

Washington State Collection Agency Board meeting transcript

September 28, 2023

Fred Wade:

Thank you very much. Can you hear me?

Mark Case:

Yep.

Fred Wade:

Okay. All right. Good morning. I'm Fred Wade, chair of the Washington State Collection Agency Board. It is now 10 o'clock on Thursday, September 28th, 2023, and I am calling this board meeting to order. This meeting is open to the public, and we will be providing an opportunity for public comment at the end of the meeting. As a courtesy, we encourage participants to mute themselves when they are not speaking to reduce the background noise. One challenge, of course, is to remember to unmute yourself when you are speaking. Also for board members to help us capture information correctly, please state your name when making comments. All right, thank you. At this time, I would like to ask our board clerk Susan Nevis to call role to confirm attendance of all board members. Once Susan has called your name, please respond by verbally stating here to confirm your attendance.

Susan Nieves:

Chair Wade.

Fred Wade:

Here.

Susan Nieves:

Vice Chair, Kinkley.

Scott Kinkley:

Present, here.

Susan Nieves:

Board Member, Bunker.

Dirk Bunker:

Here.

Susan Nieves:

And board member, Case.

Mark Case:

Here.

Susan Nieves:

Thank you.

Fred Wade:

Right. Thank you Susan. Is there... Next item on the agenda is the approval of the agenda. Is there a motion to approve today's agenda?

Scott Kinkley:

I'll move to approve the agenda.

Fred Wade:

Okay. Is there a second?

Mark Case:

This is Mark Case. I'll second.

Fred Wade:

Okay. Any discussion? All in favor of the motion to approve today's agenda, please say aye.

Scott Kinkley:

Aye.

Dirk Bunker:

Aye

Fred Wade:

Any opposed? Any abstentions? Motion carries. Next item is approval of minutes. These are for the meeting minutes of March 23rd, 2023. Is there a motion to approve the March 23rd, 2023 meeting minutes?

Mark Case:

I have a correction, if possible. The minutes talk about the Consumer Finance Protection Bureau. It's a small one, but it says, in front it says, CFPD as in David should be CFPB as in Bureau. And it's repeated throughout the minutes a number of times.

Fred Wade:

Okay.

Mark Case:

That's the only correction I would throw out there. I don't know if it's that big a deal.

Susan Nieves:

Thank you for catching that, and we'll make sure that that gets updated.

Fred Wade:

All right, is there a motion-

Mark Case:

Upon that, I motion to approve the minutes of March 23rd, 2023.

Fred Wade:

Okay.

Scott Kinkley:

I'll second the motion, Mr. Scott.

Fred Wade:

Okay, any further discussion? If not all in favor of the motion to approve the March 2023 amendments with corrections, please say aye.

Scott Kinkley:

Aye.

Dirk Bunker:

Aye.

Fred Wade:

Aye.

Mark Case:

Aye.

Fred Wade:

Any opposed in extensions? If not, then we'll now move to old business starting with Scott and Grace.

Susan Nieves:

Okay, I-

Scott Kinkley:

Thank you Chair, Wade, I-

Susan Nieves:

Go ahead. Go ahead, Scott.

Scott Kinkley:

No, you go ahead Grace.

Grace:

Oh, okay. Sorry. I didn't know if... Okay, so Scott and I attended the NACARA Conference in Denver last week. I think it was another really successful conference. We were provided a lot of legislative updates going on around the country, and this year we actually had a pretty extensive training on trust examinations for agency trust accounts, which was pretty interesting. Scott was also on a panel with a few other state regulators that they talked about virtual office rule changes throughout the country. So that was awesome to see Scott there representing our state. And then I wanted to just let you guys be aware that I was elected again to remain on the board for another year and will be continuing the role on the conference planning committee. And as soon as we have a location and a date set for the 2024 conference, that'll get communicated out to all of you guys.

Scott Kinkley:

All right. Thank you Grace. And I'd like to add a few notes from some of the sessions, some emerging topics around the country that maybe we should have on our radar, particularly the FTC provided us with a presentation about emerging issues in debt collection around the nation, particularly where they're seeing the emergence of newer technology being used by debt collectors and maybe in ways that existing regulation doesn't contemplate, in particular the use of artificial intelligence and collections is already starting to seep into the industry in a variety of ways. Some agencies are experimenting with artificial intelligence interfaces like chatbots, replacing human collectors as well as using AI to identify through vast TROs of people's personal information, the best way to collect debts from folks individually. And so there was a lot of discussion both in the regulator section of the conference as well as the combined debt collector regulator session about what AI is going to look like in the collection industry and how to protect the public from unfair use of it.

There's obviously a lot of concerns with the use of large databases and artificial intelligence machine learning with the amount of personal information that's available and data breaches and things of that nature. So that really was a major focus throughout the conference and it kicked off with that theme. The FTC was also concerned with unfair and deceptive action practices with these emerging technologies, practice of dark patterns, which doesn't normally relate to the collection industry, but they seemed to think that it might be relevant and something regulators should look at. And dark patterns are essentially where you're presented with two options and it seems like you're only allowed to make one choice. The example the FTC provided is purchasing something like travel insurance when you buy an airline ticket where it may say in a small grade out button, are you sure you want to leave this trip unprotected?

And then a giant green button that says Yes, buy the insurance. The conference proceeded to discuss some issues with medical debt. There's presentation that indicated a substantial amounts of the consumer complaints concerning medical debt nationally were the results of bad billing practices or errors in billing. And the panel and the data they presented traced these errors to practices and balance billing, which Washington has specifically outlawed. We're one of the few states that have specifically outlawed that though it does seem to exist there to some extent, coding errors, incomplete insurance claim forms, pre-authorization issues. And they said that they noticed a fair amount of caregiver fraud that was resulting in medical debts entering the collection stream that probably shouldn't have been there. And then there seemed to be a lot of frustration with the payers rather than the hospitals themselves and some of the collection agency presentations later in the conference express frustration that they often don't know if what they're collecting is the result of a billing error or something that should have been covered by insurance.

We had an interesting regulator round table where many of these same issues were discussed, and I think that there's, my sense from that discussion was there's a lot of concern about AI entering the collection sphere without any really regulation existing to control where that might lead. We had some presentations from industry members, the American Collectors Associations and Receivable Management Accounts Incorporated, talked about some of the laws and regulations that other states have enacted, including our Washington State works from home rule and an expansion of our regulation of credit repair organizations in the state. It seems as though the industry is really looking for a move towards full virtual collection agencies. A lot of their presentations were directed at us as regulators, trying to see if there was any way to do away with branch office certificate licensing and other obstacles that might require brick and mortar locations. So I think that's something that we should be aware of that the industry may be asking from us in the future.

And then we received a presentation from the Consumer Financial Protection Bureau, which gave us a legislative update, pretty much matched what we got from industry, maybe just with a little bit different perspective on the effect and need for some of the regulation. And I'd be happy to answer any specific questions if anyone has about the conference. But I agree with Grace. It was a highly successful conference. I learned an awful lot. I think most folks there just judging from the side conversations were really engaged, and I learned an awful lot about what our other regulators in other states are doing, the needs of the collection industry and some consumer protection initiatives around the country.

Dirk Bunker:

Hey Scott, this is Dirk. Thanks for your review of the meetings. That's appreciated.

Scott Kinkley:

Of course.

Fred Wade:

Okay. Are any other questions for Scott or Grace? If not, then thank you Scott and Grace for your report. And our next agenda item is new business and this item will be led by Susan.

Susan Nieves:

So this is the last meeting of the year. So we are discussing the meeting dates for 2024 and the proposed meeting dates are March 21st and September 26th, and the meetings will be held at 10:00 AM.

Fred Wade:

All right, does that work for the members?

Mark Case:

Yep. This is Mark that works for me.

Scott Kinkley:

This is Scott that works with my calendar as well.

Fred Wade:

Okay. Works for my calendar as well. So they'll call for a motion to approve the meeting schedule for 2024.

Mark Case:

I'll motion to approve the meeting schedule for 2024.

Fred Wade:

Is there a second?

Mark Case:

This is Mark. I'll second.

Fred Wade:

All right. All those in favor say aye.

Mark Case:

Aye.

Scott Kinkley:

Aye.

Dirk Bunker:

Aye.

Mark Case:

Aye.

Fred Wade:

Aye. Okay. All right. No extensions, and there are no opposed. And now we're moved to the next item, which is Board Authorizations and this item is being led by Sydney.

Sydney:

Thank you. So this item, slight change of title, but previously this document was known as delegations from the board, delegating certain authorities to staff in order for us to operate on your behalf. When we, let me back up... The reason that this is coming back up. As the board will remember our longtime administrator over the regulatory boards, Rick Storvich retired and left us last year. And with that, these delegations had been made specifically to Mr. Storvich himself. And so with his retirement, it was necessary for us to redo them rather than just simply replacing one name with another one. We wanted to go through them, have a legal analysis done on them to make sure that everything was still up-to-date and current.

A lot of times the Attorney General's office has access to case law that we just don't see on our side. So we wanted to make sure that everything was up-to-date and was correct. As we went through them, we realized a few things. One with the realignment that happened within the Business and professions division, the delegation being made to Mr. Storvich no longer made sense for the person who took over Mr. Storvich's position. Previously, Rick was over all of the functions underneath each of the programs. So what was the regulatory board section? That unit housed all of the licensing, all of the complaint intake, the investigations, the compliance, all of the pieces as well as the board support. Well, now our unit only houses board support.

Licensing is its own unit. Intake investigations audits is its own separate unit, and compliance is a separate unit to make sure that we are operating the same across all of our programs and to provide that consistency. So having these tasks or having this authorization given to that one position no longer makes sense because that position is now only over board support and doesn't have any authority across the different units to continue providing that support. So that was one of the issues. Another one is changing the name from delegations as they've historically been known to authorizations. And when I explained it to Vice Chair, Kinkley last week, he said it made perfect sense from the legal standpoint. And Rebecca Kim, our Assistant Attorney General is on the call and can help explain that if anybody has questions. But I was assured just in legal ease, the term authorizations was more legally sound than

delegations. The board doesn't have the authority to delegate authority, you have the authority to authorize us to operate on your behalf is essentially what it's.

So under the realignment all of those different functions are now under our assistant director. They were previously, but they were housed in an individual program specific units. We've done away with the program specific and have gone to breaking that out by function instead. And so the one person who, in one position, who is over all of that is our Assistant Director, Jennifer Clawson. And so we wanted to make sure that the authorizations were made to the appropriate person in the appropriate level who would be over all of those different functions. And in talking with our previous Assistant Attorney General who was assigned to the board, Elizabeth Lagerberg, we had concerns getting into a situation like we have with Mr. Storvich leaving is that those authorizations were specifically made to him as a person rather than to the position.

And so it is one of those that, yeah, we can continue operating and have continued operating on behalf of the board, but really it should have been to a position rather than to an individual that way we're not having to redo these constantly if there's turnover in a particular position as that does happen in state government.

So we are asking that the authorizations be rolled up to the assistant director level, puts them at a higher level of authority and that they'd be made to the position of assistant director. So for some reason, assistant director Clawson leaves her position, those authorizations still remain in place and they're still legally sound. This doesn't change anything that we're not asking for any changes on how we operate on behalf of the board, and we'll continue to operate on behalf of the board as we have. It's not changing how any of that is happening behind the scenes. It's just rolling it to the correct people in places. And then there was also just a few technical changes in the language that Assistant Attorney General, Rebecca Kim, helped us just clean up and get consistent with some of the language that we see across all of our others.

So with that, I'm happy to answer any questions. I know this is a bit of a change in departure from what you guys have seen previously, but wanted to assure you nothing is really changing, it's just cleaning it up and making sure the authorizations are in line with how we look now.

Fred Wade:

Okay. Board members, do you have any questions for the staff?

Dirk Bunker:

Nope, I think it's a good change. This is Dirk.

Scott Kinkley:

This is Scott. I've reviewed the changes and I don't have any questions.

Mark Case:

This is Mark. It makes sense to me as well.

Fred Wade:

Okay. All right. Thank you, Sidney. Is there a motion to approve the authorizations for the Washington State Collection Agency Board?

Scott Kinkley:

This is Scott. Kinkley. I will so move.

Fred Wade:

Okay, is there a second?

Dirk Bunker:

This is Dirk, I'll also move.

Mark Case:

This is Mark.

Fred Wade:

Okay. Mark, were you also trying to second?

Mark Case:

Yes.

Fred Wade:

Okay. Right, any discussion?

Mark Case:

No.

Fred Wade:

No discussion. Okay. All in favor of the motion to approve the new authorizations for the Collection Agency Board as submitted by staff. Please say aye.

Mark Case:

Aye.

Dirk Bunker:

Aye.

Fred Wade:

Aye.

Scott Kinkley:

Aye.

Dirk Bunker:

Aye.

Fred Wade:

All right. Any opposed? Any oppositions? If not. Okay, we're moving to the next item and the next item on the agenda is regarding board member recruitment. And this particular topic will also be led by Susan.

Susan Nieves:

So included in your packet, there is information about what our unit is doing for the vacancies for the Collection Board. We currently have one licensed collection agent and a public member and vice chair Scott Kinkley's position. Well, his term will expire in December. So we will technically be down three people in December. Our offices received six applications from the governor's office, three applications for each, we've received. I have scheduled meetings and informational discussions with all of the applicants that have applied and tomorrow will be the last two ones. Our board leads Sydney Muley and Sandy Bauer and Assistant Administrator, Deborah Alumbaugh are the people that are in those discussions with the candidates. So hopefully really soon, we will gather all the information notes that were taken and send it off to the governor's office for their determination for a recruitment.

Fred Wade:

All right, any questions? Okay, sounds like no one has any... I don't hear any questions from the board, so I will say just a quick thank you to the staff for staying on top of this, and we wish you success and getting the final candidates.

Susan Nieves:

Thank you.

Fred Wade:

Our next agenda item is regarding reports and this item will be led by Sydney.

Sydney:

Thank you. So I won't go into super fine detail on all of these as they were included in your packets. For our administrator closures report, we did have two cases that were closed for no jurisdiction, 46 that were closed with no violation and three cases that were recommended to be closed by the case

manager. And our complaint status report, we have 59 cases that have been closed, and I believe this is this calendar year. So as of August 28th. So 59 complaints that our status closed, nine that are currently under investigation, 10 that are in a management review for a grand total of 78 on the year.

And our licensee count looks like this. We have 672 out-of-state Collection Agency branches, 512 out-of-state collection agencies. And then in-state we have 279 collection agency branches and 270 collection agents. And then we're changing the way that we are reporting some of these just to help show trends for all of our boards. So this has been requested by a pretty good number of our boards just so that you guys can begin seeing some of these trends over time. So you'll be seeing changes come with these, possibly over the next couple of meetings just as these go through different lives and we get feedback from our boards on how they look. So if you have any feedback, please feel free to jump in and offer it. But we wanted to start showing some of these trendlines as especially through COVID and coming out of COVID, some of our different professions are seeing different bumps and shifts into trying to get a handle on just what our professions are going to look like post COVID.

And so you guys can see we had a little bit of a bump in our out-of-state collection agency trends in 2022 that are now starting to recede for 2023 and then almost the reverse, at least on our in-state collection agency branches, we had a slight dip in 2022 that is now rebounding for '23. And then collection agents in-state, we are seeing a bit of a steady decline, and I will turn it over to Susan to go over our action item list.

Susan Nieves:

So the action item list is pretty small. The only thing we have remaining on it is the charter committee. So I will have a discussion with Sydney and begin sending out invites for the committee members. We discussed the delegation committee or the delegations today, switching them over to the authorizations and the NACARA travel was completed and we got a report out from our attendees today. So it looks like just one more item is left on the action item list.

Fred Wade:

Okay. Any questions or comments on those items from the board?

Dirk Bunker:

This is Dirk. No questions, but if I could be of some help, let me know.

Susan Nieves:

Thank you.

Fred Wade:

Okay, I think that will conclude the reports section and now we are on to public comments. Okay. So we are now entering the public comment period. The public may address the board on matters within the board's jurisdiction, either verbally during the meeting or by submitting written comments in advance. Verbal comments are limited to one, three minute comment. Written comments are limited to no more than 500 words and must be emailed to dolboards@dol.wa.gov. No less than two business days prior to

the meeting with the subject line public comment collection agency board. In response to all public comments, the board is limited to requesting that the matter be added to a future agenda for discussion or directing staff to study the matter further. Inflammatory comments and language will not be permitted. If you would like to make a comment, please unmute your line, state your name and share your comments with the board. As a reminder, please mute your line once you have finished. Board staff, do we have any written public comments to be read by staff?

Susan Nieves:

No, Mr. Chair. We did not.

Fred Wade:

Okay. All right. Is there anyone on the line who would like to make a comment to the board? Okay. Again, are there any public comments for the board? This is your opportunity to address this board. All right. I don't see anyone see here. It doesn't appear that anyone is lifting their mic or that there is anyone who is wanting to make a public comment. So we will move on to the next agenda item. And this is a new item for the board to make any announcement or report on meetings or other events that they have attended pertinent the board's work that was not covered under any the other items. And so it looks like we have an announcement here, Sydney.

Sydney:

We do. Staff has one announcement and I apologize that we weren't able to get this agenda is properly. We posted prior to this announcement joining us, but we do have a new team member that we wanted to introduce to the board. Jason Len is our new military and military spouse liaison and I will turn it over to him to introduce himself to the board.

Jason Len:

Thanks Sydney. I appreciate y'all having here today. Just want to give a quick background. I chief see it here. I was born and raised in Florida. Got my degree in the business school in finance at University of Alabama. Last 20 years, I've served in the United States Navy as a language analyst. Just retired last month. So I'm really excited to be moving on from that career into this one. Just a little bit about what I'm doing here as a military and military spouse liaison. Obviously the 1009 legislation that was passed, I believe last year, created a program to help spousal employment. Many of these spouses work in fields that fall under our licensing. So I'm really excited to be able to advocate for those, that community, for them to be able to hopefully be able to get back into their career field that they have experience in and knowledge in so that they can continue to provide for their families.

I do know that there are a lot of things that we're doing now to implement the program, one of which is some training that was put together by one of my counterparts over at the Washington Department of Veterans Affairs. We'll be sharing that for all of our board members to participate in. It's about a half hour video that really talks about many of the challenges that face this community. There's a lot of challenges that are outside of purview. This is one that we'll be able to make an impact in. Spousal employment's a huge issue within the military community and so I'm really excited about a lot of this

stuff that's happening not only federally, but also here in the state of Washington to help us be able to make an impact with that community.

Fred Wade:

All right. Thank you Jason, and welcome to the Department of Licensing, and also thank you for your service.

Jason Len:

Thank you.

Fred Wade:

Do any board members have any announcements or additional reports that they would like to make at this time?

Dirk Bunker:

This is Dirk. Nope, I don't have any announcements or any additional comments. Thanks for everyone's time though.

Fred Wade:

All right. Hearing nothing else, we'll move on to the next agenda item. Are there any agenda items the board has not yet discussed that any board members would like to request for the next meeting?

Dirk Bunker:

This is Dirk. If we do have something, who would we address those agenda items to?

Sydney:

So if you do have things that come up in between now and the next meeting, we understand that is a large span of time. If you could send those to myself and or Susan, we'll make sure that those get on the next agenda.

Dirk Bunker:

Awesome. Thank you, Sydney and Susan.

Fred Wade:

Okay. If there's nothing else, then Susan, I'll turn it over to you for review of action items and items for next meeting.

Susan Nieves:

I didn't capture any action items for the next meeting other than the one item that is still on the action item list, which is the charter committee.

Fred Wade:

Okay.

Susan Nieves:

That was all I captured.

Fred Wade:

Okay. All right. Okay. Well, let's see. Looks like we've done it again. We've actually completed another meeting almost in record time. The time is now 10:34 and this meeting is adjourned. Thank you very much.

Susan Nieves:

Thank you everyone.

Mark Case:

Thank you.

Dirk Bunker:

Thanks everyone. Have a good day.

Fred Wade:

See you.