

## GCB & NGC Regulatory News Highlights

- **July 12, 2018** (Notice 2018-52) – Board issues Industry Notice that all Foreign Gaming forms are available online and may be submitted online too.
- **July 5, 2018** (Notice 2018-50) – Board seeks input on revisions to Regulation 22 following the U.S. Supreme Court’s ruling in *Murphy v. NCAA, et al.*
- **June 27, 2018** (Notice 2018-49) – Board considering a proposed bill for the 2019 Legislative session that would amend NRS 463.1036 to exclude computerized LET systems from the definition of associated equipment.
- **May 22, 2018** – the Board, along with the Massachusetts Gaming Commission, Louisiana Gaming Control Board and the Michigan Gaming Control Board issue a joint media statement in the wake of the U.S. Supreme Court’s ruling in *Murphy v. NCAA, et al.* outlining five core principals or guidelines for adopting sports betting regulations: (i) coordinate action among the jurisdictions offering legalized sports betting; (ii) jurisdictions regulating sports betting should strive to share real-time betting information to aid in detecting, preventing and eliminating match fixing; (iii) develop measures for responsible sports betting to “protect and maintain the credibility of the activity”; (iv) the long history of legalized sports betting in Nevada and the United Kingdom indicates that such wagering is a very low margin business compared to other forms of gambling and, thus, reasonable tax rates and fees are critical to for the sports betting industry to be viable and competitive; and (v) “[a]dditional fees, including the so-called



### AN INTERVIEW WITH BECKY HARRIS CHAIRWOMAN OF THE NEVADA GAMING CONTROL BOARD

By Jaime K. Black

In January 2018, Governor Brian Sandoval made a historic appointment to the Nevada Gaming Control Board (“Board”) by naming Becky Harris as the first Chairwoman of the regulatory agency, and only the second woman ever to sit on the Board. However, that’s no longer front-page news. Rather than dwell upon that fact, especially since she now has approximately six months under her belt as the Chairwoman, in my interview with her, we discussed instead other important issues, including how she has adapted to the role and what current and upcoming (if reappointed) challenges she expects to face as the Board’s Chair.

**Q:** Aside from you being the first female Chair of the Board, which has already been discussed a great deal, why is your appointment important to the Board, the gaming industry, and the State of Nevada?

I’m the first Chair to come from outside both the Board and the industry in quite some time. I have the benefit of having received a quality gaming education through the LL.M. in Gaming Law and Regulation program at UNLV’s William S. Boyd School of Law. Also, my experience as Vice-Chair of the Nevada Senate Judiciary Committee helped me to understand the diversity of issues in

the gaming space. My unique background and opportunities have given me a different perspective and approach than some of the others who have had the opportunity to serve on the Board.

**Q: What about the Board and in particular, being the Chair, was appealing to you?**

While I really enjoyed my service in the Legislature, by necessity, I was forced to be a generalist. Certainly, I had a breadth of understanding and experience but I did not often have an opportunity to get into the depth of a lot of issues. I love the variety of issues that come before the Board. As a regulator, I now have the ability to dig into complex gaming matters. Also, there is not that same time pressure at the Board that I experienced in the Legislature. It is an opportunity to really untangle complex issues and make a difference.



**Q: You have discussed a bit of your background in your previous responses. To elaborate more, what unique experience do you bring to the role and why is it useful in this position?**

My experience as a lawyer in alternative dispute resolution allows me to use my mediation skills every day at the Board. Additionally, my experience in the Nevada Senate has been useful in terms of conducting the monthly Board meetings and knowing what issues are important. The training and education I received through my LL.M. has proven to be incredibly

useful, especially the legal education I received around complex gaming issues. I had the privilege of participating in an externship with the Board about two years before I was appointed. That externship has proven to be incredibly valuable, because I came to my new position with an understanding of how the Board is constituted and how it operates.

**Q: Did you have any reservations about accepting Governor Sandoval's appointment? If so, what were those reservations?**

It is such a tremendous responsibility. And not having had an opportunity to develop a robust or significant gaming practice gave me a little bit of pause. I did not have the level of experience in the industry that I perhaps would have liked to have had prior to the appointment.

**Q: In your brief tenure at the Board, what has been the biggest surprise either about the agency and/or the position of Chair?**

The amount of time the day-to-day management of the Board requires.

**Q: What has been the biggest challenge?**

That there are only 24 hours in the day. I want more time.

**Q: Since taking on this role, have you identified any areas in which you feel you could be, or plan to become, more educated/knowledgeable?**

Interactive gaming is the area of gaming I know the least about.



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“integrity fee,” increases the costs of legal sports betting, siphon much needed tax revenues away from state coffers, and increase regulatory burdens.”

- **May 17, 2018** – Commission adopts amendments to Regulations 1 and 4. Specifically, the Commission revises (i) Regulation 1.155 to modify definition of “registration” include other business entities in addition to corporations and to include registration with the Board; and (ii) Regulations 4.030 and 4.080 to specify when an act or involvement by the Commission has occurred or begun, and update classification of approved registrations of holding companies to include other business entities other corporations.
- **May 4, 2018** (Notice 2018-39) – Adoption of resolution by the Nevada Gaming Policy Committee regarding the association between the marijuana industry and licensed gaming.
- **April 30, 2018** (Notice 2018-37) – Board updated all application forms and related instructions with hyperlinks to the referenced forms. All applications must now include an application checklist with the submission.
- **April 30, 2018** (Notice 2018-35) – Board issues a draft (dated April 2, 2018) of an amendment to Regulation 5 that would require all licensees to adopt and implement comprehensive plans to address sexual harassment.
- **April 20, 2018** (Notice 2018-30) – Board issues Industry Notice that the Technology Division will no longer require gaming device or associated equipment manufacturers to include a listing of feature codes on modification request forms. *(continue on page 11)*

- **April 19, 2018** – Commission adopts amendments to Regulations 4, 5, 22 and 30. Specifically, the Commission made the following amendments: (i) Regulation 4.080 to adjust the date by which an act or involvement approved by the Commission must occur or begin to coincide with a Commission meeting; (ii) Regulation 5.011 to clarify that intoxication includes both alcohol and other drugs; (iii) Regulation 22 regarding, among other changes, information collection and retention, obligations related to suspicious transactions, virtual event requirements, remote verification of identification credentials, and requirements regarding the operation of race books and sports pools; and Regulation 30 to, among other changes, revise the definition of “day,” allow the state steward to approve uncoupling of horses in any race, remove limits on the number of horses having common ties entering an overnight race, setting standards for secondary level of nonsteroidal anti-inflammatory drugs (NSAID), and alphabetize the list of permitted list of NSAIDs.
- **March 28, 2018** (Notice 2018-19) – Board issues Industry Notice that its Enforcement Division has implemented a process for the electronic submission of gaming device transactions.
- **March 22, 2018** – Commission adopted changes to Regulations 5 and 22, Specifically, the Commission approved: (i) Regulation 5 revisions that included operation to club venues, determination of qualification as a club venue, club hosts, promoters and employees, registration of independent hosts, and to clarify that club venue revolving accounts are used to pay expenses of the

**Q: Do you see significance in establishing and building relationships with gaming leaders from other jurisdictions? If yes, why? In your tenure, have you started establishing/building those relationships? Examples?**

It is incredibly important to have great relationships with regulators around the world for a variety of reasons; to be able to understand the difference between regulatory structures; the ability to have conversations around which practices are productive in a regulatory environment, and which lessons other regulators have learned in their jurisdictions. Nevada has been a great global community leader in being willing to share its experience as the most mature gaming jurisdiction in the United States.

Yes, I have started establishing and building relationships with other jurisdictions. I am part of U.S. Regulators Forum, which brings together eight regulators from jurisdictions within the United States, where we talk regularly about challenges that our jurisdictions are facing. We work together to find consensus on important issues. My most recent example would be the regulatory statement that was issued with regard to the repeal of PASPA. Finding areas of shared common interest is incredibly valuable, not only for industry leaders and stakeholders, but for regulators as well.

**Q: You are a lawyer. You have been a member of the State Legislature and reviewed gaming-related bills. You were one of the first graduates of William S. Boyd School of Law’s L.L.M. in Gaming Law and Regulation program. In addition to your fairly diverse background and experience, what other resources do you rely on to effectively lead the Board?**

I rely on my fellow Board Members, who are intelligent, capable, and seasoned. They have an incredible amount of institutional knowledge and experience. I rely on my staff. I have an incredible staff, who are experts in their respective areas, show leadership and are committed to the Board. I also

have several mentors who help me stay informed, centered, and balanced.



**Q: Are the UNLV Boyd School of Law, The International Gaming Institute (“IGI”), and The International Center for Gaming Regulation (“ICGR”) valuable resources for you and the Board, and vice versa?**

Through my studies, the Law School, the IGI, and the ICGR have been invaluable because they provided the foundation for my gaming education. The Law School consistently provides quality gaming resources, such as law review articles, scholarly works, and case studies.

The IGI and ICGR excel at providing gaming-related resources and education to a variety of stakeholders and regulators. The staff at the IGI and ICGR are always available to bounce ideas off of, collaborate with, and provide resources. The ICGR has been instrumental in establishing and facilitating the U.S. Regulators Forum. Without that, there really is no other structure for regulators to come together to discuss shared concerns, talk about effective regulation, and discuss emerging gaming products. So, yes, I do view the Law School, IGI, and



ICGR as very valuable, not only to the Board but to the larger regulatory world as well.

The Board has a robust relationship with the IGI and ICGR. As part of our responsibility to be a good community partner, the Board assists the IGI and ICGR as they provide education to regulators from a variety of jurisdictions.

**Q: Do you have an open-door policy for those in the gaming industry? If so, why? Do you view this as an important avenue for maintaining effective lines of communication between regulators and the regulated gaming industry?**



Yes, I do have an open-door policy and believe it is important. We are a self-report regulatory model. With that open door, and the comfort that comes with it, people in the industry know they can come and talk to me about the great things they are accomplishing or some of the things they find a little bit challenging, or when they are simply looking for guidance. Without it, we would not be as effective as we are.

**Q: Are there limitations to such an open-door policy, where such communication may be viewed as *ex parte* if the matter, for example, is a pending disciplinary action? Where do you draw those lines?**

Prohibited *ex parte* communication typically refers to a party to a lawsuit

(or a respondent in a disciplinary action) speaking to the judge or fact finder outside the presence of the opposing counsel. In disciplinary actions, the finder of fact is the Nevada Gaming Commission. The Board is not the finder of fact; it conducts the investigation and determines whether or not to file a disciplinary complaint. As such, the Board can and does meet with the respondent and their counsel, if counsel is retained. While it is not required for the respondent to retain counsel in disciplinary proceedings, having an advocate is prudent.

**Q: Should you be reappointed in January 2019, do you envision any significant reorganization plans for the Board? If so, what would you anticipate?**

No, I do not anticipate any significant structural reorganizations. I believe the way the Board is presently constituted is effective. I certainly have a vision for ways we can improve how we interact with those who have regular contact with the Board, use technology to enhance what we do, and provide better information in a more efficient way. I want to provide my staff with the tools they need to enhance their ability to do their jobs.

**Q: Over the past year, sexual harassment has become a mainstream topic of discussion, which has recently crossed over into the gaming industry. You have pioneered a set of proposed sexual harassment regulations. Why are these regulations important? What will these regulations accomplish that Regulation 5.011(8) does not? What will these regulations accomplish that already existing sexual harassment statutes and regulations, both federal and state, do not?**

Despite the sexual harassment prevention laws we have on the books, it is still a problem. I think that, as a society, we have seen in the last twelve months how significant a problem it is and that it is endemic to every industry. While the Board is granted significant power under Regulation 5, I think it is important to put a structural framework in place for sexual harassment prevention.

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Board and Commission to conduct undercover operations; and (ii) Regulation 25 to add definitions of “chair,” “customer incentive,” and “theoretical earning potential,” to revise the definition of “independent agent,” delete the definition of “preferred guest,” specify which independent agents are required to register, set forth additional requirements for the independent agent agreements with licensees, clarify when the independent agent must register and renew his or her registration, modify the registration and renewal requirements, create and objection and appeal process for independent agent registration, setting forth the ability to suspend the registration of an independent agent for failure to pay child support, requirements for independent agents to update their registration information and authorizing the chair to require new registrations based on the updated information, clarify the methods by which an independent agent may be compensated, establishing the consequences for an independent agent failing to timely file an application after being called forward, and modify and update reports required of licensees and related record retention.

- **February 15, 2018** (Notice 2018-06) – Board issues Industry Notice that Version 8 of the CPA MICS Compliance Checklists and Guidelines, as well as Internal Audit Compliance Checklist and Guidelines were adopted on December 19, 2017 to be effective March 1, 2018.

When you look at other issues that impact the gaming industry—marijuana, for example – the Board has been very proactive in sending out notices to licensees and providing guidance with regard to particular circumstances where marijuana may impact gaming licensees. I think it is only appropriate that we provide pertinent resources to the gaming industry with regard to sexual harassment.



**Q:** You just touched on the topic of marijuana in your prior response. Let's dig a little deeper into that issue. The regulated marijuana industry in Nevada and its relationship with licensed gaming continue to raise difficult issues for regulators given marijuana's distinction as a Category I controlled substance under federal law. Thus, making it impossible for the gaming industry to have any relationship with marijuana in light of Regulation 5.011(8), which makes it an unsuitable method of operation to violate local, state or federal laws, which can ultimately be grounds for disciplinary action under Regulation 5.030 and NRS 463.310. Given the Trump Administration's and, in particular, U.S. Attorney General Sessions' decision to reverse the Obama-era policy that restricted federal prosecution of those engaged in the

### **illegal marijuana industry, do you see any resolution to this issue in Nevada for the foreseeable future?**

Marijuana is tricky. U.S. Senator Elizabeth Warren currently has a bill before Congress, which would allow for states that have legalized marijuana to be exempted from federal laws regarding marijuana. I think if that bill were to pass, it would provide a lot of clarity and resolution for gaming licensees in the United States, in general, but more particularly, for gaming licensees in Nevada. I am hopeful there will be a resolution at the federal level that will provide the clarity that gaming licensees want, because Nevada has been operating in a murky area for quite some time. The Board has been judicious in how it analyzes the impact between the gaming industry and the marijuana industry. When one considers the amount of revenue generated by the legalized marijuana market in Nevada, it is quite clear that marijuana is here to stay. Any clarity that the Board can provide to the industry, on solid legal footing, is a positive thing. But because the clarity is not there, it continues to be a challenge.

**Q:** For quite some time, Nevada has been referred to as the “gold standard” in gaming regulation around the world. Do you see that position diminishing now that other gaming jurisdictions are maturing? If reappointed, what are your plans for maintaining Nevada's position as the gold standard?



Nevada will always be the leader in gaming regulation, both in the United States and worldwide. The Nevada experience incorporates a breadth and a depth of knowledge and experience in almost every type of regulated gaming that exists.

I have had an opportunity, even in my short time as Chair, to look at our regulations and revisit several of them to determine whether or not they need to be updated. Nevada is and always

has been committed to staying abreast of the important factors that need to be considered when one looks at what contributes to successfully regulated gaming. Having a proactive approach and relying on the expertise of my staff at the Board, being well read in terms of emerging game technologies, offerings and the way that gaming is set to transition over the next decade, is important. As we anticipate what those changes are, Nevada is going to continue to develop its regulations to allow for the flexibility that's required, while ensuring there is integrity in the regulatory process. Nevada will be flexible enough to allow for new opportunities and new products, but maintain our core function, which is the smart regulation of gaming. Anytime someone engages in gaming in Nevada, they can have confidence those games are conducted fairly and honestly, and they are going to have the benefit of what we offer here in Nevada through our regulatory process.

**Q:** In this issue of the *Nevada Gaming Lawyer*, Erica Okerberg and Scott Scherer address the U.S. Supreme Court's decision in *Murphy v. NCAA, et al.*, and its ramifications, respectively. What will be the Board's role as new jurisdictions emerge to engage in legalized sports betting? If reappointed, what will you do to ensure Nevada continues to lead in the area of sports betting regulation?

As soon as the PASPA repeal was announced, the Board issued a statement that it was supportive of the Supreme Court's decision and that



Nevada stands ready to share our experience, knowledge and expertise with any jurisdiction that has questions and wants to know how to regulate sports betting.

With respect to the second part of the question, I am not waiting until I am reappointed; we are already leading in this area. Several jurisdictions have already reached out and Nevada is already providing them with the benefit of our knowledge and experience. It has been a phenomenal opportunity to speak to many people from around the country, indeed the world, regarding sports betting, how the Nevada model works, and why it works so well.



**Q: The 2019 Legislative Session is fast approaching. If reappointed, do you anticipate the Board submitting an omnibus bill? If so, what areas will the Board seek to clarify or change in the upcoming Legislative Session?**

The Board is not submitting just one bill, it is submitting two. We are looking to make some technical corrections and updates with regard to the statutes overall. The Board also has some suggestions that are important to the effective regulation of gaming. This is an opportunity to really look at some areas of gaming that have not been visited for quite some time.

**Q: As a former Legislator, if reappointed, will you take an active role in the Board's Legislative activities? How will your former experience in the Legislature benefit you and, more importantly, the Board?**

Absolutely. I understand the legislative process and all its intricacies. I have had experience in the last two legislative sessions in crafting policy and working to build consensus around important issues that are right for the state of Nevada.

**Q: The Gaming Law Section (GLS) has enjoyed a long relationship with the Board and Commission. As you may know, many current GLS members, as well as current and past members of the GLS' Executive Committee, are, or have been, regulators with the Board or the Nevada Attorney General's Office. You are prominently featured in this year's issue of Nevada Gaming Lawyer and will also be a speaker at the 2018 Gaming Law Conference on November 16th at the Red Rock Casino Resort. On behalf of GLS, I would like to take this opportunity to thank you for your support of the GLS and its activities to help further educate members of the Bar and judiciary about the unique area of gaming law. Do you believe this relationship with GLS is a benefit to you and the Board? If so, how? Is there anything you would like to see the GLS do in the future?**

GLS put together a really great policy and practice manual that was released a few years ago. That manual provides access to a great core of knowledge to those wishing to practice in gaming. I thought that was a remarkable undertaking and incredibly helpful, not only to gaming lawyers but also for any attorney who has questions about gaming law. Certainly, the GLS is helpful and incredibly influential in terms of advocating for policy and strong regulatory changes that are important for Nevada. I look forward to strengthening my relationship with the GLS.



Becky Harris is the Chairwoman of the Nevada Gaming Control Board. She was appointed to this role by Governor Brian Sandoval in January 2018. Ms. Harris studied Political Science and French at Brigham

Young University, graduating with a Bachelor of Arts in 1989. She attended J. Reuben Clark Law School at Brigham Young University, graduating in 1992. She obtained a Master's Degree in Political Science from the University of Nevada, Las Vegas (UNLV) in 2000, and earned an LL.M. in Gaming Law and Regulation from UNLV's Boyd School of Law in 2016. Before being appointed to the Board, Ms. Harris represented State Senate District 9 in Clark County for two legislative sessions. During the 2017 Legislative Session, she served on the Senate Judiciary, Finance, and Education Committees. Additionally, she served as the Treasurer of the National Council of Legislators from Gaming States and had recently been selected to Chair its Committee on Responsible Gaming. At that time, she also served as Nevada's State Director for Women in Government. During the 2015 Legislative Session, she served as the Chair of the Senate Education Committee, Vice-Chair of the Senate Judiciary Committee and was a member of the Senate Commerce, Labor and Energy Committee. Prior to her appointment, she also practiced law in Las Vegas. Her areas of focus included counseling business clients in entity formation, maintaining compliance with state and local regulations, contract negotiations, commercial leases, and dispute resolution.



Jaime Black serves as the Chief of the Administration Division for the Nevada Gaming Control Board, having previously held the position of Senior Research Specialist. Prior to her employment with the Board, Jaime was

an associate attorney with an insurance defense litigation firm in Reno. She was admitted to the Nevada Bar in 2009 and Florida Bar (inactive) in 2008. She received a Bachelor of Arts, *cum laude* in Political Science from California State University of Fresno in 2003. She graduated from Barry University School of Law, *magna cum laude* in the top 4% of her class in 2008. During law school, she served as the Associate Editor (2006-2007) and the Symposium Editor (2007-2008) for the Barry Law Review, and was member of the Moot Court Honors Board. She also served as law clerk to the Honorable Melvin T. Brunetti, United States Court of Appeals for the Ninth Circuit (2008-2009).