

Potential Rulemaking for Responsible Gaming (9 NYCRR Part 5404)

To whom it may concern:

Governor Kathy Hochul's 2026 State of the State included policies aimed at preventing gambling addiction through additional measures, including preventing practices designed to keep customers from gambling beyond their means. The Commission announced at its March 16, 2026 meeting that it will consider regulations to address the issue of responsible gambling.

This potential proposal would propose one element of the Governor's initiatives by limiting the ability of betting platforms—including commercial casinos, mobile sports wagering platform providers and operators, video lottery gaming agents, and horse racing racetracks, off-track betting corporations and multi-jurisdictional account wagering providers — and lottery courier services to use artificial-intelligence-powered services to target customers with personalized promotions and wager suggestions.

This potential proposal would also require any sports-wagering provider to:

- Designate a responsible gaming lead to implement responsible gaming regulatory requirements, including, without limitation, identifying and maintaining a list of at-risk patrons, ensuring at-risk patrons are provided with responsible gaming information and ensuring at-risk patrons are not presented with direct advertising materials;
- Conduct due diligence on any patron meeting certain criteria, including scope of wagering activity and initiation (but not completion) of self-exclusion resources;
- Require phases of interventions a mobile sports wagering licensee must undertake;
- Restrict the ability of a patron to cancel a funds-withdrawal request; and
- Prevent a mobile sports licensee from soliciting a patron to rescind a funds-withdrawal request.

The Commission is interested in pre-proposal comments from a broad spectrum of interested parties. Please direct any comments you have by email to: gamingrules@gaming.ny.gov.

A new Part 5404 would be added to 9 NYCRR, to read as follows:

PART 5404

Responsible Gambling

Section

5404.1 Use of artificial intelligence for wagering purposes

5404.2 Identification and support of at-risk patrons

§ 5404.1. Use of artificial intelligence for wagering purposes.

None of the following shall, directly or indirectly, use artificial-intelligence-powered services to offer personalized promotions or suggested wagers or wager amounts to any individual customer or potential customer or any number of customers or potential customers:

(a) gaming facility licensees, as defined in Racing Pari-Mutuel Wagering and Breeding Law section 1301;

(b) sports wagering platform providers or mobile sports wagering operators, as defined in Racing Pari-Mutuel Wagering and Breeding Law section 1367,

(c) video lottery gaming agents, as defined in section 5100.2 of this Title;

(d) racing associations, racing corporations and franchised corporations, within the meaning of Racing Pari-Mutuel Wagering and Breeding Law articles 2, 3 or 4;

(e) off-track betting corporations, as defined in Racing Pari-Mutuel Wagering and Breeding Law sections 501 and 602; and

(f) multi-jurisdictional account wagering providers, as defined in Racing Pari-Mutuel Wagering and Breeding Law section 1001; and

(g) lottery courier services, as defined in Part 5014 of this Title.

§ 5404.2. Identification and support of at-risk patrons.

This section shall apply solely to activity authorized by section 1367 of the Racing, Pari-Mutuel Wagering and Breeding Law.

(a) *Definitions.* The following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise:

(1) *At-risk patron* means an individual who meets any of the patron-play criteria set forth in subdivision (d) of this section and who, after a due diligence review by a mobile sports wagering licensee, is found by a mobile sports wagering licensee to be exhibiting potential problem gambling behavior.

(2) *Cool-off period* means a designated timeframe during which a patron voluntarily suspends access to such patron's internet or mobile-gaming account.

(3) *Due diligence review* means a comprehensive examination and assessment of a patron's gaming patterns to evaluate potential risk for problem gambling.

(4) *Problem gambling behavior* means actions or patterns of behavior that lead to significant psychological, physical, occupational, relational, financial and/or legal harm to the patron or others.

(5) *Responsible gaming* means a policy for best practices to promote a safe and enjoyable gaming experience while minimizing the potential harm to individuals and communities, emphasizing the importance of informed decision making, player protection and social responsibility.

(6) *Responsible gaming lead* means the individual employee at each mobile sports wagering licensee responsible for ensuring at-risk patrons are provided with responsible gaming information, such as referrals to available resources and the responsible gaming features offered by a mobile sports wagering licensee, and that responsible gaming practices are effectuated. Each responsible gaming lead is supported by additional responsible gaming staff.

(7) *Responsible gaming professional* means a professional counselor licensed by the State of New York with experience in addressing and mitigating the effects of problem gambling.

(8) *Responsible gaming triggering system* means the automated tool utilized by a mobile sports wagering licensee to identify potential at-risk patrons through the evaluation of patron play criteria set forth at subdivision (d) below.

(b) *Responsible gaming lead*. Each mobile sports wagering licensee shall designate one employee to serve as a dedicated responsible gaming lead, whose responsibilities shall include, without limitation:

(1) identifying and maintaining a list of at-risk patrons, which shall be provided to the Commission upon request, that includes information relating to the following matters:

(i) if a patron meets or exceeds any of the patron-play criteria set forth in subdivision (d) of this section, but a mobile sports wagering licensee's due diligence review determines that the patron is not an at-risk patron, a mobile sports wagering licensee must document the specific reasons for such determination and maintain such documentation for a minimum of seven years;

(ii) a patron may be removed from the at-risk patron list if such patron fails to trigger any criteria set forth in subdivision (d) of this section for a period of 180 days from the date of the last due diligence review and if the patron's activity then is determined by the responsible gaming lead not to be exhibiting potential problem gambling behavior; and

(iii) the same patron shall be added again to the list of at-risk patrons if, after a due diligence review, the patron is subsequently determined by the responsible gaming lead to be an at-risk patron;

(2) ensuring at-risk patrons are provided with responsible gaming information, including resources regarding gaming addiction and/or problem gaming, as well as the availability of responsible gaming features offered by a mobile sports wagering licensee, such as time, loss, and deposit limits, cool-off period options, self-exclusion, and account closure procedures; and

(3) ensuring at-risk patrons are not presented with direct advertising materials, including, without limitation, marketing, promotions, casino- and gaming-event invitations and complimentary services or items.

(c) *Due diligence review.* Any patron meeting or exceeding any of the thresholds set forth in subdivision (d) of this section shall be flagged for due diligence review by a mobile sports wagering licensee to determine whether the patron is exhibiting signs of potential problem gambling. If, after such due diligence review, a mobile sports wagering licensee believes that the patron may be exhibiting signs of problem gambling behavior, the patron shall be placed on the list of at-risk patrons maintained by such mobile sports wagering licensee's responsible gaming lead, as required by subdivision (b)(1) of this section.

(d) *Automatic triggers for due diligence review.* Each mobile sports wagering licensee shall incorporate in its procedures, at a minimum, the following patron-play criteria as automatic triggers for due diligence review by the mobile sports wagering licensee:

(1) a patron's deposits exceed \$10,000 over a 24-hour period;

(2) a patron's deposits exceed \$100,000 over a 90-day period;

(3) a patron accesses the self-exclusion request page, but does not complete the self-exclusion process, three or more times in a 30-day period;

(4) a patron requests a second cool-off period within 45 days of the conclusion of the first cool-off period;

(5) a patron makes three consecutive increases to any responsible gaming limits offered by the mobile sports wagering licensee, without any decreases, within a seven-day period;

(6) a patron cancels withdrawal requests within the cancellation requirements set forth in subdivision (f) of this section, prior to the processing of the withdrawal, three times in a 10-day period;

(7) the total turnover of a patron's account exceeds \$1,000,000 in a 90-day period;

(8) a patron's time spent logged into the account increases by 50 percent or more during the current week, compared to the immediately preceding two-week period;

(9) a patron ends two or more gambling or gaming sessions in the same week with a balance of less than \$1 remaining in the account;

(10) a patron concludes two or more sessions in the same week with an increase in the total number of wagers from the previous session;

(11) a patron deposits funds from more than two sources within a 24-hour period;

(12) any additional triggers identified by the mobile sports wagering licensee to be potential indicators of problem gambling behavior; or

(13) any additional triggers identified by the commission through a notice to mobile sports wagering licensees.

(e) *Cool-off period.* During a cool-off period, a patron is prohibited from logging in, placing wagers, depositing funds or engaging in any wagering activity. The cool-off period shall not be reversible once initiated and must last for a minimum of 72 hours.

(f) *Interventions.* Each mobile sports wagering licensee shall ensure the responsible gaming triggering system includes the phases of intervention set forth in this subdivision. Mobile sports wagering licensees shall maintain detailed records of all responsible gaming interventions for a period of seven years. These records shall be available for inspection by the commission upon request. A mobile sports wagering licensee may advance a patron to a subsequent phase of intervention if the due diligence review or the specific trigger initiated warrants a more advanced response:

(1) Phase 1. A mobile sports wagering licensee shall contact the patron through the patron's validated email address, or any such other method as approved by the commission, and provide information to the patron concerning the availability of the various responsible gaming features offered by the mobile sports wagering licensee, including time, loss and deposit limits, cool-off period options, self-exclusion requests and account closure procedures, as well as resources that can be accessed to support responsible gaming and to address problem gaming.

(2) Phase 2. A mobile sports wagering licensee shall require the patron to view a video tutorial, approved by the commission, concerning responsible gaming and problem gaming in order to continue gaming activity. The video tutorial shall be used to educate the patron on the availability of various responsible gaming features offered by the mobile sports wagering licensee, including time, loss and deposit limits, cool-off period options, self-exclusion requests and account closure procedures, as well as resources that can be accessed to support responsible gaming and to address problem gaming. The video may be separated into multiple parts or sections, but shall contain both audio and visual components. The patron shall be required to view the video in its entirety prior to placing further wagers, and

the mobile sports wagering licensee shall require, generate and maintain a record confirming that the video was viewed in its entirety.

(3) Phase 3. The responsible gaming lead shall contact the patron directly by phone, video call or such other method of communication approved by the commission, to discuss possible problem gambling behavior and to highlight all responsible gaming options offered by the mobile sports wagering licensee, including time, loss and deposit limits, cool-off period options, self-exclusion requests, and account-closure procedures. The responsible gaming lead shall provide the patron with contact information for a responsible gaming professional. The responsible gaming lead shall provide such lead's own contact information to the patron, so that the patron can contact the responsible gaming lead directly to receive further guidance, if sought. The responsible gaming lead also may refer the patron to emergency medical and/or mental health professionals or to law enforcement, if the responsible gaming lead determines that the patron may be at risk of harm to the patron's own self or others. If the responsible gaming lead is unable to reach the patron by any approved method of communication, a voice message shall be left with the patron and documented by the responsible gaming lead. The responsible gaming lead shall make at least three attempts to contact the patron by phone, with each call placed at least 24 hours after the preceding call and with a voice message left each time, if the patron was not reached in the attempt. If the responsible gaming lead is unable to speak with the patron by phone after three attempts, the responsible gaming lead shall email the patron and the patron's account shall be temporarily suspended until such time as the responsible gaming lead is able to speak directly with the patron by telephone, video call or any such other method of communication approved by the commission. The email shall include the information required in this paragraph and shall be approved in form by the commission. The patron's account shall remain suspended until the direct communication required by a phase-3 intervention is completed and results in a determination by the responsible gaming lead that the patron is not exhibiting problem gambling behavior. If, after a phase-3 intervention, the responsible gaming lead concludes that the patron is exhibiting signs of problem gaming, the patron's account shall be closed, and the patron shall be referred to available problem-gambling resources. Account balances and pending wagers shall be handled in accordance with commission regulations.

(g) *Withdrawals.* A patron may not cancel or reverse a withdrawal request within a three-day period beginning with the withdrawal request and prior to the disbursement of the funds. Any solicitation by mobile sports wagering licensees for patrons to rescind fund withdrawals that are pending and have not been processed is prohibited.

(h) *Additional safeguards.* The criteria for problem gaming set forth in subdivision (d) of this section are required minimum standards, and each mobile sports wagering licensee is encouraged to have additional automated triggers to identify problem gaming and/or lower numeric thresholds and timeframes, in the discretion of the licensee, as added safeguards. Additionally, a mobile sports wagering licensee may escalate the response to any subsequent phase, or take any other action deemed necessary or appropriate, if such licensee determines the patron may be at severe risk for problem gambling.