Nevada Gaming Control Board Takes A Stand Against Sexual Harassment

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In the last several years, there has been a surge in the number of sexual assault victims who have publicly disclosed their stories. Sexual harassment is prevalent across a broad range of industries, including Hollywood, media, hospitality, and healthcare. Emily Stewart, "These Are the Industries With the Most Reported Sexual Harassment Claims", Vox, November 21, 2017, https://www.vox.com/identities/2017/11/21/16685942/sexual-harassment-industry-service-retail. As such, many industries have been spurred to reexamine their own policies to prevent sexual harassment. The gaming industry is no different.

We have all heard the famous motto about mischief in Las Vegas: "What happens in Vegas, stays in Vegas." With a city likened to the biblical Sodom and Gomorrah, it is not difficult to imagine that sexual misconduct has made its way into the gaming industry, with offenders being customers, colleagues, and superiors. In fact, Bloomberg explained in a February 11, 2018 article that Nevada "leads the nation in sexual harassment complaints per capita." See Christie Smythe & Christopher Palmeri, "Steve Wynn Is Out but Las Vegas Is Still a Tough Town for Women", Bloomberg, February 11, 2018, https://www.bloomberg.com/news/articles/2018-02-11/steve-wynn-may-be-out-but-vegas-is-still-a-tough-town-for-women. This statistic could demonstrate that employees in Nevada are educated about resources available to them. On the other hand, it could demonstrate a need for a stronger stance against sexual harassment.

In a response to these concerns, on April 2, 2018, the Nevada Gaming Control Board ("NGCB") proposed amendments to Regulation 5 that included a new Regulation 5.250, which requires Nevada gaming licensees to implement comprehensive plans to address sexual harassment prevention. Failure to comply with these proposed amendments could result in disciplinary action. The most recent iteration of the proposed amendment, dated November 5, 2018, requires each licensed gaming establishment or other licensed gaming business to maintain a comprehensive plan and written policies that:

(a) provide procedures and methods available for reporting sexual harassment;
(b) detail the procedures the licensee will follow to investigate reports of harassment;
(c) set forth consequences for a person within the licensee's organization found to have committed an act of sexual harassment; and
(d) require an annual assessment of the policies to ensure that employees are being effectively educated.
The proposed amendment also allows the NGCB to inspect each licensee’s written policies and procedures at any time, and mandates an annual assessment of each licensee’s policies and procedures to ensure their employees are being effectively educated. The annual assessment would require licensees to disclose the number of sexual harassment claims filed by employees—which could alert the NGCB to a pattern of violence.

To date, the NGCB has held several workshops allowing members of the community to comment or make suggestions to the amendment during public comment. Several prominent members in the community echoed support for NGCB’s effort to enforce a baseline for sexual harassment guidelines, including then Governor Brian Sandoval and Caesars Entertainment Corporation. The Culinary Workers’ Union, Local 226 (the “Union”) added that the amendment was critical towards combatting existing perceptions that reporting harassment was futile. See Geoconda Argüello-Kline, letter to Becky Harris, April 10, 2018. In their remarks, the Union noted that employees in the gaming industry do not just face sexual misconduct

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from fellow employees or superiors, but also experience a power imbalance when the offender is "a guest who can afford a $450 bottle of vodka or thousands on a hotel suite." Id. To diminish the feeling that reporting is hopeless, the Union suggested a stronger floor that mandates multilingual training on reporting procedures and multilingual sexual harassment reporting forms to ensure employees can understand the information. Id.

One community member, however, felt that the amendment was "unnecessarily detailed and not entirely consistent with the Board's general regulatory regime." See Mac Potter, letter to Becky Harris, October 23, 2018. The individual asserted that the amendment was duplicative, because the NGCB could already threaten license revocation of companies that are not compliant with existing state and federal laws. Id. Moreover, there are existing regulatory bodies that cover these issues—the Equal Employment Opportunity Commission and the Nevada Equal Rights Commission. Id.

However, as many members of the community expressed, Nevada prides itself as the gold standard in gaming regulation. While most gaming companies in Nevada have existing comprehensive sexual harassment policies, the NGCB's effort to formalize these policies and procedures cements Nevada's dedication stance against sexual harassment—one that recognizes the inherent dignity in all fellow persons. The proposed amendment not only enhances workplace safety by raising awareness to sexual harassment as a serious issue in the gaming industry, but also prioritizes sexual harassment prevention by providing additional regulatory scrutiny. These sentiments were embodied in the remarks of Ann McGinley, an employment discrimina-

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