

**Kevin F. O’Toole, Executive Director
Pennsylvania Gaming Control Board
Testimony before the House Gaming Oversight Hearing
on Sports Wagering Integrity
October 22, 2024**

Good Morning Chairman Harkins, Chairman Diamond, and Committee Members of the House Gaming Oversight Committee. My name is Kevin O’Toole and I serve as the Executive Director of the Pennsylvania Gaming Control Board (“Board”). With me, to assist in any questions you may have, is Elizabeth Lanza – the Board’s Director of Compulsive and Problem Gambling and Paul Resch, our Director of Casino Operations.

I’d like to thank you for the opportunity to discuss sports wagering and any integrity issues that have come to light – and may come to light – surrounding this gambling product that legally is taking hold across the country and has taken hold across this Commonwealth.

As the Board is the first testifier, I’d like to begin my testimony with a brief history of sports wagering in the Commonwealth and then move into integrity issues we see and how we are currently handling them.

The Board would like to begin by commending the General Assembly for its foresight to include the legalization of sports wagering within Act 42 of 2017 (informally referred to as the

“gaming expansion bill”). As you are all aware, at the time Act 42 was passed,¹ due to a federal law known as the Professional and Amateur Sports Protection Act of 1992, or “PASPA”,² sports wagering was only permitted in Oregon, Delaware, Montana, and Nevada, as those states had enacted some form of sports wagering before PASPA was enacted at the federal level. However, also at that time, PASPA was being challenged by the state of New Jersey and the case was pending before the United States Supreme Court. Accordingly, Act 42 included a provision that would allow sports wagering to become legal³ in the Commonwealth, pending a favorable decision in that case.⁴

On May 14, 2018, the Court found in favor of the State of New Jersey and invalidated PASPA as offensive to the anticommandeering doctrine under the Tenth Amendment.⁵

Since the General Assembly thought to include provisions for Sports Wagering within the already-enacted gaming expansion bill, the Board began its efforts to launch not only interactive gaming that includes online slots, online table games, and online poker, but also Sports wagering which includes physical Sportsbooks at the land-based casinos as well as online Sports Betting. While other states had to fight to legalize sports wagering – and still others continue that fight to this day – Pennsylvania was able to hit the ground running.

¹ Act 42 – 2017 was signed into law by Governor Wolf of October 30, 2017.

² 28 U.S.C. §3701 *et seq.*

³ 4 Pa.C.S. §13C11(b).

⁴ *Murphy v. National Collegiate Athletic Assn.*, 584 U.S. ____ (2018).

⁵ The anticommandeering clause generally stands for the premise that it is unconstitutional for Congress to legislate what is a state issue. In this case, gambling.

The Board adopted the initial temporary sports wagering regulations⁶ at its August 15, 2018, public board meeting and the Independent Regulatory Review Commission (“IRRC”) was able to publish the temporary regulations on or about September 14, 2018. Those regulations, along with mandated internal controls that are submitted and approved by the Board prior to the launch of the gaming activity, play a major role in ensuring integrity in sports wagering and online gaming.

Board Regulations 1408.8 and 1408.9 pertain specifically to risk management and integrity monitoring, respectively. These regulatory provisions include mandates that the sports wagering and online gaming operators must accomplish the following, which include:

- Maintain controls regarding fraud detection.
- Maintain controls that ensure regulatory compliance.
- Maintain standards that describe the steps for anti-money laundering compliance.
- Notify the Board of all information pertaining to unusual suspicious activity and to follow that notification with a report to the Board.

With the regulations in place and with approved internal controls, the first retail sportsbook opened in the Commonwealth on November 17, 2018, at Hollywood Casino in Grantville. Needless to say, in the world of regulated gaming, this was a quick turnaround and today the

⁶ 58 Pa. Code §1401a, *et seq.*

Board is proud to say we regulate 18 retail and 11 online sportsbooks operating throughout the Commonwealth.

While the Board is quite proud of the maturing sports wagering market in Pennsylvania, it is important to give it some context. Sports wagering within the Commonwealth – and nationwide – is extremely popular. In Pennsylvania, sports wagering operators took in \$8.2B in handle – that is, wagers - in the FY23/24 – up from \$7.2B in handle in FY22/23. Of that \$8.2B, of course, winning wagers were paid out and, at the end of FY 23/24, operators reported \$487 Million in revenue – about 6% of the handle. From that revenue, \$175 Million in state and local taxes were paid. While these numbers are significant, they reflect only about 8% of all casino style gaming revenues – and 7% of taxes paid - when compared to retail and online casinos combined.

Make no mistake, however, the Board realizes that with its new responsibilities involving sports wagering, along with online slots, table games, and poker, came new challenges. Sports wagering has many moving parts. The Board must not only concern itself with the integrity of the operators and their staffs, but with the fairness of wagers made available to the public and even, to some degree, with the integrity of underlying sporting events. Without even considering college sports, as we sit here today, we are in the middle of the NFL season, the MLB playoffs, the beginning of the NHL season, and the first day of the NBA season which is today.

With respect to the fairness of wagers, the Gaming Act treats fairness as the core of our responsibilities. Section 1102 of the Gaming Act pertains to legislative intent. The first paragraph of legislative intent states that the primary objective to which all other objectives and purposes are secondary is to protect the public through the regulation and policing of all activities involving gaming.

The Board protects the public and ensures fairness through its regulations in many ways, but the most important are: 1) the testing of all hardware, software and ancillary equipment used in the conduct of slots, table games and online gaming; and 2) the submission and approval of the rules that govern all table games, including the payout odds for all wagers associated with each game.

Cognizant of all of this, the Board established the Office of Sports Wagering Operations, charged with monitoring all sports wagering operators for compliance with the Board's regulations and the operators' internal controls, which are reviewed and approved by Board staff before a sports wagering operator can commence operations. On a daily basis, the Office of Sports Wagering monitors reports of suspicious wagering activity, investigates patron complaints and reviews promotions prior to their going "live." During FY 23/24, the Office of Sports Wagering reviewed and approved over 325 different types of wagers in over 40 different sports, thousands of promotions and hundreds of patron complaints.

And while the Board is not responsible for assuring the integrity of the athletic events being wagered upon, the Board will not approve a sport for wagering purposes when there does not exist an overseeing governing body for the sport in question, with comprehensive rules for how the athletic event is played, and with strong internal controls, such as the National Football League, Major League Baseball, National Basketball Association and National Hockey League. Indeed, a real bright spot which has occurred with the broad legalization of sports wagering – now available in almost 40 states – is the open lines of communication which occurs between and among regulators, operators and the sports leagues, all with a keen interest in assuring the integrity of the games being wagered upon.

The Board has also worked diligently to utilize features that are in place to help address problematic sports wagering. We emphasize both the self-exclusion program that Director Lanza can go more in-depth about, and “cool off” tools within online sports wagering sites that can regulate how much – and when – a bettor is able to wager during a given period of time. However, that is only the patron side – the Board also must contend with the professional player side of the equation (as must the various leagues). Just this summer the Board’s Office of Enforcement Counsel brought two actions against professional athletes for impermissibly wagering on professional sports in which they engage⁷ – and, unfortunately, we do not expect those actions to be the last.

⁷See, BIE v. Shaka Toney, Docket No. 12967-2024; and, BIE v. Tucupita Marcano, Docket No. 12976-2024. The Board notes that until judgment is passed by the Board on these matters, after full administrative proceedings, the allegations remain simply allegations, and the defendants reserve all rights under law.

Finally, the Board now must also contend with potential error by the sportsbooks themselves. The Board has engaged in at least four consent agreements⁸ with licensees regarding sports wagering, and we fully expect more to come down that road as well.

All of this is a long way of saying the Board is immensely proud of the maturing sports wagering industry in the Commonwealth. The General Assembly had the foresight to allow the conduct to take off as soon as federal law permitted, the Board got right to work, and the industry has worked diligently to stand itself up and gain market share all in a few short years. This is largely to the benefit of the Commonwealth bettors, sports enthusiasts, and most importantly, the Commonwealth taxpayers. However, we further recognize, and I'm sure testifiers after me will demonstrate, that problems exist. Some of these are novel and some of these are problems the Board has been dealing with for years – just in a different shape – but the goal of regulating an industry is to minimize problems and to ensure a safe, reliable, and fun product for the betting public. Where we need to continue to work with the General Assembly to realize those goals, we certainly will. And where we can realize those goals within the statutory charge we have already been given, we will do that as well. But the work certainly continues.

Thank you, Directors Resch and Lanza and myself look forward to your questions.

⁸ On November 10, 2021, the Board approved a consent agreement with Hollywood for allowing self-excluded individuals to access sports wagering sites, resulting in a \$57,500 fine; on February 21, 2024, the Board approved a consent agreement with Penn Interactive Ventures for insufficient protocols which allowed multiple patrons to create multiple fraudulent accounts on sports wagering sites, resulting in a \$97,500 fine; on March 19, 2024, the Board approved a consent agreement with Live! Philadelphia for unapproved college offerings resulting in a fine of \$10,000; on June 26, 2024, the Board approved a consent agreement with Live! Philadelphia for allowing bets to be phoned in, resulting in a fine of \$100,000.

Thank you, Kevin, and thank you to the Committee for having us here today.

Since the inception of expanded gambling in 2017, the Board has seen an increase in participation in its tools and programs that assist citizens of the Commonwealth and beyond. We have seen many who are taking advantage of the tools put in place to assist individuals in keeping their gambling at safe levels, and others, like the Board's Self-Exclusion Programs, that allow for individuals who are experiencing gambling-related harm to ban themselves from participating in regulated gambling activities.

In 2023 the Office of Compulsive and Problem Gambling received the highest number of self-exclusion enrollment requests than ever before. The number of enrollments for the calendar year grew by about 1,400, for a total of just under 5,500 enrollments last year. We have already surpassed 5,500 enrollments so far in 2024. In total, the OCPG has received and processed over 35,000 requests for enrollment in self-exclusion since 2006. As enrollment in these programs continues to grow, it is the goal of the OCPG to ensure the programs remain effective and encompass the needs of the participants.

My office also continues to work with PGCB licensees and operators to ensure the appropriate tools and trainings are in place that allow for the detection of individuals who may be displaying signs of a gambling disorder and to ensure these individuals receive the appropriate assistance. Pennsylvania's online operators are required to offer responsible gambling limits to every player, which allows individuals to proactively manage their online gambling activity. Individuals who wager online are able to select time, deposit, wager and spend limits. Over the past several years, participation in these preventative limits has also steadily increased.

As always, the OCPG continues to work with the Department of Drug and Alcohol Programs, the Council on Compulsive Gambling of PA, the PA Lottery, and our other partners to ensure that safer gambling is a part of the Pennsylvania landscape.

Thank you for your time today.