 59 of the Laws of 2021 authorizes the Commission to promulgate any rules and regulations it deems necessary to regulate mobile sports wagering.

2. LEGISLATIVE OBJECTIVES: The above referenced statutory provisions carry out the legislature's stated goals "to tightly and strictly" regulate casinos "to guarantee public confidence and trust in the credibility and integrity of all casino gambling in the state." The regulation of sports wagering advertising, marketing, and promotions helps protect consumers and contributes to the discouragement of participation by underage persons and the development of problem gaming behaviors among young adults.

3. NEEDS AND BENEFITS: The proposed rules are necessary because statutes direct the Commission to implement statutory requirements through rulemaking and develop regulations in regard to sports wagering advertising, marketing, and promotions. The proposed rules are tailored to protect consumers and contribute to the discouragement of participation by underage persons and the development of problem gaming behaviors among young adults.

Peer-reviewed research suggests that young people are particularly susceptible to developing problem gambling behaviors and are particularly influenced by advertising and marketing messages. Globally, up to 12% of youth and young adults experience gambling problems and up to 14% are at risk of developing them. Calado et al., "Prevalence of adolescent problem gambling: a systematic review of recent research," 33 J. GAMBLING STUD. 397 (2017); Turner et al., "Traumatic brain injuries and problem gambling in youth: evidence from a population-based study of secondary students in Ontario, Canada," 15 PLOS ONE (2020). The International Center for Responsible Gambling states that studies show anywhere from 2 to 7% of young people experience a gambling addiction, compared to about 1% of adults, and that an estimated 6% to 15% of youth have gambling problems that are less severe, while 2% to 3% percent of adults fall into that category. ICRG, "Talking with children about gambling" fact sheet. Youth and young adults are increasingly turning to online gambling, Shi et al., "A perspective on age restrictions and other harm reduction approaches targeting youth online gambling, considering convergences of gambling and videogaming," 11 FRONTIERS IN PSYCHIATRY (2020), and problematic gambling is more prevalent among youth who gamble online. Floros et al., "Adolescent online gambling in Cyprus: associated school performance and psychopathology," 31 J. GAMBLING STUD. 367 (2015). Early involvement in gambling may be predictive of experiencing gambling harms later in life. Freund et al., "Exposure to other people's gambling and gambling behaviors in Australian secondary school students," PSYCHOLOGY OF ADDICTIVE BEHAVIORS (2022); Shaffer et al., "The epidemiology of college alcohol and gambling policies," 2 HARM REDUCTION J. 1 (2005). Comparatively fewer colleges and universities have policies on gambling activity, compared to alcohol policies, which are ubiquitous. Shaffer et al. There are legitimate concerns about problem gambling risks among young people that regulation could address.

Reasonable restrictions on advertising and marketing directed to more vulnerable young people are regulations tailored to address these risks, as are requiring responsible gambling messaging. Exposure to gambling advertising is associated with more positive gambling-related attitudes, greater gambling intentions and increases in problem gambling behavior. Bouguettaya et al., "The relationship between gambling advertising and gambling attitudes, intentions and behaviours: a critical and meta-analytic review," 31 CURRENT OPINION IN BEHAVIORAL SCIENCES 89 (2020). A German research study with 13-25-year-olds found a positive correlation between exposure to gambling advertising and gambling frequency, noting that a resulting perception from advertisements is that gambling leads to winning money and having fun. Clemens et al., "Exposure to gambling advertisements ad gambling behavior in young people," 33 J. GAMBLING STUDIES 1 (2017). Influences from advertising are associated with increased gambling problems among those who bet on sports. Freund et al., "The prevalence and correlates of gambling in Australian secondary school students," 38 J. GAMBLING STUD. 1173 (2022); Lamont and Hing, "Sports betting motivations among young men: an adaptive theory analysis," 42 LEISURE SCIENCES 185 (2020); Nyemcsok et al., "Viewing young men's online wagering through a social practice lens: implications for gambling harm prevention strategies," 33 CRITICAL PUB. HEALTH 241 (2023). Sponsorship of sports teams can communicate that betting is a harmless activity, like watching sports can be. Pitt et al. "Factors that influence children's gambling attitudes and consumption intentions: lessons for gambling harm prevention research, policies and advocacy strategies," 14 HARM REDUCTION J. 11 (2017). Young people's awareness of gambling marketing can lead them to believe that gambling is a normal part of sports and that gambling has little risk. Djohari et al., "Recall and awareness of gambling advertising and sponsorship in sport ion the UK: a study of young people and adults," 16 HARM REDUCTION J. 24 (2019). People with gambling problems are significantly more likely than other gamblers to be influenced by gambling promotions and incentives. Gainsbury et al., "How risky is Internet gambling? A comparison of subgroups of Internet gamblers based on problem gambling status," 17 NEW MEDIA & SOCIETY 861 (2015).

To address the risks that targeted advertising and marketing to young people pose, the proposed regulations would: prohibit advertising, marketing or branding aimed at underage persons; prohibit the use of designs to appeal primarily to underage persons by depicting cartoon characters or by featuring entertainers or music that appeal primarily to underage audiences; prohibit advertising and marketing where the reasonably foreseeable percentage of the composition of the audience that is underage is greater than the percentage of the population of the State that is underage; prohibit sports wagering messaging, logos, trademarks or brand names on items intended primarily for underage persons; prohibit promotion or advertisement of sports wagering in college- or university-owned news assets or advertised on college or university campuses, other than generally

available advertising that is not targeted to such areas; generally prohibit the depiction of underage persons, students, school or colleges, or school or college settings; and generally prohibit advertising containing endorsements by underage persons, college athletes, schools or colleges or college athletic associations.

The Commission is aware of dozens of complaints from sports wagering customers claiming to have been misled or deceived about wagers or promotions offered. Accordingly, the proposed rules would prohibit false, deceptive or misleading statements or elements. Various elements of the American Gaming Association's Responsible Code for Sports Wagering, which at least several current Commission licensees voluntarily agreed to abide by, would be incorporated into Commission rules. Marketing and promotions would be required to clearly and conspicuously disclose material facts, terms and conditions and adhere to such terms, clearly and conspicuously disclose to consumers material limitations of a promotion, and prominently disclose any associated required wager amount in connection with a promotion. Responsible gaming would be promoted by prohibiting licensees and vendors from advising and encouraging individual patrons, in targeted communications, to place specific wagers or types of wagers. Licensed operators would be required to provide individuals with an option to opt-out of future direct advertisements, as an element of promoting responsible play. Making these reasonable requirements applicable to all sports wagering operators, and not just those who are American Gaming Association members, would promote uniformity in good practices across all regulated parties.

Regulated parties would be required to retain records of advertising, to assist the Commission in investigating compliance.

Responsible play would be encouraged by prohibiting licensees to enter into agreements with third parties known as affiliate marketing partners to conduct advertising and marketing, where the manner of compensation for such services is prohibited by Racing, Pari-Mutuel Wagering and Breeding Law section 1341(1), thus appropriately disincentivizing such third parties from targeting those most vulnerable to problem gambling tendencies. Responsible gaming advertising restrictions would apply also to such affiliate marketing partners. Affiliate marketing partners would be required to disclose, in a reasonably prominent manner, whether such affiliate marketing partner has an agreement with a sports wagering operator. Sports wagering operators also would be required to cause their affiliate marketing partners to comply with such disclosure requirements.

4. COSTS:

(a) Costs to the regulated parties for the implementation of and/or continuing compliance with this rule: The anticipated cost of implementing and complying with the proposed regulations is negligible.

(b) Costs to the regulating agency, the State, and local governments for the implementation of and continued administration of the rule: The costs to the Commission for the implementation of and continued administration of the rules will be negligible given that all such costs are the responsibility of the licensed parties. These rules will not impose any additional costs on local governments.

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

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

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

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

8. ALTERNATIVES: The alternative of not proposing this rulemaking was considered and rejected. The proposed rules are necessary to protect consumers from false, deceptive, or misleading statements and contribute to the discouragement of participation by underage persons and the development of problem-gaming behaviors among young adults.

9. FEDERAL STANDARDS: There are no federal standards applicable to the regulation of gaming facilities or mobile sports wagering operators in New York; it is purely a matter of New York State law.

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

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

The proposed rules will not have any adverse impact on small businesses, local governments, jobs or rural areas. These rules are intended to promote public confidence and trust in the credibility and integrity of mobile sports wagering and sports wagering at casinos in New York State.

The proposed rules do not impact local governments or small businesses as no local government or small business holds a mobile sports wagering license or sports pool license and no local government or small business is anticipated to be a mobile sports wagering or sports pool vendor or participate in the advertising, marketing and promotions of such entities.

The proposed rules impose no adverse impact on rural areas. The rules apply uniformly throughout the state.

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

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

REVISED RULE MAKING
NO HEARING(S) SCHEDULED

Comprehensive Regulations for Interactive Fantasy Sports

I.D. No. SGC-29-22-00010-RP

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

Proposed Action: Addition of sections 5600.1 to 5613.4 to Title 9 NYCRR.

Statutory authority: Racing, Pari-Mutuel Wagering and Breeding Law, sections 104(19), 1405(1) and (2)(g)

Subject: Comprehensive regulations for interactive fantasy sports.

Purpose: To regulate interactive fantasy sports in New York.

Substance of revised rule (Full text is posted at the following State website: https://www.gaming.ny.gov/proposedrules.php): These proposed new rules would implement Interactive Fantasy Sports ("IFS") contests in compliance with Article 14 of the Racing, Pari-Mutuel Wagering and Breeding Law. The proposal contains the following parts:

Part 5600 (General): Definitions applicable to Chapter VI of the regulations.

Part 5601 (Registration of Interactive Fantasy Sports Operators): Procedures governing the application form, the filing, processing, investigation and determination of IFS registration applications and the issuance of registrations. Officers and directors of an applicant as well as direct and indirect owners above certain thresholds would be investigated for suitability, applying statutory disqualifying criteria as well as whether participation in IFS would be inconsistent with the public interest, convenience or necessity of the best interests of IFS generally. Proposed contest types and internal controls would be required to be disclosed. Disclosure would be required concerning special purpose entities. Applicants denied a registration would have the right to request a de novo hearing pursuant to Commission procedures. The Commission would be permitted to grant an application, grant an application with conditions or deny an application.

Part 5602 (Permissible Contests): Criteria for permissible contests. These would include statutory standards as well as a requirement that contests shall not be based on proposition betting and shall not have the effect of mimicking proposition betting. Contests in which a contestant chooses whether an individual athlete or a single team will surpass an identified statistical achievement would be prohibited. Contest types would be subject to approval by the Commission, including proposals to offer contests for a sport, league, association or organization not previously offered, allowing the Commission to gauge corruption risk to underlying athletic competitions. Registrants would be required to disclose fees, the value of prizes offered, how many contestants have entered each contest and the amount of prizes distributed following the conclusion of each contest. Registrants would be required to identify any highly experienced player entering a contest. The proposed rule would prescribe a maximum number of entries per contestant in any contest.

Part 5603 (Requirements for Contests): Required disclosures to contestants. These rules are designed to assist contestants in understanding fully the nature and rules of the contests they may enter. Required information would include data on relevant rates of success of contestants, identification of experience level of contestants and lock times for contest rosters. Prohibited contestants, including employees of registrants and athletes and officials of underlying athletic competitions, would be prohibited from disclosing insider information to potential contestants. Registrants would be prohibited from knowingly permitting a prohibited player associated with such registrant from making any such insider disclosure and would be required to take reasonable measures to prevent any such disclosures. To ensure that contest entries are based on skill, auto-picks of roster athletes for an IFS entry would be prohibited, but an assisted-draft mode would be permitted if based on automated selection based on criteria set by the contestant. Unauthorized computer scripts would be prohibited. Registrants would be prohibited from offering credit.

Part 5604 (Restrictions on play): Registrants would be required to adopt procedures to prevent play by prohibited contestants, such as employees of registrants and their families, athletes in underlying athletic events,