

SYMPOSIUM: PROBLEM GAMBLING & THE LAW

INTRODUCTION

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First identified as a mental disorder by the American Psychiatric Association (APA) in the third edition of the *Diagnostic and Statistical Manual of Mental Disorders*, published in 1980 (DSM-III), “pathological gambling” was originally classified as an impulse control disorder alongside conditions such as kleptomania, pyromania, intermittent explosive disorder, and isolated explosive disorder.¹ As an impulse control disorder, pathological gambling was characterized with reference to an individual’s chronic and progressive failure to resist impulses to gamble as well as gambling behavior that compromised, disrupted, or damaged personal, family, or vocational pursuits.² With few changes, pathological gambling remained classified as an impulse control disorder in the DSM-III-Revised (1987),³ the DSM-IV (1994),⁴ and the DSM-IV- Text Revision (2000).⁵ In May 2013, the APA released the DSM-5, which renamed the condition “gambling disorder” and reclassified it as a “Non-Substance-Related Disorder” within the “Substance-Related and Addictive Disorders” chapter.⁶ The APA explained that the condition’s new name and classification reflected clinical research findings suggesting that gambling disorder is similar to alcohol use disorder and other substance-related disorders in clinical expression, brain origin, comorbidity, physiology, and treatment.⁷

¹ AM. PSYCHIATRIC ASS’N, DIAGNOSTIC AND STATISTICAL MANUAL OF MENTAL DISORDERS 291 (3d ed. 1980).

² *Id.*

³ AM. PSYCHIATRIC ASS’N, DIAGNOSTIC AND STATISTICAL MANUAL OF MENTAL DISORDERS 324 (3d ed., rev. 1987).

⁴ AM. PSYCHIATRIC ASS’N, DIAGNOSTIC AND STATISTICAL MANUAL OF MENTAL DISORDERS 615 (4th ed. 1994).

⁵ AM. PSYCHIATRIC ASS’N, DIAGNOSTIC AND STATISTICAL MANUAL OF MENTAL DISORDERS 671 (4th ed., text rev., 2000).

⁶ AM. PSYCHIATRIC ASS’N, DIAGNOSTIC AND STATISTICAL MANUAL OF MENTAL DISORDERS 585 (5th ed. 2013).

⁷ AM. PSYCHIATRIC ASS’N, SUBSTANCE-RELATED AND ADDICTIVE DISORDERS 1 (2013).

This issue of the *UNLV Gaming Law Journal* is the first of two consecutive issues to contain scholarship examining the relationship between gambling disorder and the law. This first issue features the scholarship of leading gaming law scholars and practitioners, including Keith Miller, Ellis and Nelle Levitt Distinguished Professor of Law, Drake University Law School; Erica Okerberg, Associate Attorney, Greenberg Traurig; David Ranscht, Law Clerk for the Honorable Daryl Hecht, Supreme Court of Iowa, and Past Intern, Iowa Racing and Gaming Commission; and William Thompson, Professor Emeritus of Public Administration, University of Nevada, Las Vegas, and Vice President, Asian Pacific Association for Gambling Studies.

In the article that opens this issue, “Problem Gambling: Costs and Best Practices for Mitigation,” William Thompson and Erica Okerberg offer an in-depth review of the costs associated with problem gambling.⁸ These costs include financial losses to the gambler himself, bankruptcy, theft, arrests, lost work time, loss of work, unemployment compensation, probation, jail time, welfare, food stamps, treatment, and suicide, as well as casino bad debt and lawsuits against casinos. The authors identify the programs and measures implemented by casinos, government agencies, and community organizations to combat problem gambling, including responsible gaming publications, floor management of problem gambling, VIP room management of problem gambling, employee training and assistance programs, community counseling centers, and government funding of problem gambling treatments.⁹ Thompson and Okerberg conclude that these measures can lower the costs associated with problem gambling.¹⁰

In “The Utility and Limits of Self-Exclusion Programs,” the second piece in this issue, Keith Miller focuses on self-exclusion, the process by which a gambler signs a form banning himself from gambling.¹¹ An individual’s self-exclusion may be relative to a particular casino or, if a state regulatory body administers a self-exclusion process, it may be relative to all licensed facilities in the jurisdiction of the regulatory body.¹² As Miller explains in detail, twenty-three states have some type of self-exclusion program (SEP), although SEPs vary considerably between and among jurisdictions.¹³ Miller believes that SEPs should be encouraged and that SEPs can be a helpful mechanism for addressing problem gambling.¹⁴ Miller also argues, however, that SEPs have limitations and need to be integrated into an ethos of treatment, not used as a mechanism

⁸ Erica Okerberg & William N. Thompson, *Problem Gambling: Costs and Best Practices for Mitigation*, 6 UNLV GAMING L.J. 1 (2015).

⁹ *Id.*

¹⁰ *Id.*

¹¹ Keith Miller, *The Utility and Limits of Self-Exclusion Programs*, 6 UNLV GAMING L. J. 29 (2015).

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

for punishment.¹⁵ In addition, SEPs should not detract from other important mechanisms for addressing problem gambling.¹⁶

In the final piece in this issue, titled “Problem Gambling Is Funny,” David Ranscht reviews definitional approaches to problem before examining ways in which problem gambling is portrayed through television and recognized (or not) by local communities.¹⁷ Ranscht also reviews the benefits and limitations of legal and social interventions that may raise awareness about problem gambling, including problem gambling courts, publicly funded problem gambling treatment programs, gaming commissions that impose fines on casinos that fail to enforce exclusion programs, negligence lawsuits in which litigants argue that casinos have duties vis-à-vis problem gamblers and other individuals who may be injured by problem gamblers and, finally, products liability lawsuits alleging the addictive design of gaming machines.¹⁸ Ranscht concludes with a list of questions strategically designed to stimulate discussion regarding whether negligence and products liability lawsuits against casinos and gaming machine manufacturers will, and ought to be, successful.¹⁹

It is our hope that this special symposium issue of the *UNLV Gaming Law Journal* will be used by scholars, practitioners, casino executives, government leaders, and community organizers to raise awareness regarding issues that arise at the intersection of gambling disorder and the law and to promote and support initiatives designed to assist disordered gamblers as well as members of their communities.

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¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ David M. Ranscht, *Problem Gambling Is Funny*, 6 UNLV GAMING L.J. 59 (2015).

¹⁸ *Id.*

¹⁹ *Id.*