



**Massachusetts Gaming Commission  
Forum on Responsible Gaming, October 28, 2013**

**Remarks by David O. Stewart, counsel at Ropes and Gray and legal and regulatory  
advisor to the American Gaming Association**

Good morning. I am pleased to be here today as a representative of the commercial gaming industry.

I'm David Stewart, counsel at the Washington, D.C. Office of Ropes & Gray, where I have practiced law since 1989. It has been my pleasure over nearly two decades to work with the American Gaming Association and its member companies on responsible gaming issues.

I have been asked today to address the evolution of responsible gaming, the origins of the AGA's Code of Conduct for Responsible Gaming, and the industry's perspective on responsible gaming governmental regulation.

I will address those issues in a few moments, but before I do, I would like to set the context for what I am about to say. In the fall of 2004, the *Journal of Gambling Studies* published a position paper written by three of the preeminent academics in the problem gambling and addiction fields.

Drs. Alex Blaszczynski of the University of Sydney and Westmead Hospital; Robert Ladouceur of the University of Laval, Quebec; and Howard J. Shaffer of Harvard Medical School posited, in what has become known as the Reno Model, that "any responsible gambling program rests upon two fundamental principles: (1) the ultimate decision to gamble resides with the individual and represents a choice, an (2) to properly make this decision, individuals must have the opportunity to be informed." The paper went on to say that, "Within the context of civil liberties, external organizations cannot remove an individual's right to make decisions."

The AGA and its member companies agree with that position. In fact, the concept of informed choice is at the center of the AGA's responsible gaming programs –

as is a commitment to develop and implement programs that are guided by peer-reviewed, scientific research.

AGA member companies, individually and through the association, make every effort to provide individuals with accurate and straightforward information based on sound science so that they can make informed choices as to whether and how much to gamble.

But AGA member companies also recognize there are those who cannot gamble responsibly, and companies are committed to working with medical, healthcare and research professionals to help those individuals.

We understand that having a gambling disorder is a serious affliction with real consequences for gamblers and their families. Responsible gaming was not created as a regulatory compliance program. Rather, this industry has implemented responsible gaming because it is simply the right thing to do. Casino executives and employees can't control every aspect of how customers experience our products, but AGA members are committed to providing them in a socially responsible manner.

Even before the AGA was formed, member companies were working with treatment providers and problem gambling councils to promote responsible gaming among their patrons. As part of that effort, in the 1980s and earlier, commercial casino companies had developed progressive programs for employees, patrons and communities. As the industry expanded in the late 1980s and early 1990s, it became clear that the issues of promoting responsible gaming and helping problem gamblers warranted an industrywide response.

On day one of its existence in 1995, AGA leadership declared the industry's commitment to develop sound policies to support responsible gaming. Within a year, the National Center for Responsible Gaming was launched with funds provided by the industry.

AGA's policy is that, although a very small percentage of Americans have gambling problems, one problem gambler is one too many. Our programs work in partnership with efforts of the treatment community, regulators and policymakers. We have welcomed their help and ideas, which have been essential to building effective responsible gaming programs.

The challenge the industry has faced is to develop programs that promote responsible gaming and to support strategies to prevent and reduce gambling disorders, while still allowing the overwhelming majority of the men and women who gamble responsibly to make an informed choice to gamble or not.

The leadership of the association determined that the industry's best approach would be to focus its efforts on educating its employees and customer base, while financially supporting treatment, education and intervention organizations and funding research on gambling disorders.

The pre-existing, company-specific programs varied, based on each one's experience, which resulted in inconsistency across the industry. The AGA set out to draw on the experience and the best practices of each in order to create an industrywide standard. To make that happen, the AGA board created a Responsible Gaming Task Force, charged with the responsibility of identifying, developing and implementing responsible gaming programs and policies that could be coordinated throughout the gaming entertainment industry. This task force included top executives, vice presidents of administration, human resources, operations and communications, and general counsels. From outside the industry, the task force included professionals from universities and state problem gambling councils with expertise in the fields of problem and underage gambling.

Among the task force's early contributions was the 1996 release of the Responsible Gaming Resource Guide, the first-ever comprehensive compilation of responsible gaming practices, procedures, ideas and programs. The Resource Guide was created as a tool for AGA member companies to use when creating or updating responsible gaming programs within their organizations.

Specifically, the Resource Guide offered step-by-step instructions for establishing new responsible gaming programs, organizing training programs for supervisors, assembling educational material for non-supervisors, creating employee assistance programs for those affected by problem gambling, and providing educational programs for casino patrons and the public.

The same year the Resource Guide was published also saw the establishment of the industry's most significant contribution to problem gambling research—the National Center for Responsible Gaming, or NCRG.

The industry's announcement that it would make contributions to a center to fund research and programs about gambling disorders was met with skepticism from some. The industry's response to the skeptics was simple: "Judge us based on what we do."

Since then, the NCRG has been the largest source of private funding for research on gambling disorders and youth gambling. The gaming industry's contribution of some \$25 million has enabled NCRG-funded studies that have led to the publication of more than 215 peer-reviewed articles that have been cited more than 11,000 times in scientific literature, including *Harvard Review of Psychiatry*, *Addiction*, *Psychology of Addictive Behaviors*, the *American Journal of Public Health*, *Biological Psychiatry*, *Neuron*, *Archives of General Psychiatry* and *Neuroscience*.

This research has been conducted at some of the most prestigious institutions in the country, including Harvard University, the University of Chicago, Yale University, Johns Hopkins University, Massachusetts General Hospital, the University of Minnesota, Duke University, the University of Iowa and the University of Michigan.

We continue to invite skeptics to judge the NCRG's efforts based on what it has achieved, because NCRG-funded research has withstood the test of time and scrutiny. In 1997, the NCRG supported an effort by Harvard Medical School's Dr. Howard Shaffer—who spoke just a few minutes ago—to conduct a meta-analysis on prevalence rates of pathological gambling among adult populations in the U.S. and Canada. After his findings were published in 1999, the National Research Council re-analyzed Shaffer's data to pull out U.S. prevalence rates. This independent verification confirmed that the past-year prevalence rate for pathological gambling was 0.9 percent, while that of problem gambling was 2 percent.

Not only has that study passed the test of time, but now so many other studies have confirmed the accuracy of the numbers that there is no longer a real debate over the prevalence rates.

The NCRG has also become a major catalyst in bringing together treatment providers, regulators and researchers. For example, for several years now, the NCRG has been host to a national Treatment Provider Workshop series. In this ongoing public outreach initiative, mental health and addiction treatment providers come together to better understand the most up-to-date peer-reviewed research on gambling disorders, so they can then apply those findings to their clinical practice.

The workshops are hosted in partnership with various state and regional organizations, and the researchers and clinicians attending can earn accreditations from the California Foundation for the Advancement of Addiction Professionals, the California Board of Behavioral Sciences, the National Board for Certified Counselors and NAADAC, the Association for Addiction Professionals.

And then there is the NCRG's major forum for professional collaboration: The annual NCRG Conference on Gambling and Addiction brings together responsible gaming advocates from across the spectrum of the gaming sector with researchers, clinicians, public health officials, corporate executives, policy-makers and regulators. The conference showcases the newest research findings, fosters discussion of the effectiveness of common practices and new ideas, and addresses regulatory and public health concerns related to gambling disorders. Commencing in 1999 and showing significant growth every year, the conference now draws more than 300 attendees from around the world.

Perhaps the NCRG's most important contribution is that, according to many scientists, it has legitimized the field of gambling disorders research, broadened its scope and impact, and has attracted to this field top minds and promising young talent from some of the most prestigious academic and scientific institutions from around the world.

The AGA's Code of Conduct for Responsible Gaming was yet another step in the evolution of responsible gaming. In 2002, the industry created a second task force that was charged with developing a voluntary code of conduct focused on responsible gaming.

The task force included legal, regulatory, compliance, communications and marketing professionals from AGA member companies. They built the framework

for the Code, which was adopted in 2003 by the AGA Board of Directors and implemented by member companies in 2004.

In short, the Code of Conduct specifies responsible gaming policies and procedures that can be justified by the available scientific research. For almost a decade, the Code has represented a consistent program to which all AGA companies, no matter their size or location, adhere. While some elements of the Code of Conduct were already codified in state regulations at the time of its adoption, many of its elements were not then required by law. But the commercial casinos voluntarily agreed to abide by those elements and conduct self-audits of their adherence to the Code.

The Code of Conduct created a consistent, industrywide approach to responsible gaming. By adhering to the Code, AGA members agree to integrate responsible gaming practices into every aspect of their daily operations. With employees, patrons and the public in mind, the Code addresses everything from employee training and the prevention of underage gambling, to responsible alcohol service and responsible marketing and advertising.

I have provided a package of information that includes the Code of Conduct and other materials the AGA distributes to support responsible gaming, but I would also like to touch on some of the specifics of the Code.

In the Code's pledge to employees, AGA members are required to educate new employees about responsible gaming programs, routinely train existing employees to improve their understanding of gambling disorders and responsible gaming practices, and ensure that all employees know where to find further assistance. AGA members are also required to post responsible gaming awareness signage bearing a toll-free helpline number at various locations where employees congregate.

It's important for employees to understand these issues because they are on the front lines, interacting with patrons on a daily basis, and because many of them are gamblers themselves. They must understand the issues and policies to ensure their own behavior is responsible and to communicate responsible gaming policies to customers. They also need to be able to tell a patron how to get help, if asked.

The Code's pledge to the public states that companies will support and promote research-based policies on responsible gaming. This includes continuing to contribute to the NCRG and to use the findings of the NCRG-funded, peer-reviewed research to identify the best practices for casinos to follow to promote responsible gaming.

The Code's pledge to patrons requires AGA members to make easily accessible to them, both at the casino and online, information such as the odds of winning at the various games, the signs of problem gambling and where problem gamblers can find help, whether via state or national hotlines or local treatment organizations.

This section also includes a provision for the creation of a program at each member casino that gives patrons the ability to self-exclude. Self-exclusion programs, which are built into the legislation authorizing casinos in Massachusetts, allow customers to place their names on a list of those prohibited from gambling at a particular facility, or from receiving casino privileges, and also to ask that their names are removed from promotional mailing lists.

More than any other aspect of the Code, the self-exclusion provision reflects the U.S. commercial casino industry's commitment to respect the individual's right to make informed choices. It is a tool to help those with gambling disorders take personal responsibility for their gambling problems. And it is an approach that has been proven by research to have a positive impact.

The Division on Addictions at the Cambridge Health Alliance at Harvard conducted the first study of the long-term effects of people enrolled in a self-exclusion program. They found that while most participants did not stop gambling permanently, a significant percentage of them experienced reduced gambling problems after enrolling in the program. In fact, research by the Division and others has indicated the very act of signing up for a self-exclusion program can be a powerful tool.

Returning to the contents of the Code, it also requires companies to make efforts to (a) prevent underage gambling, (b) serve alcoholic beverages responsibly, and (c) advertise responsibly. Included in the section on advertising is the provision that companies' marketing materials should include responsible gaming messages (and free helpline information where appropriate) and should not be

targeted toward minors. Finally, every company is expected to conduct an annual audit of its compliance with the Code.

Although the bulk of the Code has not changed in the decade since it was adopted, this year, in conjunction with its 10th anniversary, the industry released an updated version to (a) reflect the changes that have taken place in the last 10 years and (b) streamline its language and simplify key concepts in the original.

By and large, these changes were minor, and the major tenets of how the industry addresses responsible gaming remain consistent. But technology has changed, which changes the way companies—of all industries, not just the gaming industry—communicate with customers. Many interactions have shifted online, through email, various websites, and social media, and the updated Code reflects the way the industry does business today.

When the AGA distributed the updated Code this year to companies and regulators, it spurred yet another opportunity to educate gaming employees about its provisions.

As the industry continues to evolve, so too will the Code, further reinforcing the industry's commitment to educate employees and customers, and spread the message that "knowing the code" has had a positive impact on responsible gaming.

The AGA has devoted considerable effort to responsible gaming programs other than the Code. For example, every summer, Responsible Gaming Education Week sponsors a very public nationwide exploration of the issues and policies surrounding responsible gaming.

I also would like to address the importance of providing industry patrons with the tools to make informed choices.

Solid scientific evidence shows that knowledge is one of the most important tools of responsible gaming. When players know the odds and have a better understanding of how games work, they're more likely to gamble responsibly, make better decisions about setting a budget, and determine which games they will play and for how long.

Accordingly, the Code requires members to make information available to patrons and employees that generally explains the probabilities of winning or losing at various casino games.

To assist in that effort, the AGA has distributed brochures such as “The House Advantage: A Guide to Understanding the Odds,” “Taking the Mystery Out of the Machine: A Guide to Understanding Slot Machines”—as well as a white paper, titled “Demystifying Slot Machines and Their Impact in the United States.”

The AGA also has developed a guide that describes the characteristics of responsible gaming and provides advice for setting personal guidelines to determine whether, when and how much to gamble.

Those brochures, which are produced primarily for customers and employees, are—just like the Code of Conduct—available not only in English and Spanish, but also French, Chinese, Korean and Vietnamese.

In addition to those publications, this year the AGA produced and released a video titled “What Are the Odds?” while the NCRG produced another titled “What is a Gambling Disorder?” Both are designed to educate the public and employees, and they’re widely available on social media and online via the websites of the AGA and many member companies.

My last topic is the industry’s perspective on responsible gaming regulation.

The industry’s approach to responsible gaming is a measured one. It focuses on education rather than direct intervention. Ultimately, the industry believes that the decision to gamble is a personal choice. As such, it requires discipline and individual responsibility.

As I have mentioned before, the vast majority of people—around 97 percent of all adults, if you exclude problem as well as pathological gamblers—can gamble responsibly. The industry’s responsible gaming efforts are primarily designed to help those people who can gamble responsibly do so without incident and intrusion, and to help those who cannot get help they need. And, it is the industry’s belief that regulations should follow the same approach.

The industry also aims to provide customers with tools that empower them to make the right decision for them, which is why the industry produces and distributes the many publications I have mentioned.

As you consider future regulations, please take a look on the AGA's website, where it has compiled a handbook, titled "Responsible Gaming Statutes and Regulations," which details how state regulatory bodies across the country approach this important issue. As you will see in the handbook, these laws and regulations vary from state to state, but many of them share common elements, including a minimum age requirement of 21 to gamble, regulations pertaining to alcohol service, problem gambling treatment funding, employee training and education, self-exclusion programs, and requirements for signage and advertising. Many of the newer commercial casino states—Kansas and Pennsylvania being prime examples—now require casino operators to submit a responsible gaming plan as part of an application for a gaming license.

I hope my comments have shown the seriousness with which the industry approaches responsible gaming. As you research this subject further, you will also see how closely the industry works with regulators in this area. Through the AGA's Code of Conduct, AGA members voluntarily adhere to practices that, in some cases, are more stringent than public regulations.

As you go about your responsibilities, I encourage you to pay particular attention to peer-reviewed, scientific studies and evidence before accepting conventional wisdom about the gaming industry, responsible gaming, and, in particular, gambling disorders. There is much about this industry that proves to be counter-intuitive when studied. For example, conventional wisdom would suggest that each time you play the slot machine, the closer you are to winning. But the odds are the same every time you push the button. Another example is that despite the dramatic expansion of gaming and the growth in the number of casinos and slot machines, the prevalence of gambling disorders within the population has stayed virtually the same, according to numerous independent national surveys. In fact, the most recent studies indicate it may actually have decreased since the first major prevalence study more than 20 years ago.

This consistency in the prevalence rate of gambling disorders is perhaps the most vital evidence that the industry's approach – and the approach of regulators

across the country – is a prudent and effective one. We are taking the right steps to mitigate this serious issue.

Finally, many states have developed strong and proven regulations, and I encourage you to look to those successful examples and carefully consider the experiences of other states before deciding to add a requirement that is untested. With the evolution of programs, there is often temptation among states to do one better. But unless new approaches are based on sound public policy and research, and have demonstrated their effectiveness, I suggest you question their value.

Thank you for the opportunity to be here today. The industry looks forward to working with your Commission in any way you find helpful.