

# APPEAL OF BOARD STAFF DECISION



**BY CHIP AND A CHAIR MASSAGE THERAPY LLC**

**PRESENTATION TO PENNSYLVANIA GAMING CONTROL BOARD**

**OCTOBER 13, 2011**

# PROCEDURAL BACKGROUND



- **Chip and A Chair (“C&C”) Filed an Unsponsored GSP Application on April 16, 2011**
- **Bureau of Licensing Refused to Accept the GSP Application**
  - “... [B]ecause the Services Are Not Provided to the Slot Machine Licensee. Rather the Services Are Provided to a Patron.”

**BOL Letter dated April 21, 2011**

# NARROW QUESTIONS



- Should the Bureau Accept C&C's Application?
- Does a Business That Provides Services Directly to Patrons of a Casino Qualify as a GSP?

# SUMMARY ANSWER



- **C&C Falls Within the Express Definition of GSP in the Gaming Act**
- **The Board has Already Interpreted the GSP Definition so as to Include C&C**
- **Poker Room Massage Services Have Become Common and Are Permitted in Numerous Jurisdictions**

## POKER ROOM MASSAGE – A GROWING TREND



- “It's good for the casinos, because it keeps the players at the table longer. And it's good for the players because they can stay refreshed and alert even when they've been sitting in the same seat for six or eight hours.”

Amy Driscoll, *Poker Table Massages: Gamblers Magic Touch*, Miami Herald (2008)

- “Table massages have become so popular that the company's stable of therapists has increased from 60 in 2006, its first-year working the series, to 250 this year.”

Ray Brewer, *Poker Players Relax with Massage at Table*, Las Vegas Sun (2009)

# POKER ROOM MASSAGE – PATRON DEMAND



- **Poker’s Popularity Has Led to Patron Demand for Services that Enhance Player Comfort and Experience**
- **As Parx Explained to the Board:**

[S]ubstantial number of poker room patrons ask our dealers, supervisors and other employees about massage services on a daily basis. The continual requests are due to the fact that similarly-sized poker rooms in Atlantic City, Connecticut and Las Vegas provide massage services to their patrons. This has become a customary service for large scale and successful poker rooms throughout the country.

## POKER ROOM MASSAGE – OTHER JURISDICTIONS



- **Massage Services Have Become a Common Amenity in Casinos in Other Jurisdictions, Including:**

New Jersey

Nevada

Connecticut

New York

Florida

Delaware

New Hampshire

Indiana

Missouri

- **Casinos Offering Such Services Include: Bellagio, Borgatta, Caesars Palace, Trump Taj Mahal, Golden Nugget, MGM Grand, Mohegan Sun, Foxwoods, Seneca Niagara, Isle Casino Pompano Beach and More**

# CHIP and A CHAIR



- **Currently Providing Services at Harrington Raceway & Casino in Delaware**
- **Discussions Ongoing with Dover Downs Casino & Delaware Park Casino**



# CHIP and A CHAIR



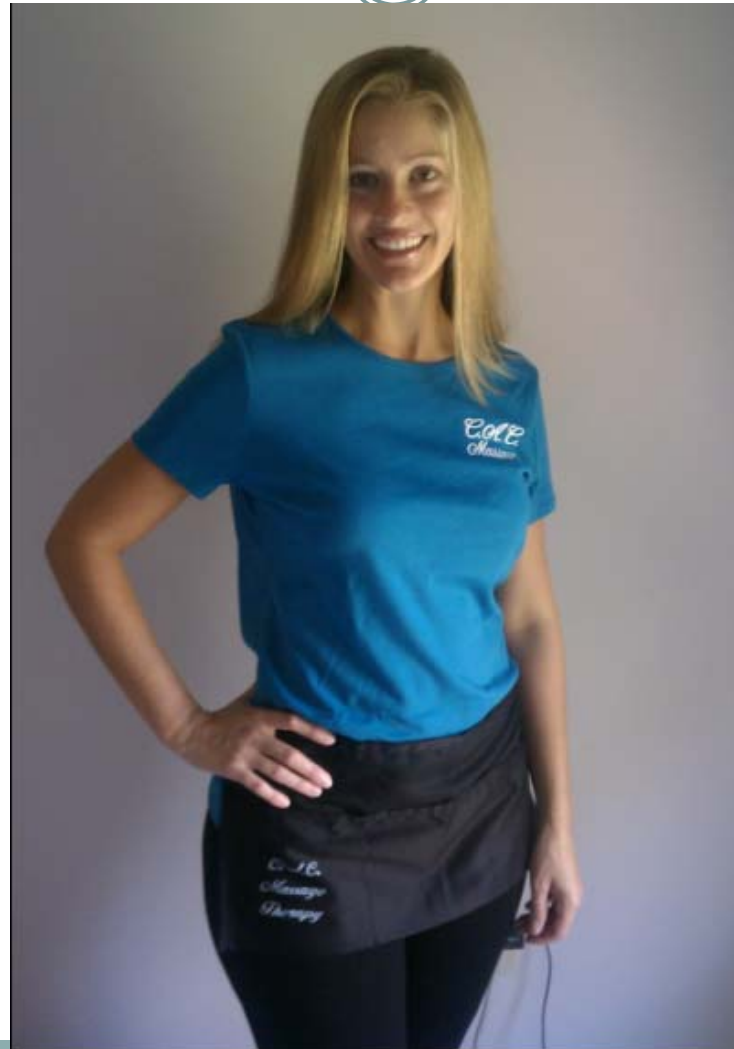
- **Below Dollar Thresholds for Vendor Licensure by Delaware Lottery Board**
  - Casino Files Notice with Lottery Board
  - Lottery Board Conducts Background Checks on Therapists
- **Clean Regulatory Record with Lottery Board**

# CHIP and A CHAIR



- **Parx and Harrah's Chester Have Expressed Interest in Contracting with C&C**
- **25-30 New Jobs Created to Serve Those Two Casinos Alone**
- **Teams of Therapists Assembled & Ready to Go**

# CHIP and A CHAIR - UNIFORMS



# CHIP and A CHAIR



- **Massage Services Offered to Patrons Playing Non-Banking Games (Poker)**
- **All Therapists Are Trained:**
  - Only Player Initiated Conversation
  - No Commenting on Play or Cheering
  - No Massaging Affected Areas (e.g., head, neck, arms) During Play
  - Stop Clock Upon Player Request During Hand

# World Series of Poker at The Rio (2009)



# POKER MASSAGE



# CHIP and A CHAIR



- All Massage Therapists Must be Licensed by Pennsylvania State Board of Massage Therapy
- Licenses Must be Renewed Every Two Years
- Licensees Must Meet Educational Requirements & Pass an Examination

# CHIP and A CHAIR



- **Licensees Must be of Good Moral Character**
- **License May be Refused, Suspended or Revoked for:**
  - Conviction of a Crime of Moral Turpitude or a Felony
  - Engaging in Immoral or Unprofessional Conduct
  - Misconduct in Carrying Out Practice of Massage Therapy



# GAMING SERVICE PROVIDER



“A person that is not required to be licensed as a manufacturer, supplier, management company or gaming junket enterprise and:

(1) Provides goods and services to a slot machine licensee or an applicant for a slot machine license for use in the operation of a licensed facility; ***or***

(2) Provides goods or services *at a licensed facility.*”

4 Pa. C.S. § 1103 (emphasis added).

# PROPOSED RULEMAKING 125-91



- PGCB Proposed a Regulation Requiring Onsite Shopkeepers to be Certified

- Onsite Shopkeepers Were Defined as:

A person, other than a slot machine licensee, who engages or proposes to engage in any commercial activity at the licensed facility and who is not otherwise required to be licensed, certified or registered.

38 Pa.B. 3980 (emphasis added).

- Shopkeepers Expressly Included Businesses Selling Goods/Services Directly to Patrons

# PROPOSED RULEMAKING 125-91



- **The Board Did Not Include the Shopkeeper Provisions in the Final Form Rulemaking:**

“However, on January 7, 2010, Act 1 of 2010 went into effect. One of the changes in Act 1 was the addition of new provisions related to gaming service providers which will encompass both vendors and shopkeepers. The Board will be promulgating regulations to amend its existing vendor regulations to reflect the changes in Act 1 in the near future; however, there is no longer any need to promulgate separate regulations for shopkeepers.”

40 Pa.B 2533 at 2 (emphasis added).

# PA CASINOS DESIRE SERVICE



# CONCLUSION



- **C&C Qualifies to Apply for Registration as a GSP**
- **The Board Should Make Clear that C&C is Eligible for Interim Authority to do Business so long as it Satisfies the Standard Requirements in the Board's Regulations**