

CHARITABLE GAMING BOARD

Agenda

Department of Agriculture and Consumer Services

Electronic Meeting via WebEx

Friday, September 4, 2020

12:00 PM

1. Call to Order
2. Roll Call
3. Message from the Chair
4. Approval of the Minutes – August 11, 2020
5. Report from Board Members
6. Report from the Program Manager
7. Old Business
8. New Business
 - Proposed exempt action to promulgate new regulations to govern Texas Hold'em Poker Tournaments
9. Date of Next Board Meeting
10. Public Comment

Adjournment

PUBLIC PARTICIPATION

Members of the public may listen to the meeting via the Cisco WebEx platform using the link, access code, and password below.

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If you would like to comment during the public comment portion of the meeting, please sign up to do so using the WebEx Q&A feature. Via the Q&A feature, send the Meeting Host your first and last name as well as the name of the organization, if any, on whose behalf you will be commenting (e.g., Joe Smith with ABC Organization). If you join the meeting using the audio conference only or are unable to locate the WebEx Q&A feature to sign up for the public comment portion of the meeting, please email your first and last name as well as the name of the organization, if any, on whose behalf you will be commenting to Michael.menefee@vdacs.virginia.gov. During the public comment portion of the meeting, the Meeting Host will unmute your microphone and announce that it is your turn to comment. Please minimize the background noise at your location.

Should any interruption of the broadcast of this meeting occur, please call 804-786-3983 or email Michael.menefee@vdacs.virginia.gov to notify the agency. Any interruption in the broadcast of the meeting shall result in the suspension of action at the meeting until repairs are made and public access is restored.

I. Definitions of terms used in the regulations.

(a) As used in the regulations prescribed in this part by the Virginia Charitable Gaming Board unless the context otherwise requires:

- 1) The term “Board” means the Virginia Charitable Gaming Board, as created pursuant to Virginia Code § 2.2-2455;
- 2) The “Department” means the Virginia Department of Agriculture and Consumer Services;
- 3) The term “Game Operator” means person or entity to which a valid permit has been issued by the Department to operate or manage poker.
- 4) The term “Poker” means Texas Hold’em, as defined in Virginia Code § 18.2-340.16;
- 5) The term “Qualified Organization” means any organization to which a valid permit has been issued by the Department to conduct charitable gaming or any organization that is exempt pursuant to § 18.2-340.23;
- 6) The term “Office” means the Virginia Office of Charitable and Regulatory Programs (OCRCP), which promotes the integrity of charitable gaming activities in the Commonwealth and is responsible for issuing or renewing charitable gaming permits to qualified organizations, as well as the regulation of charitable gaming activities in the Commonwealth.

II. Compliance with Chapter.

No games of Poker for charitable gaming purposes may be conducted except in compliance with the requirements of this Chapter. Upon conforming with the requirements of this Chapter, Qualified Organizations and Game Operators, with respect to poker, shall be deemed to be in compliance with the provisions of the Charitable Gaming Regulations, set forth in 11VAC15-40-10 *et seq.*

III. Who may conduct poker.

Except as provided in this paragraph, only Qualified Organizations who hold the following permits issued by the Department may host, manage, or operate poker: (i) a charitable gaming permit that authorizes—poker and (ii) a game operator permit; notwithstanding the foregoing, a Qualified Organization may still host poker if it holds a charitable gaming permit that authorizes poker and, in conformity with the requirements

of Section VI.C. below, contracts with a third-party Game Operator holding a game operator permit issued by the Department to manage and operate its poker games or events.

IV. Charitable Poker Permit.

A. Prior to conducting poker, a Qualified Organization shall obtain and maintain a charitable gaming permit that authorizes poker in accordance with Section 11VAC15-40-30 (other than Subsection 11VAC15-40-30E.3) and indicate on its application its intent to conduct poker, subject to the following requirements:

B. With respect to poker, the department-prescribed application form (whether as a modification to its standard form or as an addendum specifically with respect to poker) shall include the following items:

1. The designation and identity of the Organization's poker host representative, who shall be an individual person and shall be a responsible party on behalf of the Qualified Organization, and their valid state or federal identification;

2. A statement whether the Qualified Organization itself will be the game operator or will contract with a third-party poker game operator. If a third-party game operator is contracted by the Qualified Organization, the identity of the third-party game operator shall be disclosed;

3. The location of the poker event and identity of the property owner of the location. In the event that a Qualified Organization needs to change location after a permit is issued, such change shall be affected by a gaming amendment acknowledged by the Office;

4. A completed disclosure form, as provided by the Department, that identifies: (i) the legal and beneficial owner(s) of the property, (ii) the legal and beneficial owner(s) of the game operator, whether the Qualified Organization itself or a third-party, and (iii) any interested persons of the Qualified Organization that has a legal or beneficial interest in either the poker location's property or in the Game Operator;

5. The following attachments:
 - i. Articles of Incorporation;
 - ii. Bylaws;
 - iii. Membership list (if any);
 - iv. Previous year's tax return;

- v. IRS determination letter granting tax exempt status to the Qualified Organization;
 - vi. Copies of any contract, if applicable, with third-party game operator(s); and
 - vii. Copies of lease(s) or proof of property ownership.
6. A certification that the Qualified Organization meets the requirements of this Chapter.
- C. If the Qualified Organization is seeking the issuance of a new annual permit in the first instance, then it shall submit those documents as prescribed in Paragraph IV, C.(5), herein. If the Qualified Organization is seeking a renewal of an existing permit, then it shall not be required to submit those documents as prescribed in Paragraph IV, C(5), herein unless there are any changes in the information requested by Paragraph IV, C(5)(i)-(vii), which will require supplementation of the change(s) to the Office.
- D. Any two or more Qualified Organizations may jointly organize and conduct poker events provided both have fully complied with all other provisions herein. Any two or more Qualified Organizations jointly conducting such games shall be (i) subject to the same restrictions and prohibitions contained in this article that would apply to a single organization conducting poker events and (ii) required to furnish to the Department a written report setting forth the location(s) where such games will be held, the division of manpower, costs, and proceeds for each game to be jointly conducted. Upon a finding that the division of manpower and costs for each game bears a reasonable relationship to the division of proceeds, the Office shall issue a joint permit. No poker events shall be jointly conducted until the joint permit issued pursuant to subsection D herein is obtained by the Qualified Organizations. Two or more Qualified Organizations who obtain a joint permit may also contract with a third-party Game Operator for operating the poker event(s), such to provisions for contracting with a third-party Game Operator.

V. Game Operator Permit.

Any Qualified Organization that intends to operate or manage a poker event without a third-party Game Operator shall be required to meet the requirements as a Game Operator (in addition to being a Qualified Organization) and is therefore subject to the requirements of this Section V. Any person or entity that intends to operate or manage poker shall first obtain and maintain a game operator permit. To be eligible for a game operator permit, the

person or entity shall submit an application on the department-prescribed form, and meet the following requirements:

- A. Subject its interested persons to a background investigation as described in Section 11VAC15-40-30. E1. E.2. E.4. E.5.
- B. Provide a game manager for each poker event it operates or manages and require that only such person or persons serve as a game manager at each poker game it operates;
- C. Provide qualified dealers in such number as may be required to run poker event(s) and require that only such person(s) deal poker hands;
- D. Submit Form B and identify any and all dealers on staff;
- E. Any Game Operator providing services to a Qualified Organization shall complete a disclosure form, as provided by the Department, that identifies: (i) the legal and beneficial owner(s) of the Game Operator, (ii) a list of all Qualified Organizations it currently and reasonably anticipates serving, and (iii) any interested persons of the Qualified Organization that has a legal or beneficial interest in either the poker location's property or in the poker Game Operator; and
- ~~F.~~ Attach the following:
 - i. Articles of Incorporation;
 - ii. Bylaws/Operating Agreement;
 - iii. List of all organizations and locations in which the Game Operator operates or manages poker and a copy of the agreements of each organization, if any;
 - iv. A copy of written internal control policies and procedures including staff training conforming with poker requirements; and
 - v. A certificate of bond from the Game Operator with a bond amount that shall be sufficient to cover any liability resulting from the poker event.

VI. Compliance Matters.

A. Operations of Games.

1. Participation in Games.

- i. Qualified Organizations and third-party game operators can only host, operate or manager poker with the –required permit(s), and only with the personnel listed on the applicable permit application.
- ii. Any personnel that are involved in hosting, operating, or managing-a poker event including, but not limited to, dealers, managers, charitable host representative, landlord or lessor, or those having an ownership or managerial interest in the Qualified Organization or the third-party Game Operator company-may not play poker at any time whatsoever. This prohibition exists only at the location such people are hosting, operating, or managing-a poker event.

2. Operations of Games.

- i. Game operator(s) must hold a Game Operator's permit;
- ii. At all times, a game manager listed in a Game Operator permit should be present;
- iii. Badges for charitable host representatives, game manager, dealers, and any other staff must be worn at all times during any poker event. The Qualified Organization or third-party Game Operator must provide the badges required herein;
- iv. If the poker event is conducted by a third-party Game Operator, then any and all liability arising from or in connection with the poker event shall solely be a liability for the third-party Game Operator, and no liability arising from or in connection with the poker event, where the poker event is conducted by a third-party Game Operator, shall be imposed upon the Qualified Organization;
- v. Any two or more qualified organizations may jointly organize and conduct poker events provided both have fully complied with all other provisions herein. Any two or more qualified organizations jointly conducting such games shall be (i) subject to the

same restrictions and prohibitions contained in this article that would apply to a single organization conducting poker events and (ii) required to furnish to the Department a written report setting forth the location where such games will be held, the division of manpower, costs, and proceeds for each game to be jointly conducted.

- v. Both the game manager and charitable host representative must sign off on a daily reconciliation summary.

3. Conduct of Poker Games.

- i. All individuals participating as a player in any poker event must be at least eighteen (18) years-old to play;
- ii. During the Poker event, Qualified Organizations and third-party Game Operators may award players participating in the event prizes of value, the value of which may be determined by the game manager, under the following conditions, but not limited to:
 - (a) A player, within a specific period of time as determined by the game manager, wins the highest ranked hand;
 - (b) A player sitting on the seat randomly determined by the game manager, at a specific period of time as determined by the game manager;
 - (c) Every player sitting at a single table that is randomly determined by the game manager, at a specific period of time as determined by the game manager;
 - (d) A player that loses a hand that is the highest losing ranking hand, within a specific period of time as determined by the game manager;

- (e) The last player who remains in the event who participated in the last man standing bet;
 - (f) An amount of chips, as determined by the game manager, that are placed into the pot at a randomly selected table by the game manager before the hand begins, before any players place any blinds; or
 - (g) Those players who pay an additional fee to receive an additional poker chip for use in the event may be awarded prizes based on how long such player remains in the event, as determined by the game manager.
 - iii. The game manager (a) shall decide as to how the rules of poker are to be interpreted, applied, and obeyed during the competition and who shall apply the ranking of hands and the rules of the game as governed by the official rules of the Poker Tournament Directors Association and (b) shall apply the code of conduct and etiquette as governed by Robert's Rules of Poker.
- 4. Qualified Organizations and any third-party game operators must display their current charitable gaming permit that authorizes—Poker, the national Gambling Hotline phone number, and any house policies adopted by the game manager.
- 5. Qualified Organizations and any third-party game operators must have available the official rules of the Poker Tournament Directors Association and the code of conduct and etiquette from Robert's Rules of Poker.
- 6. Qualified Organizations and any third-party Game Operators who have been contracted by any Qualified Organizations to operate as a third-party Game Operator shall not conduct poker at any facility or on any premises that conducts gaming for profit.

7. Qualified Organizations and third-party Game Operators shall ensure the integrity of non-electronic supplies including, but not limited to, poker chips and playing cards.
8. Qualified Organizations and third-party Game Operators shall ensure that the poker chips and cards are not counterfeit or tampered with.

B. Electronic Equipment.

1. Qualified Organizations and third-party Game Operators using any electronic devices for the conduct of poker shall ensure that the devices, including the underlying software, are laboratory tested and approved by the Office for verification that such devices or software performs as advertised.

C. Game Operator Agreement Requirements.

1. Qualified Organizations contracting with a third-party game operator must comply with the following conditions:
 - i. The Qualified Organization must enter into a written contract with the third-party game operator (the “Agreement”);
 - ii. The Agreement must include the duration of the contract period and the parties’ termination rights;
 - iii. The Agreement shall not permit more than 50% of-poker proceeds (net of prizes), which may go to the Game Operator and any percentage split must be specifically identified in the Agreement;
 - iv. Expenses related to the event shall be negotiated between the Qualified Organization and the third-party Game Operator, which shall be specifically identified in the Agreement; and
 - v. The Game Operator may not charge or collect any fees or other forms of payment from the Qualified Organization other than its percentage share referred to in Paragraph VI., C(1)(iii) above, including in exchange for products or services provided to by the Game Operator to the Qualified Organization.

- D. The audit fee required by §§ 18.2-340.31(B) and 18.2-340.31 (D), shall be paid by the Qualified Organization to the Treasurer of Virginia but shall be shared equally between the Qualified Organization and the third-party Game Operator.
- E. The Qualified Organization and the third-party Game Operator shall provide up-to-date-disclosures if at any time the Qualified Organization or the third-party Game Operator discovers that the information provided in accordance with Paragraphs IV., C(1)-(7) above has changed, or is otherwise found to be inaccurate; the Qualified Organization or Game Operator, as applicable, shall submit updated or corrected information to the Office within three (3) business days of discovering the change or inaccuracy.
- F. Record Keeping.
 - 1. Qualified Organizations shall comply with the following recordkeeping requirements for all poker events:
 - i. Each Qualified Organization shall maintain for three years a complete written record of (a) all charitable gaming sessions using Department prescribed forms or reasonable facsimiles thereof approved by the Office; (b) the name and address of each individual to whom is awarded any charitable gaming prize that meets or exceeds the requirements of Internal Revenue Service Publication 3079, as well as the amount of the award; (c) an itemized record of all receipts and disbursements, including operating costs and use of proceeds incurred in operating poker events; (d) all operating expenses including rent, advertising, and security and copies of invoices for all such expenses shall also be maintained. The written record requirements herein shall be submitted to the Office each quarter and no later than 60 business days from when the quarter ends. Additionally, Qualified Organizations shall file their annual report containing the information required herein for all four (4) quarters within 60 business days from the year ending.
 - ii. The failure to file reports within 60 days of the time such reports are due shall cause the automatic revocation of the permit, and no organization shall

conduct any poker event until the report is properly filed and a new permit is obtained. However, the Department may grant an extension of time for filing such reports for a period not to exceed 45 days if requested by an organization, provided the organization requests an extension within 15 days of the time such reports are due and all projected fees are paid. For the term of any such extension, the organization's permit shall not be automatically revoked, such organization may continue to conduct charitable gaming, and no new permit shall be required.

2. The Qualified Organization and the third-party Game Operator shall each maintain independent records.
3. Both the game manager and charitable host representative(s) must sign the game reconciliation form. The game reconciliation form shall contain the following: (i) aggregate cash taken in as game revenue, (ii) aggregate prizes as paid out as disbursements, and (iii) net proceeds to be shared by the Qualified Organization and the third-party Game Operator. The game manager must sign the game reconciliation form at the end of each event and the charitable host representative(s) must sign the game reconciliation form within 72 hours of the conclusion of each event, both of whom may sign with commercially available electronic document signing software.
4. The predetermined percentage of gross receipts that shall be used for the Qualified Organization's purposes for which the organization is specifically chartered or organized shall be at least two and a half (2.5%) percent of gross proceeds.

VII. Penalties.

- A. Failure to disclose.
 1. In the event that any member of a Qualified Organization, any third-party Game Operator, or any person(s) with an interest in the real estate where the poker event occurs (or will occur) fails to report an overlapping interest in any of the following -- the poker operations, the location or real estate where the poker event occurs or will occur, the membership in the Qualified Organization, its

Board, or any interest in the third-party Game Operator -- then that person shall have his Game Operator permit revoked for a period of one (1) year. Reconsideration of the revocation may be presented to the Board, which the Board may reissue at its sole discretion.

- B. Any Qualified Organization that has been found conducting events of poker without a permit may not qualify for a permit at any time in the future, until such time as may be determined by the Board.
- C. Failure of any Game Operator or third-party Game Operator to comply with any provisions of these regulations may result in a loss or suspension of their permit(s) for a period of up to one (1) year at the discretion of the Board.
- D. A standing subcommittee of the Board shall be created comprising of at least three (3) individuals from the Board who shall review and address complaints and make recommendations to the entire Board. The Board shall decide and make all final decisions.

10. If there were any presentations (PowerPoint, etc.), were you able to hear and see them?

Poorly
1 2 3 4 5
Clearly

COMMENT _____

11. Were the members as attentive and did they participate as much as you would have expected?

Less
1 2 3 4 5
More

COMMENT _____

12. Were there differences you noticed in how the members interacted?

With the other members present:

Very Different
1 2 3 4 5
No Difference

With members participating from other locations:

Very Different
1 2 3 4 5
No Difference

With the public:

Very Different
1 2 3 4 5
No Difference

COMMENT _____

13. Did you feel the technology was a help or a hindrance?

Hindered
1 2 3 4 5
Helped

COMMENT _____

14. How would you rate the overall quality of this meeting?

Poor
1 2 3 4 5
Excellent

COMMENT _____

THANK YOU. Please send your completed form by mail, facsimile or electronic mail to the FOIA Council using the following contact information:

Virginia Freedom of Information Advisory Council
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201 North 9th Street, Richmond, Virginia 23219
foiacouncil@dls.virginia.gov/Fax: 804-371-8705/Tele: 866-448-4100