

Colorado Gaming Commission Moves to Ban Licensees From Involvement in Marijuana Industry

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The Colorado Limited Gaming Control Commission proposed new resolutions on September 20 that would bar all Colorado gaming licensees from "any involvement with the marijuana industry" and, conversely, prohibit anyone involved in the cannabis industry from obtaining a Colorado gaming license.

The proposed resolutions also set forth three prohibitions that would preclude Colorado gaming licensees from:

- holding or obtaining a marijuana license;
- contracting with or maintaining business relationships with individuals, entities, or establishments that sell, cultivate, or distribute cannabis (which includes arm's-length transactions such as landlord/tenant agreements); and
- receiving financing from or providing financing to individuals, entities, or establishments that sell, cultivate, or distribute cannabis.

Further, Colorado gaming licensees would be obligated to conduct the "necessary due diligence and exercise discretion and sound judgment" to prevent violations of Colorado or federal law.

Colorado joins Nevada as a gaming jurisdiction that views investment or involvement in the properly licensed and state-regulated cannabis industry as a likely disqualification for a gaming license. Colorado's proposed resolutions are notable, however, in that they offer more specific guidance on what constitutes involvement in the cannabis industry. As explained in Nevada Gaming Control Board Notice 2014-39, "[T]he Board does *not* believe investment or any other involvement in a medical marijuana facility or establishment by a person who has received a gaming approval or has applied for a gaming approval is consistent with the effective regulation of gaming . . . the Board believes that any such investment or involvement by gaming licensees or applicants would tend to reflect discredit upon gaming in the State of Nevada."

With this recent development in Colorado, individuals and businesses in the gaming and/or cannabis industries or those providing services to these industries should be aware of these new tensions and obstacles. With continuing uncertainty regarding the legality of the cannabis industry under state and federal law, this is likely to continue to be an issue considered by other gaming regulatory agencies around the country—formally or informally. We have kept a close watch on developments at the intersection of these two industries in order to best advise clients.

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