



**Statement before the Advisory Council on Problem Gambling
Legislative Workgroup
January 29, 2021
Trey Delap, M.A. Director**

Hello, My name is Trey Delap, and I am the director of Group Six Partners.

I would like to detail examples of harmful problem gambling ignorance by two major agencies of state government: The Nevada Gaming Commission and the Department of Public and Behavioral Health.

In the last regular legislative session, a bill concerning charitable lotteries created a loophole whereby people who are 21 years old or younger could purchase lottery wagers as long as the prize was not money.^{1,2}

Despite expert input, the Gaming Commission further determined that people under 18 may wager in lotteries as long as the prize was not money and they didn't purchase the tickets. Of course, this contravenes all research showing that younger people are at higher risk of problem gambling regardless of whether or not the prize is money.

Continuing, in early 2020, the Gaming Commission addressed cashless wagering, and the inconsistent use of terminology was perplexing.

"Problem gaming," "responsible gambling," and "responsible gaming" were used interchangeably. To this observer – it appears that the Nevada Gaming Commission doesn't know the difference between "gaming" and "gambling."

To wit, one year ago, On January 23, 2020, the Commission sought to clarify the use of a debit instrument to fund a wagering account. The concern was that a customer might initiate credit to cover an overdraft.

Funding wagering accounts with credit cards is to be avoided – said then Chair Alamo – presumably to protect the money – and the people.³

¹ Nevada Gaming Control Board, "Regulation 4A Charitable Lotteries and Charitable Games " (November 1, 2019): 1–4.

² Assembly Committee on the Judiciary, *Assembly Bill 117*, ed. Assembly Committee on the Judiciary (80th, 2019).

³ Nevada Gaming Commission, *Petition Agenda*, 2020.

On January 23, 2020, Commissioner Fuetsch said, quote,
Commissioner Fuetsch said, quote,

"I want to make sure that the responsible ***gaming*** people understand ... that if someone wants to go into a credit situation that can happen."⁴

It's not clear who the "Responsible ***gaming*** people are, but later in the hearing, Mr. Warner – a gaming licensee said, quote:

"I think I shared what we've done in ***Native America land***. We do have feedback from them, and that's part of the industry. And every one of those folks has said, you know, of the 127,000 transactions that we've done, we have not had one ***problem gaming*** issue. We've had not one customer at those facilities -- which come here, by the way -- come back to that property and say, "Hey, you got me in trouble."

Now, I can go back in my career and I can share what I did at Caesars Palace back in the '80s and -- when Mr. Cohen acknowledged that he knew me back in those days, and we did get people in trouble.⁵

Cultural incompetence aside, Here the question is what is a "problem gaming" issue? By "trouble," does he mean financial or psychological. It's just not clear.

If "Problem ***gambling***" is the issue, then the statutory definition is instructive.

NRS 458A reads, "Persistent and recurrent maladaptive behavior relating to gambling that causes disruptions in any major area of life, including, without limitation, the psychological, social or vocational areas of life."

This definition is helpful as long as we can – call a spade a spade – and agree that gambling is a wager or bet placed on a chance outcome.

Note that the statutory definition of problem gambling does not include a reference to money. So, one could meet that definition having never risked a dime.

That is institutional ignorance from gaming regulators – and they should be focused on ensuring that the 94% of people who gamble without psychological disruption may do so while not abusing the banking system.

For the 6% who do experience problem gambling, however, we look to our mental health infrastructure for guidance, and here, we see either incompetence or dangerous ignorance.

⁴ *ibid.*

⁵ *ibid.*

During the 31st Special Session, the Department of Public and Behavioral Health proposed an unconscionable 75% reduction in problem gambling services. Effective advocacy from this group [the ACPG] alarmed the legislature, which revised the Department's cuts to align with reductions to other addictive disorder programs – closer to parity.

Then, on August 4, 2020 – Lisa Sherych, Administrator of the Department of Public and Behavioral Health, confessed to the ACPG, that she did not know anything about problem gambling admitting she should have done her due diligence to understand the program when identifying cuts.⁶

Her missive was compounded by Dr. Stephanie Woodard, the Senior Advisor on Behavioral Health's energetic engagement to solve the problem by enhancing credentials. Where that project is, I frankly do not know.

But, on January 20, 2021 – nine days ago – the same Senior Advisor distributed through the state's SAPTA electronic listserv a solicitation for participation in a survey that would help the state craft a Substance Use Disorder plan. To induce participation, they offered a **chance to win an Amazon gift card.**⁷

The next day, January 21, 2021 – Sherych presented the proposed PGS budget for Fiscal years 22-23 to the Legislative Budget Subcommittee. Senator Dondero-Loop asked directly how the funding proposal was determined – and the Administrator said she understood cuts were a problem. Still, she had consulted with problem gambling services, and the amount was sufficient to ensure some services.

But – here's what's funny – the amount requested for FY 22-23 is the basically the same amount the agency requested in FYs 18-21...it's flat funding. The additional funds last cycle were added by the Governor?⁸

In review – the state's top expert in addiction, Dr. Stephanie Woodard are inducing the state's addiction treatment professionals to complete a survey on treating addiction with lottery tickets for an Amazon gift card.

- 70% of people who experience a serious mental health or addictive concern have a co-occurring concern as well.
- One in 5 people will experience a serious mental health concern at some point in their life.

⁶ Advisory Council on Problem Gambling, *Advisory Committee on Problem Gambling Draft Minutes 080420*, November 13, 2020.

⁷ Department of Public and Behavioral Health, "Help Develop SUD Plan," January 27, 2021.

⁸ Department of Public, *HHS- DPBH - Problem Gambling FY 19-21* (Nevada Legislature, January 13, 2019); PSC Publishing Services, "Form Hhs 690" (August 7, 2014): 1-1.

- One in four people with gambling use disorder are at risk of suicide, and gambling addiction has the highest rate of suicide among the addictions.

The high incidence of death by suicide is likely attributable to the inability to die by an overdose of gambling.

SO – what to do?

I'm asking that this committee get serious about your legislative mandate.

Sixteen years ago, in 2005 NRS 458A was enacted, creating this Advisory Council on Problem Gambling. Per statute NRS 458A.070, your charge is

"To provide advice and information to the Governor the Legislature the Department and other state agencies on issues and trends in the area of problem gambling for the purposes of;

- (a) funding priorities for the prevention and treatment of problem gambling
- (b) Providing services related to the development of data and the assessment of needs concerning problem gambling.
- (c) Recommending legislation regulations or public policy concerning problem gambling.

So do it – what are you waiting for? Take a stand – and Advise the Governor, the legislature, and the Department that:

- Gambling is not gaming.
- Gambling addiction is real, and people die because of it.
- Ignorance of these two concepts will not be tolerated.

And the timing couldn't be better:

- The legislature is going into session next week. There is already a BDR on charitable lotteries.
- The state's chief expert on addiction proved their ignorance in writing and emailed every person on an official state email list.

Nothing changes if nothing changes – so change. And I will help you.

I have enjoyed the work I have done to purge stigmatizing language from the law. But, sustained institutional, cultural change takes a team with persistence and a long-view objective.

I can support that team by drawing attention to your expertise on problem gambling every chance I get. But I have no authority on this subject – but you do – and you

proved your efficacy in the last special session. And that is why I implore you to act on your mandate and be the team to persevere.

Are you on that team? I hope so...

Thank you, Madam Chair.

Word Count: 1381.

Trey Delap, M.A.
Director
702-772-9735
trey@grouppartners.com

References, Notes, and Excerpts

2019 Legislation:

1. Judiciary ACOT. Assembly Bill 117. Judiciary ACOT, editor. 80th; Jun 20, 2019 pp. 1–13.

AB117 – 80th Session

<https://www.leg.state.nv.us/App/NELIS/REL/80th2019/Bill/6138/Overview>

Gaming Commission:

2. Board NGC. Regulation 4A Charitable Lotteries and Charitable Games. 2019 Nov 1;:1–4.

Person under 21 may participate no cash prize. Regulation 4A Charitable Lotteries

4A.040 Mandatory requirements.

1. Qualified organizations shall prohibit and prevent:

(a) A person under the age of 21 from playing, placing wagers on, collecting winnings from, or participating in the administration of, whether personally or through an agent, any charitable game.

(b) A person under the age of 18 from purchasing tickets for entry into or collecting winnings from any charitable lottery offering a cash prize.

3. Board NGC. Regulation 5: Operation of Gaming Establishments. Dec 18, 2020 pp. 1–46.

Regulation 5 Operation of Gaming Establishments: 9/2020

18. Responsible Gambling.

(a) Licensees shall ensure that, within one year following the effective date of this regulation, its

patrons have the ability to select responsible gambling options associated with their wagering account that include deposit limits establishing the amount of total deposits a patron can make to their wagering account within a specified period of time.

(b) Licensees shall conspicuously display and make available to patrons, upon access to their wagering account, the following responsible gambling message:

[Licensee's name] encourages you to gamble responsibly. For problem gambling information and assistance, call the 24-hour confidential Problem Gamblers HelpLine at 1- 800-522-4700, or visit www.WhenTheFunStops.org.

⊇ If either the helpline number or website address changes, the Chair may administratively approve the use of an alternative helpline number or website address.

4. Board NGC. Regulation 5A Operation of Interactive Gaming. Nov 1, 2019 pp. 1–9.

Regulation 5A interactive gaming

3. Notwithstanding subsection 9 of Regulation 5.225, an operator shall neither extend credit to an authorized player for use in interactive gaming player nor allow the deposit of funds into an interactive gaming account for use in interactive gaming that are derived from the extension of credit by affiliates or agents of the operator. For purposes of this subsection, credit shall not be deemed to have been extended where, although funds have been deposited into an interactive gaming account, the operator is awaiting actual receipt of such funds in the ordinary course of business.

5. Board NGC. 2019-01RP: Public Regulation Workshop of the Nevada Gaming Control Board to Solicit Comments for Possible Amendments to Technical Standard 3.150 of Nevada Gaming Commission Regulation 14 Regarding, Without Limitation, Limits on Electronic Fund Transfers Using a Debit Instrument in a Cashless Wagering System. Dec 30, 2019 pp. 1–76. June 25 2020 Regulation 2020-03-R

Gaming Commission Technical Standard: Adopted 10/2019

6. Commission NG. Petition Agenda. Feb 3, 2020 pp. 1–67.

31st Special Session: July 8, 2020 – July 19, 2020.

Problem Gambling AB3

<u>2019-2020</u>	<u>2020-2021</u>	<u>AB 3</u>
\$1,681,294	2,098,054	Proposed; 524,513 (75% cut) Ultimate 1,274,513

2022-2023

2,114,818 (\$300,000 more than 2020-2021.)

ACPG Meeting:

7. Gambling ACOP. Advisory Committee on Problem Gambling Draft Minutes 080420. Nov 13, 2020 pp. 1–4.

8. SAPTA, Woodard S, Phinney C. Survey page DPBH SUD Jan 20 2021 "Enter the drawing." 2021. pp. 1-1.

Budget Subcommittee Hearing: January 21, 2021

Clip: January 21, 2021 Lisa Sherych, Administrator

DPBH Budget to Budget Subcommittee January 21, 2021

<https://sg001-harmony.sliq.net/00324/Harmony/en/PowerBrowser/PowerBrowserV2/20210121/-1/12720?mediaStartTime=20210121124716&mediaEndTime=20210121124901&viewMode=3&globalStreamId=4>

GAMING COMMISSION 2019-2020:

December 18, 2019 Public Regulation Workshop Excerpts

MR RUBINSTEIN: page 9 lines 1-24

"...the playing field with other types of technology so that the language of the technical standard most closely resembled the approach the Board and Commission took with respect to wagering accounts in Regulation 5.225, Subsection 18, which is entitled "Responsible Gambling."

Second, perhaps more significantly, ACS's management team was able to spend quality time recently with Carol O'Hare from the Nevada Council on Problem Gambling and Connie Jones of AGEM to demonstrate how the PlayOn system works, including its existing responsible gambling features and to discuss how the technical standard might better address problem gambling concerns than having the specific daily dollar limit set forth in the standards.

After those very substantive conversations, we made the amendments that you see being proposed today. And we feel we were able to address the questions that Ms. O'Hare and Ms. Jones had. And as a result, we believe the proposed amendments are in line with the discussions that were had.

Page 20 Lines 11 – 17:

MR. RUBINSTEIN:

The only other thing I was going to add is the last part of the

regulation was just the -- the part in Subsection 18 of 5.225 that talks about displaying the responsible gambling message, that we also added that language to the new draft amendment. And that's all for our affirmative presentation.

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MR. RUBINSTEIN:

I appreciate

Ms. O'Hare's comments, and I'd just like to add, you know, I think we're -- ACS is up for the challenge. I don't think it's the intention to approach this as -- as doing the bare minimum.

I think the way we reacted to the overdraft protection is kind of how Mr. Warner and his work experience has always dealt with issues of responsible gambling. I think -- I believe in his license

hearing originally, he talked about his experience with Grand Casinos and -- and Tom Brosig and the awards that that company got for how they first dealt with the issue of responsible gambling before that was kind of a standard issue in the gaming industry.

I do want to point out the language of that clause in -- in B. First of all, it's kind of halfway through the -- the paragraph, and it says "And conspicuously display to the patron." And, of course, "conspicuously display" is kind of a term of art through the statutes and regulations.

And then it says "on the cashless wagering system, on the gaming device, or at the gaming table where the system is accessible or on the printed receipt," so it's any number of those ways. And I think we're going to, you know, continue to have dialogue with Carol and others to make sure we're doing it in such a way.

You know, as a licensee who is answerable to this Board, we're going to do it the

right way so that we meet the requirements technical standard and are doing the right for the customers.

Page 62 Mr. Warner:

MR. WARNER: Yeah, we've had it on the device and on the receipt. And to her point, you know, that -- we took that a step further. And I think that's what we talked about last week, was that actual notoriety right there at the game, that there is a problem gaming message.

January 23, 2020 – verbatim record

"Responsible Gambling" Versus Problem Gaming

Page 10: [Mr. Rubenstein] Page 10 lines 2-11

"And, second, and perhaps more significantly, the ACS management team was able to spend quality time recently with both Carol O'Hare, from the Nevada Council on Problem **Gaming**, and Connie Jones of AGEM to demonstrate how the PlayOn system works, including its responsible gaming features, and to discuss how the technical standard might better address problem gambling concerns than just having a specific dollar limit in the standards.

Page 12 [MR. RUBINSTEIN]:

"Fourth, there must be conspicuously displayed on or at the game or on a written item given to the patron, which could include the transaction receipt, a responsible gambling message that includes the toll-free number of the National Council on Problem Gambling and the website of the Nevada Council WhenTheFunStops.org.

COMMISSIONER FUETSCH:

Okay. Because that's my only problem, is I want to make sure that the responsible gaming people understand that concept, since it was a term that was loosely used but can be very specifically interpreted. And that's my only thing, is that if they realize that if someone wants to go into a credit situation, that can happen, whereas -- when I read the transcripts, I was feeling like that wouldn't happen.

MR. WARNER:

"...I think I shared what we've done in Native America land. We do have feedback from them, and that's part of the industry. And every one of those folks has said, you know, of the 127,000 transactions that we've done, we have not had one problem gaming issue. We've had not one customer at those facilities -- which come here, by the way -- come back to that property and say, "Hey, you got me in trouble."

Now, I can go back in my career and I can share what I did at Caesars Palace back in the '80s and -- when Mr. Cohen acknowledged that he knew me back in those days, and we did get people in trouble. "

CHAIR ALAMO: pp 46 – 4-10

"So I want to put a brake on this, because there are two things that I wanted when you first came before us that I kind of had stated. Number one, I have always had a problem with having a credit card put in place to gamble, and that's not what's going on here. I got it. Okay?"

ACPG Establishment: NRS 458A.070

Hyperlinks:

[ACPG Meetings:](#)

[PGS Budget Document](#)

August 4, 2020 - ACPG Meeting Minutes:

Announcements

Lisa Sherych stated that she understands that there are some individuals or groups that feel she let them down. With the COVID situation, it has been a task to balance all the things getting thrown at them as well as the budget issue. ***She apologized that she really didn't know anything about problem gambling and should have done her due diligence to understand the program when they had to identify cuts.*** DPBH is in a very difficult position when they look at the programs that are general funds. It's preferred to have other funding streams outside of general funds. She said she will make more of an effort to sit in on the meetings. ***She does not want there to be a thought that the Advisory Committee on Problem Gambling (ACPG) is not important.*** She said that they have already started working on the 2022/2023 budget and will have the original budget written into it. At this time, she does not know if any changes will be made, it depends on how the economy bounces back.

Mr. Feldman felt he was most frustrated by being surprised by the budget and how much of a cut it was with no understanding why. He would like to have the opportunity for input before decisions are made. Ms. O'Hare appreciated to hear that although Ms. Sherych didn't know about the program before, she does want to know now. Ms. Sherych said if they anticipate that cuts will have to be made, she would like to have conversations as to how deep the cuts can be and still be able to continue with programs. Mr. Feldman feels collaboration is the best approach to find common ground.