

**PROPOSED AMENDMENTS REGULATION 25.010, 25.020, 25.030, 25.040  
AND 25.050**

**PURPOSE:** To delete the definition of “secondary representative” as unnecessary; to clarify which independent agents are subject to registration with the Board; to modify reporting requirements; to require registration renewals be submitted at least 30 days prior to the expiration of the registration; to clarify that registrations expire every five years; to make the period in which the Chair may object to a registration explicit; to update the mandatory requirements for independent agent agreements; and to take such additional action as may be necessary and proper to effectuate these stated purposes.

**REGULATION 25  
INDEPENDENT AGENTS**  
(Draft Date August 22, 2019)  
New  
~~[Deleted]~~

**25.010 Definitions**

1. “Chair” means the Chair of the Nevada Gaming Control Board or the Chair’s designee.
2. “Customer Incentive” means any inducement extended by a licensee to a person to gamble at the licensee’s establishment including, ~~[but not limited to]~~ without limitation, discounts, airfare, money, gifts of personal property, negotiable chips, promotional chips, or any representative of value.
3. “Independent agent” has the meaning ascribed to it in Nevada Revised Statute 463.0164.
4. “Registered independent agent” means an independent agent who registers with the Board pursuant to ~~[Regulation]~~ section 25.020~~[(1)]~~.
5. ~~“Secondary representative” means any person other than clerical personnel or ticket takers not otherwise exempt under Nevada Revised Statute 463.0164(2) who receives any form of compensation from a registered independent agent for assisting a registered independent agent.~~
6. “Theoretical earning potential” means the average bet of a patron multiplied by hours played by the patron multiplied by decisions per hour of the patron multiplied by house advantage for the game played by the patron. (Theoretical earning potential = (average bet) \* (hours played) \* (decisions per hour) \* (house advantage)).

**25.020 Registration.**

1. An independent agent who:

(a) Has authority from a licensee to authorize customer incentives with a cumulative value exceeding \$10,000 in a calendar year ~~[to any patron]~~;

(b) Receives compensation from a licensee for his or her services as an independent agent; or

(c) Approves or grants the extension of gaming credit on behalf of a ~~[state-gaming]~~ licensee or collects a debt evidenced by a credit instrument.

→ ~~[must be]~~shall register~~[ed]~~ with the Board and shall have a written agreement with the licensee evidencing such authority or compensation.

2. ~~[An independent agent required to register by this section must register with the Board. The registration must be renewed every five years.]~~ A registration issued by the Board pursuant to this section expires five years after the Chair sends notice to a licensee that the independent agent is registered with the Board and, except as otherwise provided in subsection 6, every five years thereafter if a completed filing for renewal is received by the Board prior to the expiration of the registration. A completed filing for renewal of registration must be submitted to the Board not less than 30 days prior to the expiration of the registration.

3. A licensee shall not compensate an independent agent who must register pursuant to subsection 1 for services rendered until the Chair notifies the licensee in writing that the independent agent is registered with the Board.

4. A filing for registration, or renewal of registration, as a registered independent agent must include ~~[the following]~~:

(a) Completed forms as furnished by the Board, information, and documents as required by the Chair;

(b) A written statement, signed under penalty of perjury on a form furnished or approved by the Board, affirming that the applicant for registration as an independent agent:

(1) Submits to the jurisdiction of the State of Nevada, the Board, and the Commission;

(2) Designates the Secretary of State as its representative upon whom service of process may be made;

(3) Agrees to be governed and bound by the laws of the State of Nevada and the regulations of the Commission;

(4) Provided complete and accurate information to the Board; and

(5) Will cooperate with all requests, inquiries, and investigations of the Board or Commission;

(c) One complete set of fingerprints from the independent agent (if a natural person) and from each of the direct and beneficial owners thereof, if ~~[any]~~ applicable (if a natural person);

(d) ~~[A]~~ The fee ~~[set]~~ established by the Chair; and

(e) Any additional information requested by the Board or Commission.

5. The independent agent shall provide its completed filing to the licensee for transmittal to the Board. The licensee shall transmit such filing to the Board within 90 days of the licensee's receipt of the complete filing. The Board may reject a filing~~[s]~~ made directly by an independent agent.

6. At any time prior to notifying a licensee in writing that an independent agent is registered with the Board or that an independent agent's registration with the Board is renewed, ~~the~~ the Chair may object to the registration of an independent agent for any cause the Chair deems reasonable. If the Chair objects to the registration of an independent agent, the Chair shall send written notice of the decision to the independent agent and the ~~submitting~~ licensee who submitted the filing for registration.

7. ~~[(a)]~~ An objection by the Chair ~~objection~~ to the registration of an independent agent shall be considered an administrative decision ~~[, and therefore] that is subject~~ to review~~able~~ upon appeal by the applicant pursuant to the procedures ~~set forth in~~ established by Regulations 4.185, 4.190, and 4.195.

8. ~~[(b)]~~ A licensee ~~shall not transmit~~ is prohibited from submitting a subsequent filing for registration as an independent agent ~~[s filing for registration]~~ to the Board for the same applicant ~~prior to the expiration of~~ for 1 year from the date of ~~[a]~~ notice of the Chair objecting to the registration of ~~[the]~~ such independent agent. Such independent agent shall not commence providing any services set ~~out~~ forth in subsection 1 of this section prior to the Chair approving the registration.

~~[7-]9.~~ A person registered as an independent agent ~~[,]~~ or a person who has a pending filing for registration as an independent agent ~~[,]~~ pursuant to this section shall report changes to the information required pursuant to subsection 4 to the Board within 30 days of such change. The Chair may, in the Chair's sole and absolute discretion, require a new registration pursuant to subsection 1 of this section if there is a change in ownership.

~~[8-]10.~~ The Chair may cancel the registration of an independent agent if the independent agent or direct or beneficial owner thereof:

(a) Is convicted of a felony;

(b) Is convicted ~~for~~ of a crime involving illegal activity occurring on the premises of a licensee; or

(c) Fails to comply with any drug testing ordered by the Chair, or if a drug test ordered by the Chair shows a positive result for a controlled substance.

~~[7-]11.~~ The effective date of cancellation of a registration as an independent agent issued pursuant to ~~[this]~~ subsection 10 shall be 5 days after the Board deposits notice of cancellation to the independent agent's last known address with the United States Postal Service with the postage thereon prepaid. The Board shall notify ~~[all]~~ any licensee ~~[s which have]~~ who entered into an agreement ~~[s]~~ with the independent agent of such cancellation and the effective date thereof. The Board shall also send notice of the cancellation to the Secretary of State as the designated representative of the independent agent upon whom service of process may be made.

~~[9-]12.~~ The cancellation of the registration of an independent agent shall be considered an administrative decision ~~[and shall be] that is subject~~ to review~~able~~ upon appeal by the independent agent pursuant to the procedures ~~set forth in~~ established by Regulations 4.185, 4.190, and 4.195. A licensee is prohibited from submitting a subsequent filing for registration as ~~shall not transmit~~ an independent agent ~~[s filing for registration]~~ to the Board for the

person whose registration was canceled for ~~[prior to the expiration of]~~ 1 year from the date of ~~[the later of]~~ notice of the cancellation or the final decision on any appeal of such cancellation, whichever occurs later.

~~[10.]~~13. If the Board receives a copy of a court order related to child support issued pursuant to NRS 425.540 that provides for the suspension of all professional, occupational and recreational licenses, certificates and permits issued to a person who is registered as an independent agent:

(a) The Board shall deem the registration of that person to be suspended at the end of the 30th day after the date on which the court order was issued unless the Board receives a letter issued to the independent agent by the district attorney or other public agency pursuant to NRS 425.550 stating that the independent agent has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

(b) The Board shall reinstate the registration as an independent agent of a person that has been suspended by a district court pursuant to NRS 425.540 if the Board receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the person whose registration was suspended stating that the person whose registration was suspended has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

(c) The Board shall notify ~~[all]~~ any licensee~~[s which have]~~ who entered into an agreement~~[s]~~ with the independent agent of such suspension or reinstatement and the effective dates thereof.

### **25.030 Determination of suitability.**

1. The Commission may require a finding of suitability of an independent agent at any time. The Commission shall give written notice to the independent agent and any licensee having an agreement with the independent agent on file with the Board that the independent agent must file an application for finding of suitability. The Commission retains jurisdiction to determine the suitability of an independent agent even if the licensee terminates its relationship with the independent agent or the independent agent is otherwise no longer functioning as an independent agent.

2. If an independent agent does not file an application for a finding of suitability within 30 days following receipt of notice that the Commission is requiring the independent agent to file an application for a finding of suitability, the Board shall notify all licensees with which such independent agent has an active agreement. Upon such notice, a licensee shall provide documentary evidence that the independent agent no longer acts as an independent agent for the licensee. Failure of the licensee to respond as required by this section shall constitute grounds for disciplinary action.

3. If the Commission finds a registered independent agent to be unsuitable, the registration of such registered independent agent is thereupon cancelled. A licensee or independent agent shall, upon written notification of a finding of unsuitability, immediately terminate all relationships, direct or indirect, with such independent agent. Failure to terminate such relationships may be deemed to be an unsuitable method of operation. No determination of suitability of an

independent agent shall preclude a later determination by the Commission of unsuitability.

4. Upon the Commission requiring a person who is required to be registered by ~~[this]~~ section 25.020 to apply for a finding of suitability, the person does not have any right to the granting of the application. Any finding of suitability hereunder is a revocable privilege, and no holder acquires any vested right therein or thereunder. Judicial review is not available for decisions of the Board and Commission made or entered under the provisions of this section.

#### **25.040 Required reports and recordkeeping.**

1. Each licensee shall, within 30 days, notify the Board by electronic mail through an electronic mail address designated by the Board of:

(a) Any new agreement between a licensee and an independent agent; and  
(b) Any termination of an agreement between a licensee and an independent agent. Such notification of termination must include truthful statements of the reason for the termination. A licensee shall provide any additional information regarding a termination as required by the Chair.

2. No later than January 31 of each year, ~~[E]~~ each licensee shall provide to the Board ~~[within 15 days following each calendar month,]~~ separate lists of registered independent agents:

(a) Whose agreement with the licensee terminated in the preceding calendar year ~~[that month]~~. This list ~~[shall]~~ must include~~[-~~

~~(1)] The total compensation paid in that [month] year to each registered independent agent on the list. [-~~

~~(2) Truthful statements of the reason(s) for each termination; and-~~

~~(3) Any additional information regarding the terminations requested by the Chair and]~~

(b) Whose agreement with the licensee is currently active. This list ~~[shall]~~ must include the total compensation paid in ~~[that]~~ the preceding calendar [month] year to each registered independent agent on the list.

~~[2]~~3. The licensee shall retain in its files for a 5-year period and make available for inspection by the Board, upon request ~~[, the following information]:~~

(a) The state or country of origin and dates of stays by patrons arranged by a registered independent agent;

(b) The total amount of gaming credit extended to such patrons that remains unpaid following their departure; and

(c) Any other information required by the Chair regarding any business arrangement between the licensee and an independent agent.

~~[3]~~4. The licensee shall submit a copy of its standard controlling agreement with independent agents to the Board on or before January 31 each calendar year ~~[on or before the thirty-first day of January]~~. The licensee shall report any change to its standard controlling agreement with independent agents and submit a new copy of the agreement to the Board within 30 days of such change. The licensee shall submit a copy of any agreement for the services of an independent agent which deviates from the standard controlling agreement to the Board within 30 days of the execution of such agreement.

**25.050 Mandatory requirements.** Every agreement, including, without limitation, any agreement of employment, between a licensee and an independent agent who is required to register pursuant to section 25.020~~[(1)]~~ must contain the following conditions:

1. If the Commission determines the ~~registered~~ independent agent is unsuitable, the agreement shall thereupon terminate unless the Commission orders otherwise.

2. The agreement is not effective and the independent agent who is required to register pursuant to section 25.020~~[(1)]~~ is not entitled to and may not be paid any compensation until the licensee receives notice that the Chair has registered the independent agent. An independent agent who is required to register pursuant to section 25.020~~[(1)]~~ is not entitled to any compensation for services listed in section 25.020~~[(1)]~~ if the Chair objects to the registration and, if review of the objection is requested, such objection is sustained.