

Washington State Collection Agency Board meeting transcript

September 26, 2024

Fred Wade (00:00:00):

It is now 10 o'clock on Thursday, September 26th, 2024, and I am calling this board meeting to order. And this meeting is open to the public and we will be providing an opportunity for public comment at the end of the meeting. And as a courtesy, we encourage participants to mute themselves when they are not speaking to reduce the background noise. One challenge of course with that is remembering to unmute yourself when you are speaking. Also, for board members to help us capture information correctly, please state your name when making comments. At this time, I would like to ask program specialist Sydney Muhle to call a roll to confirm the attendance of all board members. Once Sydney has called your name, please respond by verbally stating here to confirm your attendance.

Sydney Muhle (00:01:01):

Chair Wade?

Fred Wade (00:01:03):

Here.

Sydney Muhle (00:01:04):

Board member Case?

Mark Case (00:01:06):

Here.

Sydney Muhle (00:01:08):

Board Member Leonard?

Sam Leonard (00:01:11):

Here.

Sydney Muhle (00:01:12):

Board member Murphy?

Justin Murphy (00:01:14):

Here.

Sydney Muhle (00:01:15):

And board member Smith?

Denice Smith (00:01:17):

Here.

Sydney Muhle (00:01:18):

We have our quorum.

Fred Wade (00:01:21):

At this time, the first item is the approval of today's agenda. I'll need a motion for approval of today's agenda. Is there a motion to approve today's agenda?

Justin Murphy (00:01:33):

I'll move to approve today's agenda.

Fred Wade (00:01:37):

Okay, and which, who's speaking?

Justin Murphy (00:01:40):

Justin Murphy.

Fred Wade (00:01:42):

Okay, is there a second?

Mark Case (00:01:45):

This is Mark Case. I'll second.

Fred Wade (00:01:47):

Thank you, Mark. Any discussion?

Sam Leonard (00:01:51):

Yes. Yes, this is Sam. I have a discussion.

Fred Wade (00:01:55):

Okay, go ahead.

Sam Leonard (00:01:56):

Item. So I looked over the agenda. Hi, everyone. I'm the new board member. I looked over the agenda and I noticed that one of the items on the agenda for new business is, let me see, consideration of a waiver from IQ data regarding Washington Administrative Code 308290855B. And as I understand it, IQ data is actually requesting a waiver of 4C and 5A as well. And so I'm not sure if we can address that item since we haven't given public notice of everything that IQ data is requesting a waiver of.

Sydney Muhle (00:02:39):

So I can address that Mr. Chair if you would like.

Fred Wade (00:02:41):

Okay.

Sydney Muhle (00:02:45):

So that is something we will actually be talking about with the item on why those additional items were not included for waiver.

Sam Leonard (00:02:57):

If that's what they're requesting though, chair, I think we have to give notice to the public, don't we?

Sydney Muhle (00:03:03):

If the board were going to be taking action on those additional pieces but there are reasons why those were not included with the agenda. And so it will be a request to review just that one provision of the WAC.

Sam Leonard (00:03:22):

I guess, this is Sam again, my concern is I went back and listened to the March meeting minutes and it appeared that the board considered request to waive 5A as well and it did not appear that that distinction was made in the last meeting back in March. And so I'm concerned that we might review a provision that we have no administrative authority to actually review.

Sydney Muhle (00:03:51):

So I'd have to go back and look at those minutes, which I can pull up if needed. But when I looked at it again this morning, based on some other questions I had received, the board only addressed the waiver of 5B.

Sam Leonard (00:04:12):

Yeah, I might be confused. I think IQ data's request says that they're requesting a waiver of 4C and 5A as well because at the previous board meeting, the board granted receivable outsourcing LLC a waiver of those provisions.

Sydney Muhle (00:04:34):

So the board did review the provisions of 5A because of a separate request not related to receivables outsourcing and provided additional clarification on 5A. But no, if memory serves, the request from receivables outsourcing was only for waiver of five B and that was the only provision that the waiver was granted for.

Sam Leonard (00:05:00):

Okay. So just to clarify, I'm going to object to the agenda because the agenda is supposed to give notice of those things that will be discussed at the meeting. And if we're going to discuss IQ data's request, that necessarily means we will have to discuss the request of a waiver of 4C and 5A and thereby we have not given appropriate notice to the public on IQ data's request that will be discussed at the meeting.

Fred Wade (00:05:32):

And Sydney, I think for clarification, this IQ, see it looks like your recommendation or your subject is only addressing 5B.

Sydney Muhle (00:05:52):

Correct.

Fred Wade (00:05:54):

In their request it looks like they're saying 5A and B.

Sydney Muhle (00:06:01):

Yeah, as well as 4C.

Fred Wade (00:06:04):

And they want 4C. So they want waivers for all of those, right? 4C, 5A, 5B.

Sydney Muhle (00:06:15):

Correct. And I actually have those other requests pulled up, so let me take a look. But yeah, the request from receivables outsourcing that was received and reviewed by the board at the March meeting was only for 5B. And that is the only provision in the WAC, in that particular WAC, that the board has allowed for granting of a waiver based on emergency circumstances. And so because of that, that was, we only placed that 5B. We only placed that on the agenda as that would be the only portion of their request that staff was putting forward to the board for consideration. 4C is actually tied into our CWs and so there is no ability to waive that one even if the board wanted to. And 5A, additional clarification has already been provided on as well as at the March meeting, the board did indicate that they wanted to conduct a WAC review specifically around WAC 308-29-085 to see if there was anything that could be cleared up.

(00:07:33):

And so for some historical perspective, 308-29-085 was the virtual office provisions that were put in place on an emergency rulemaking due to the COVID-19 pandemic. And there was always an expectation that once we were through the pandemic and seeing what the prolonged impact of that would be, that that rule would be reviewed and updated at that point. And so that was the direction that the board gave us at the March meeting. And so we're working on that update as well. But because the only provision within that rule that the board allowed for a waiver of is 5B. That was the only one we placed on the agenda.

Fred Wade (00:08:25):

Okay. Any other discussion?

Sam Leonard (00:08:36):

None for me, Chair Wade. This is Sam.

Fred Wade (00:08:39):

Okay. All right. So as I understand it, 4C is not on the agenda because the board has no ability to even waive 4C. And let's see, 5A is not on the agenda because that has already been addressed. Is that correct?

Sydney Muhle (00:08:59):

The board provided additional clarification as well as providing direction to staff to initiate WAC review of the entirety of through 829085, specifically based on questions regarding 5A. But there is no provision in 5A as the rule is written right now. That would give the board the ability to grant a waiver of that rule.

Fred Wade (00:09:26):

Okay. So we can't grant waiver on 4C or 5A. Okay. All right. Is that clear for the rest of the board members before we proceed?

Denice Smith (00:09:45):

Yes. This is Denice.

Fred Wade (00:09:46):

Okay.

Sam Leonard (00:09:49):

Yes, it's clear.

Justin Murphy (00:09:51):

Yes.

Fred Wade (00:09:52):

All right. Okay, in that case, all in favor? To approve today's agenda, please say aye.

Denice Smith (00:10:03):

Aye.

Justin Murphy (00:10:04):

Aye.

Mark Case (00:10:06):

Aye.

Fred Wade (00:10:08):

Any opposed?

Sam Leonard (00:10:10):

I'll abstain. This is Sam.

Fred Wade (00:10:12):

Okay. One abstention. Okay. All right. And now move on to the approval of minutes for March 21st, 2024. Is there a motion to approve to March 21st, 2024 meeting minutes?

Mark Case (00:10:33):

This is Mark. I moved to approve the March 2024 meeting minutes.

Fred Wade (00:10:39):

Okay.

Denice Smith (00:10:40):

And this is Denice. I will second that motion.

Fred Wade (00:10:44):

Okay, any discussion? All in favor of the motion to approve any minutes, please say aye. Aye.

Denice Smith (00:10:50):

Aye.

Sam Leonard (00:10:50):

Aye.

Justin Murphy (00:10:52):

Aye.

Fred Wade (00:10:54):

Any opposed? Any abstentions? All right, thank you. The next two items on our agenda is new business. Sydney will present these two items.

Sydney Muhle (00:11:06):

I apologize. Let me update our slides. My apologies again, please bear with me. All right, so for item five one, this is just an update on the Nikara conference when we provided information to the board on the Nikara conference at the March meeting, there was just not a whole lot of information available about what was going on with it. So we just wanted to give a quick update as there will not be a report out at this meeting from the event. This is just going to be an update about what is happening next week. So the board did designate board member Murphy as its representative for the event, it will be taking place September 30th through October 2nd in Sacramento, California. Board member Murphy will be attending and he has also been invited to be a presenter speaker at the event. So really excited. We as staff are really excited to hear more about that opportunity for him and what information he brings back for the formal report at the spring 25 meeting. But I don't know if board member Murphy had anything else he wanted to add as well.

Justin Murphy (00:12:22):

No, just looking forward to going next week. And yes, I'm giving a presentation on data privacy and AI laws and changes in breach notification requirements and things like that.

Sydney Muhle (00:12:41):

So if there are any questions from the board we are happy to answer. But otherwise this is one of those that if the timing of the event falls correctly around the board meeting, we would normally be providing a report from the event at the fall meeting. But this year it fell after but wanted to make sure that the board, there was a continuing discussion for the board.

Fred Wade (00:13:04):

All right, Sydney, are you leading the discussion for the next item?

Sydney Muhle (00:13:29):

Yes, sir, I am.

Fred Wade (00:13:34):

Okay. And just to make, I just want to be cleared. Oh no, we're not to that one yet. Okay. Sorry, I'm jumping ahead.

Sydney Muhle (00:13:40):

That's okay. For not being the lengthiest agenda this board has ever had, it is still going to be quite a lengthy discussion meeting. So item 6.1 is a discussion regarding legal financial obligations. Board member Case did request an agenda item to discuss the collection agency board's prior decision regarding legal financial obligations and other public debts under R. C. W. 19 16 500. In 2018, after a lengthy task force discussion, the collection agency board did direct the Department of Licensing staff to enforce all regulations within the collection agency act, including those that contain the word claim against any licensee. And this direction was provided from a split board. So board member Case did request that this be brought back to the board to see if there is an appetite to take a look at this again. Particularly, and I can... Obviously board member Case can correct me at any time, but there were two federal court cases that have received judgments based on this, pertaining to this topic regarding legal financial obligations. But staff does want to point out that neither of those court cases were issued by the Washington State Supreme Court or the Court of Appeals. So those decisions are specific to those individual cases and are not binding case law.

(00:15:28):

And so any direction or decisions that the board could make in the future based solely on those decisions would definitely create a significant risk to the board. Staff does understand from initial discussions with the Attorney General's office that there is absolutely going to be very broad public interest in this question and if the board were to take any action to change its position on this topic in the future, it would have very wide-ranging impacts. So we do want to provide that caution.

(00:16:04):

So in recognition of all of the wide-ranging impacts as well as the associated risks to the board staff has worked with the Attorney General's office to come up with three potential options. If the board did want to move forward with discussions on this topic to make sure that we are being as open and transparent as possible with this process and allowing for as much opportunity for

discussion and comment from both the public, our consumers, as well as our licensees on the impacts of all of this, as well as input from the Attorney General's office Consumer Protection Division as they've indicated they would absolutely like to provide significant input to the board on this as well.

(00:16:55):

So what we're going to be looking at today is this item was really brought for discussion only at this point. We wanted to, one, see if there is appetite from the board to have a broader discussion of this topic and then we've laid out three options for the board if there is desire to have a broader discussion on this. And I can dive into those, but I don't want to go too deep into those if this is something that the board does not want to take up. So I guess that would be my first question is what the feeling of the board is as far as wanting to look at the topic of legal financial obligations.

Mark Case (00:17:47):

This is Mark Case and thank you, Sydney, for the background and for the documents you sent out with the three options. I would just note for the minutes that frankly I think there could be a fourth option, which would be to vote on this today. This was first raised in February of this year for the March meeting and for the reasons that Sydney just laid out, it was pushed to this meeting, work consideration and potentially a vote. So it seems like we just kind of kicked the ball down the road here without actually doing anything about it. I'm not sure if that's just a process of enough time for everybody to weigh in or if... I know we've had some board turnover as well, so perhaps that played into it as well.

(00:18:39):

But in any event, I would say that there is a fourth option which is to vote on it if chair Wade would entertain that. Beyond that, in the materials, I just would also like to point out that while the AG and the DOL cautioned that the cases cited are not binding authority because they are federal court decisions and not Washington appellate decisions or supreme court decisions, that the decision made by this board in 2018 was based on absolutely no legal authority, binding or non-binding. And now we have a board created rule that is in direct conflict with the only case authority that exists on the subject.

Sam Leonard (00:19:31):

I have a point of inquiry because I wasn't around in 2018 and wasn't around in March. I guess my first question is, I noticed in the board packet that there may be concerns that we have conflicts of interest and I'm wondering if we need to pull board members to see if anybody has a conflict of interest relative to this issue. Is that something we can do or should do?

Sydney Muhle (00:19:59):

That is really something that we rely on board members to disclose. We do not know what individual board members personal financial investments or connections may be. And so we very much rely on our board members to disclose that information if they do have a conflict of interest. But just given the wide-ranging impact of this topic and the multitude of angles, we did want to include that reminder in the board packet that if there were any conflicts of interest on this, they should be disclosed.

Sam Leonard (00:20:37):

I guess I'd move to pull board members regarding whether or not any of them have a conflict interest, which I believe is anything that could appear to be a conflict of interest on this issue. So I guess I'd move to pull the board.

Fred Wade (00:20:59):

Okay. Is there a second for the motion?

Denice Smith (00:21:08):

This is Denice. I mean if he wants to move forward like that, then let's pull us and see how we can resolve this. So I second it.

Fred Wade (00:21:18):

Okay. Any discussion?

(00:21:28):

Okay. All in favor of motion to pull members for any conflicts regarding issue, please state aye.

Sam Leonard (00:21:46):

Aye.

Denice Smith (00:21:46):

Aye.

Fred Wade (00:21:48):

Aye. Any opposed? Any abstentions? Okay. I'm sorry. How many ayes did...? I think I heard three.

Sydney Muhle (00:22:04):

Believe I only heard three. So I believe we had two no votes, Mr. Chair.

Fred Wade (00:22:08):

Okay. All right. All right. How do you want to proceed from here, Sydney?

Sydney Muhle (00:22:14):

With three of you voting in favor of the motion, it does pass. That is a quorum. So what we would do is simply go down the order of the board and if you have a conflict that you need to declare on this, please just go ahead and declare it. And at that point what you will need to do, if you do have a conflict, then simply state that you have a conflict of interest on this topic and that you need to recuse yourself from any further discussion or vote of this item. So, Chair Wade.

Fred Wade (00:22:46):

I don't have any conflicts.

Sydney Muhle (00:22:49):

Okay. And then just going alphabetical order, board member Case.

Mark Case (00:22:55):

I guess I would ask for a little more clarification on what constitutes a conflict under the circumstances.

Sydney Muhle (00:23:04):

So the topic of conflict of interest as it pertains to your capacity as a board member really discusses the benefit and bias that that may cause. So if you have a financial interest, direct or otherwise, in engaging in discussion on anything to do with this topic or that you could incur any sort of personal or financial benefit from this, then you would need to look at recusing yourself from that discussion.

Mark Case (00:23:52):

Then based on that-

Sydney Muhle (00:23:53):

-So our advising assistant Attorney General is on the call. So Rebecca, if you have any additional input on that.

Rebecca Kim (00:24:02):

Yeah, I think that's a fair general description, but yeah, what you had in the memo was also descriptive as well.

Sam Leonard (00:24:13):

Point of clarification, if I could read the statute into the record.

Fred Wade (00:24:22):

Okay. Which?

Sam Leonard (00:24:25):

So the statute CW 42.52.020, subsection one reads no state officer or state employee, which includes board members, may have [inaudible 00:24:38] a financial or otherwise, direct or indirect, or engage in business or transactions or [inaudible 00:24:45] any obligation of any nature that is in conflict with a proper discharge of this officer or state employee's official duties. So I just like [inaudible 00:24:55] that the issue is not just financial or otherwise.

Mark Case (00:25:08):

I'm sorry, I... Board member Leonard was breaking up through most of the reading of the statute.

Sydney Muhle (00:25:15):

So I can read that. It says, so this is RCW 42.52.020, no state officer or state employee, and as board members you would be classified as a state officer, may have an interest, financial or otherwise, direct or indirect, or engage in a business or transaction or professional activity or

incur an obligation of any nature that is in conflict with the proper discharge of the state officer or state employee's official duties.

Sam Leonard (00:25:56):

Thank you, Sydney.

Mark Case (00:26:03):

I guess then in full disclosure, I do represent one client that does do collections on legal financial obligations that would perhaps have an impact to them. I'm not sure how that has necessarily an impact to me. So, that would be my only hesitation, in full disclosure.

PART 1 OF 4 ENDS [00:26:04]

Sydney Muhle (00:26:27):

Board Member Leonard.

Sam Leonard (00:26:30):

I do not have any conflict that I know of. I don't think I've ever had a case that dealt with LFOs.

Sydney Muhle (00:26:38):

Okay. Board Member Mark Case.

Mark Case (00:26:40):

I do not believe I have a conflict. While I do work for a collection agency as an in-house attorney, we do not collect on LFOs.

Sydney Muhle (00:26:50):

Okay. And Board Member Smith.

Denice Smith (00:26:52):

I do not have a conflict.

Sydney Muhle (00:26:54):

Okay. Okay, so then... Oh, go ahead, Mr. Chair.

Fred Wade (00:27:06):

So, I was going to make a recommendation that we, at a minimum, seek some additional legal opinion from the attorney general. As Board Member Leonard stated, I was not around in 2018 either. I think with regards to board membership, I think Mark is probably the only one that was here in that timeframe.

Mark Case (00:27:38):

I actually was not here in 2018 either.

Fred Wade (00:27:41):

Oh, okay. All right. Yeah, so I would recommend that we start with, I'm going to say, like a crawl walk before we run kind of perspective and let's get, I would recommend, a formal legal opinion from the attorney general first. And then once we have that, then perhaps we would go to establish another task force.

Justin Murphy (00:28:10):

Chair Wade, if I could, we could establish a task force and have someone from the attorney general be a part of it as opposed to giving a separate legal opinion and then doing the task force. It may save a little time and come with the same result; they can give that input through the task force as opposed to the formal opinion and expanding it out.

Mark Case (00:28:38):

Yeah, I agree with that. I believe just from looking at the history, the last time in 2017 and 18, the task force was composed of two CAB members, one public member and one industry member. So, I would think that following those lines again would be appropriate. Then also perhaps a hybrid between the task force and the option of, I believe it was option three of opening it up for further public comment or discussion.

Denice Smith (00:29:13):

This is Board Member Smith. I agree with both Murphy and Case on that topic on how we should progress.

Fred Wade (00:29:26):

All right, Sydney, do you have what you need?

Sydney Muhle (00:29:29):

Yeah, I believe that gives pretty clear direction. So, I'll be reaching out to our advising AAG Rebecca Kim tomorrow and getting the process started to request a formal attorney general opinion. I guess the additional direction I would need from the board is we can have up to two members of this board participate in a task force. So, it sounds like that is the direction the board would like to go, is just proceeding with all three options simultaneously, and we did plan for that.

(00:30:02):

So, if I could just get volunteers from the board on the two members who would like to participate in that. Ideally, because of the makeup of this board, we would like to have one representative from the public side as well as one representative from the industry side to make sure that we're approaching this very fairly and balanced and making sure we're looking at all of the potential options available and all the different perspectives. And then we will also be working with those two members to see who else from the public, those two members, as well as we'll be working with Chair Wade to finalize who else from outside the board would be included in the task force.

Sam Leonard (00:30:47):

I'd like to volunteer. This is Sam.

Denice Smith (00:30:50):

I'll volunteer too, Sydney.

Sydney Muhle (00:30:54):

Okay. With both of our volunteers, you are both representing the public side, so I would just request that if one of you was willing to bow out and maybe create space for one of our industry members to participate, that would help ensure that we're approaching this very balanced.

Justin Murphy (00:31:16):

And I volunteer from the industry side.

Sydney Muhle (00:31:19):

Okay. So, between board members, Leonard and Smith, again, I would just be seeing if one of you would be willing to bow out of that service.

Sam Leonard (00:31:44):

I ask to speak on this issue. I think it should be me. I have a little bit of concern regarding Board Member Smith. I believe, in the last meeting, she disclosed that she worked with or maybe for, it wasn't clear in the record, for the Washington Collectors Association. Thus, I don't think she would be a true public member to give weight.

Denice Smith (00:32:13):

I think that's incorrect.

Sam Leonard (00:32:14):

I think it would be a little bit better to have me. I can read back the minutes if that makes sense.

Denice Smith (00:32:18):

I worked for ESA Credit Union. In my previous professional life, I did have affiliation with third party, but not now, not for two years.

Sam Leonard (00:32:32):

Well, that's actually not specifically what I was speaking to. This is Sam again. I was speaking to, in the last meeting, you stated that you worked with the Washington Collectors Association to draft the WACs regarding remote work. I think that you said you were on the team at the Washington Collectors Association that helped draft WAC, and you'll have to excuse me that-

Denice Smith (00:32:59):

In 2020, that is correct.

Sam Leonard (00:33:01):

Okay. That's just the point I want to make, and I think it would be more appropriate to have me on the special working group.

Denice Smith (00:33:20):

I would like to speak to this, if you would allow me. I think that I feel I'm being excluded from my representation on this board because of my previous professional career, which isn't necessarily why I was appointed as a public figure on this board. So, I think everybody on this board has previous experience with this, whether it's representation or the law practice that I have. And I think that would be an unfair representation of a bias from Sam to me.

Sam Leonard (00:34:04):

So, I guess I'd like a point of inquiry if, while at the Washington Collectors Association, Denise worked on any issues relative to LFOs and whether or not the Washington Collectors Association has a position on collection of LFOs.

Justin Murphy (00:34:18):

I don't know that any of us have an answer on what the association's position currently is.

Denice Smith (00:34:33):

I have no affiliation with that group.

Sam Leonard (00:34:38):

Just to make sure the record's clear-

Justin Murphy (00:34:40):

I don't mind having to do this.

Sam Leonard (00:34:40):

... I requested if, while you worked at the Washington Collectors Association, you worked on any issues associated with LFOs or if the association has a position on LFOs. It sounds like we're not sure if the Washington Collectors Association has a position on this issue, but I didn't hear whether or not, Denise, you worked on issues of FOs while you worked with the Washington Collectors Association.

Denice Smith (00:35:17):

That's hard to go back seven years almost, but I am sure at some point there was discussion by Washington Collectors Association in regards to LFOs in some form or fashion, but I didn't work for, I was a volunteer on that board, to clarify, at that point.

Justin Murphy (00:35:49):

I have no objection to a three-person work group if both public members want to be on the work group.

Sydney Muhle (00:35:59):

Unfortunately, because of the size of this board, because we are a five-member board, a three-member work group would constitute a board meeting. So, we cannot have a three-member work group. I think for the purposes of this discussion and to keep the meeting moving and in respect of everyone's time, I think what I can do is we have the direction from the board. We will certainly begin submitting for the attorney general's opinion immediately because that is a

lengthy process that does take a considerable amount of time. So, we will be requesting that immediately.

(00:36:40):

And then I think I can have separate discussions, perhaps myself and Chair Wade can have separate discussions with each Board Member Leonard and Board Member Smith. And then Chair Wade could make an appointment to the task force between the two, if he were so willing. I think that can bring some fairness and some equity since we do have two members both very passionately interested in serving on this.

(00:37:10):

And as a reminder, the task force would not be able to make any decisions on its own. They wouldn't be able to do anything without the full knowledge of the board, and any action on this would be brought to a full board meeting. So, all board members will still have an opportunity to provide input and discussion throughout the process. Any reports moving forward, any task force reports, everything would be provided and open. So, at different points in time, the entire board will have an opportunity to provide comment on this. This is just the task force helping staff with the deep dive on the back side of this to keep the work moving forward in the background. So, this will be something that the entire board has the ability to work on and comment on as we move forward.

Denise Smith (00:38:03):

Sydney, this is Denise. We're on here for the public interest and that's the most important part, not our own personal interests. And as long as I'm part of the board, I have a voice, and I would be happy to bow out to Sam so that he can participate in the task force. Again, I wanted to state on the record though, I'm stepping down because it's the interest of the public in this meeting, not because I don't think that I'm capable and that I have a conflict.

Sydney Muhle (00:38:40):

Understood, thank you.

Sam Leonard (00:38:43):

Thank you, Denise.

Sydney Muhle (00:38:45):

All right, so... Oh, I'm sorry, Board Member Murphy was-

Justin Murphy (00:38:50):

I apologize. I just wanted to clarify. I think Chair Wade had mentioned the attorney general opinion, but then I countered to say that the task force last time, I believe, the attorney general was available to advise on the task force and maybe participate. And so, I wasn't thinking we needed both. I was thinking we could just do the task force with the attorney general there to advise and they could get that opinion through the task force without taking the additional time for the formal task force, which I believe also incurs expenses for the board for the attorney general's time. So, it almost seems like a duplication of efforts. It may be something that we don't need to spend the money on.

Mark Case (00:39:39):

That's what I was proposing too, is more a hybrid of options two and three and not one.

Sam Leonard (00:39:47):

This is Sam. I think since none of us were here, I noticed that Scott Kinkley is on the call. Maybe if we're all okay with it, and I can file a motion if necessary, I think Scott Kinkley who was on the original task force looked at this. So, I guess I'd move to have Scott maybe give us some background and allot him time to speak.

Justin Murphy (00:40:23):

Okay. I'll second the motion, I guess. I don't think it harms anything.

Fred Wade (00:40:29):

Okay. All those in favor, say aye.

Mark Case (00:40:32):

Aye.

Sam Leonard (00:40:32):

Aye.

Denice Smith (00:40:34):

Aye.

Fred Wade (00:40:35):

Okay. I hear three ayes. Any opposed? Any abstentions? I'll abstain. All right, Mr. Kinkley, are you still on the line?

Scott Kinkley (00:40:54):

I am, Chair Wade.

Fred Wade (00:40:54):

Okay, go ahead.

Scott Kinkley (00:40:55):

All right, thank you. I wasn't prepared to talk about this, but I have been listening and I was one of the public board members when this rule, or not rule, I can't remember exactly what we ended up calling it, jurisdiction task force memorandum or something of the like. I'm happy to answer any questions about the process, but essentially, it was a motion that started similar to what's happening today to provide some clarity to the public and industry about the scope of the definition of claim. There have been competing interpretations.

(00:41:31):

And on motion, we developed a task force, one public member, which is me, and one industry member, which I'm blanking on who that was at the time. This wasn't an easy process. It was

something that spanned three different collection agency board meetings. And I want to say that the task force met at least six times, maybe more. We brought in members of the industry. Washington Collectors Association had a very healthy presence at each of those meetings and weighed in. There were some public members who participated. The attorney general's office participated, both with members from their administrative law and board advisory, as well as the consumer protection division.

(00:42:22):

And I think if you go back and look at the record as to how this board understanding or advisory letter on the definition of claim came to be, you'll find that it is very extensive. There, I would estimate to be at least a hundred pages of input from the industry alone, including memorandums putting forth their position. And ultimately, after all of that work, the one and one-half page interpretation that's currently for the chopping block, I suppose, is what was developed out of that. And just by way of background, that's how it came about. I'm happy to answer any other questions any members of the board would have about that while I'm here.

Fred Wade (00:43:11):

So, I don't want to belabor this point too much, but given all of the complications that I'm hearing, and at the very least, I think we would need a form of legal opinion to make sure that the board does not get sideways with any kind of RCWs or WACs or anything like that. And I agree that these things can occur at the same time that we can have our AG on the task force, and we can get the formal opinion at the same time. They don't have to be separate. To me, this sounds very complicated from a legal perspective, and we know that there is very high public interest in this particular item. So, I think it would be prudent for us to at least get a formal legal opinion while, at the same time, we're conducting the task force.

Rebecca Kim (00:44:12):

And Chair Wade, could I just clarify what the formal legal opinion is as opposed to?

Fred Wade (00:44:17):

Yes.

Rebecca Kim (00:44:18):

Yes. So, the formal AGO opinion would be coming out from myself as the advisor to the board, or it would be an independent outside of my division, AAG, who is on the formal AGO opinion committee. And so, it would be one of them and not myself is that option. I would be happy to participate in a task force, but that would be in my role as advisor to the board.

Fred Wade (00:44:48):

Right.

Sydney Muhle (00:44:49):

And we can also invite representatives from consumer protection. Again, they've already indicated they very much have an interest in providing input to the board. So, we can invite members for them as well. My personal perspective as a staff member, in that role, my job is to help mitigate risk to the board. And so, I think because this topic has come up, and because of a

lot of the things that were reflected in the minutes from 2018, when we first took a look at the subject and with how it is coming up now and all of the different components and pieces to this, I will say that I think requesting an attorney general opinion at this point would be a low-risk option to the board that will take a large amount of that risk in this determination off of the board and really allow the attorney general's office to offer that formal opinion, just because this really has been a hot topic.

(00:46:03):

And so, I guess, Rebecca, for background for the board, how long does an attorney general's office opinion generally take? I know that depends on the topic.

Rebecca Kim (00:46:19):

I think probably not earlier than a few months. It could be longer, six months. I think it just depends on their workload and the complexity of the question. But there is great weight that is given to these opinions. Even though they're not binding, they're generally considered persuasive.

Sydney Muhle (00:46:43):

So, given that potential timeline, I guess I would look for the board's direction on that topic given that the task force will be working on this simultaneously. I mean, if we're looking even within the six- month to a year window, that could be the amount of time that the task force needs to review it ultimately anyway. Because this board does meet every six months, that does give some of that space for that review to occur. So, I would ask the board if they felt that that was acceptable to look at. Again, also understanding Board Member Murphy's concerns about the duplicated effort, but my personal feeling, again, as staff and looking at the risk to the board, I feel like the topic and the complexity and the components that are bouncing back and forth on the 2018 review versus any new review, I feel like we're starting to raise the level of risk a little bit more. And so, it might be a really good time to request that opinion and take some of that risk off of the board.

Fred Wade (00:48:03):

Yeah, I would agree, Sydney.

Denice Smith (00:48:08):

Sydney, this is Denise. I would defer to you. You're here to protect us and we definitely don't want to do anything that's going to risk our positions either as we move through this discussion.

Sydney Muhle (00:48:27):

And I do understand Board Member Murphy's concerns not only with the duplicate work, but there is a cost associated with that. My concern as we get further into this, when I'm looking at risk, I am weighing the potential of, okay, if the board were to, or if the task force were to produce an opinion that the board were to take action on, is there the potential then for things like lawsuits to come out? I don't like to mention that word in any sense, but that's always a real risk to any of our boards, and so, that's really what I'm looking at. And then the legal costs really start to add up very quickly. And so, that's the perspective that I'm bringing to that with that risk. That cost-benefit analysis in my head of, yes, there may be a cost associated with it now, but if

it saves a very large cost in the end with the potential risk that could exist there, is the board okay with looking at that and taking that on now versus later?

Sam Leonard (00:49:45):

This is Sam. I'd say yes. I think if I understand, looking into the illegal implications.

Fred Wade (00:50:03):

Well, I would say yes as well. I understand there's a 2018, but frankly, I don't know, I can't remember what I was doing in 2018, but it certainly wasn't this work. And so, this is going to be new information for some of us. So, having a legal opinion, as well as having a task force, to chase this stuff down and help us to get a better understanding of it will certainly put us in a better position later on if we have to make some decisions that affect the public.

Justin Murphy (00:50:45):

So then just one last point of clarification for the task force, is that something that Sam and I just communicate separately, or do we need to include someone like you on those communications to let you know what's going on or have that report-

Sydney Muhle (00:50:58):

Yes, if you could include me on any of those communications because, again, this is going to be a topic that has a lot of public interest. I foresee many, many public records disclosure requests in the future. So, as openly and publicly as we can make this process, the better. So, yes, myself, and my team member who we'll be introducing toward the end of the meeting, will be reaching out to you to actually schedule a meeting. And we'll be working with both of you to see who else would be appropriate to add to the task force, both with the attorney general's office, consumer protection, as well as the industry side, and making sure we're bringing all of the appropriate voices to the table and as many different perspectives as we can get to really help inform the task force as it moves forward. And then ultimately, the board, making sure all of those voices get heard. So, again, we want to make sure this is going to be as open and fair as possible.

PART 2 OF 4 ENDS [00:52:04]

Sam Leonard (00:52:04):

Okay.

Sydney Muhle (00:52:05):

So, we'll reach out to you guys either tomorrow or early next week to start getting that first meeting scheduled.

Sam Leonard (00:52:11):

Okay.

(00:52:12):

This is Sam. Thank you. And also, I'd like to urge the board to not be in a rush on this. It looks like the decisions that were at issue here, the court decisions and the actual opinion paper I

guess that the board put out, are all from six years ago. So, it seems like if we waited six years to get to this point, I'm not sure what the rush would be to get this done quickly. It seems like the more important point would be to get it done correctly.

Sydney Muhle (00:52:52):

Right. Unless the board has anything else, I think I have everything I need for this topic. So, thank you very much for the discussion on it.

Fred Wade (00:53:04):

Okay, Sydney, we're ready for the next one. So, this is the consideration of waiver for IQ Data regarding Washington Administrative Code 308-29-085B. And my understanding is that is the only decision we can make. It's about 5B.

Sydney Muhle (00:53:26):

That is correct. And so, as we had a little bit of this discussion, but in case we had any members of the public who joined later in that, we were having as much of the discussion with the item as we can.

(00:53:42):

The request that has been submitted by IQ Data is for a waiver of several provisions of WAC 308-29-085. However, for WAC 308-28-085-4C, that is tied to provisions of the RCW. There is no waiver of that. That would have to go through a legislative change in order for anything to occur on that. And WAC 308-29-085-5A does not have a provision allowing for the board to waive that requirement.

(00:54:25):

So, with that, staff put this forward as a request for the provision that is allowed in the RCW. So, this is only for consideration of the request regarding WAC 308-29-085-5B. And that is... Make sure I quote it correctly.

(00:54:48):

So, under that provision, it is regarding employee requirements for remote work. And so, the licensee is responsible for ensuring that an employee working from a virtual office meets all of the following requirements. 5B is that, "In addition, an employee must complete a minimum of 45-day direct oversight and mentoring in the licensee's business office prior to working from a virtual office. This requirement may be waived by the board under emergency circumstances that the board has determined make it impossible to perform." So, that is the request that we have put forward. I did receive an additional inquiry from the applicant last night. So, I dug into this with several members of staff early this morning. And there were references to the waiver that the board did grant to another licensee in March regarding this particular WAC, WAC 308-29-085-5B. That was the only provision of the WAC that the applicant in March did request a waiver of. And so, that was the only one that was granted.

(00:56:17):

There are some different circumstances between the two requests. So, while the board has granted a waiver of this particular WAC previously, there are different circumstances between the two.

(00:56:31):

So, the licensee who applied for the waiver in March that was granted, was an out-of-state licensee who has different set of circumstances. For out-of-state licensees collecting debt incurred out-of-state, their requirements for fiscal office space fall under the jurisdiction in which they are housed. The information that staff had on that licensee was that all of the work they were doing was they are based out-of-state and only collecting on debt incurred out-of-state.

(00:57:15):

If there are other compliance issues regarding that, that is a separate compliance issue that would go through the complaint process. But for the purposes of what is being brought before the board, that is something to consider with this request, is the previous one was an out-of-state applicant. This is an in-state applicant. So, it is a slightly different set of circumstances.

(00:57:39):

And so, with that, the applicant's request was provided in the board packet. And they laid out their reasoning for the request. So, with that, I would be happy to answer any questions. And I believe representatives of this licensee are also on the call, if the board had any questions for that.

Justin Murphy (00:57:58):

So, I can jump in right here. Since 5B is the only thing we can grant a waiver of, which is the 45-day in-house training, as I read their waiver, it was kind of a dual. They wanted a waiver of the 100-mile radius and the 45-day. And I think they specifically stated that any employees within 100 miles of their office currently does the 45 days in office. And I mean, the request was specifically for the employees outside of 100 miles to waive the 45 days.

(00:58:37):

So, considering that, what they've put in their own request and what we're allowed to grant a waiver of, I don't know that we really need to grant the waiver in this scenario. It seems like if the 100-mile requirement is still going to be in place, then that eliminates the hardship that they requested based upon how they wrote their request.

(00:59:04):

I mean, I will give them the opportunity to speak here, but that's sort of how they laid it out in their request, as I [inaudible 00:59:12].

Sam Leonard (00:59:11):

So, real quick... This is Sam. I just want to disclose that I don't know if I have a conflict with this request. I've requested an opinion from the attorney general based on whether or not I might have a conflict. I haven't received that opinion yet. The conflict is generally I've had numerous clients with lawsuits against this licensee, and so including a class action that is settled but still open. So, I'm actually going to recuse myself for any discussion on this or the vote.

Sydney Muhle (00:59:50):

Thank you.

Denice Smith (00:59:54):

This is Denice. I would agree with Justin. I just went ahead and reread this to make sure I understood what they were asking. And I don't think that there's a hardship that we need to waive based on this rule.

Sydney Muhle (01:00:06):

And I do see-

Board members (01:00:06):

[inaudible 01:00:07].

Sydney Muhle (01:00:06):

Oh, go ahead, Mark.

Justin Murphy (01:00:06):

I think Mr. Phillips wants to-

Mark Case (01:00:18):

Sorry-

Justin Murphy (01:00:19):

... respond, so I'm happy to let him jump in.

Mark Case (01:00:25):

Yeah, likewise.

Jeff Phillips (01:00:30):

I just wanted to clarify [inaudible 01:00:32] and everybody... This is Jeff Phillips on behalf of IQ Data. I guess a lot of our looking for clarification here is at the March meeting with the information and facts that were presented, I know as an out-of-state licensee. But it was noted that there was a purely virtual office. Employees were located in multiple states. And the sections we've requested the waiver for, really they're all interrelated to each other because they all revolve around a physical office concept.

(01:01:06):

So, 5B is the concept of actually having a monitoring period for 45 days in office. 5A is a training program that's required to take place in office. 4C is the requirement of the 100-mile radius around that physical business office.

(01:01:26):

So, we read into the previous waiver that a company that has a virtual office with employees that are spread out, and in multiple states, that kind of part and parcel of granting a waiver to

5B, you would have to inherently be granting a waiver to 5A and 4C. Because they're all around the same concept of physical business office bringing people into that physical business office, having people around within a certain radius of that physical business office.

(01:01:56):

So, I guess that's where some of our maybe clarification with the board would lie, would be, based on those facts that were presented, yes, we do have a physical business office, but certainly wouldn't want to see us punished for having a presence, for us being entirely virtual. And since all of these center around that in-office requirement, our hope for the board, just because there is significant hardship to our team with that limited radius, would be the ability to go out, hire outside it, train outside it, monitor outside it, all again in full compliance with the other regulations that are out there, to allow us to keep conducting our operations in the manner we do them.

Justin Murphy (01:02:46):

I appreciate that, Mr. Phillips. And I believe, if I remember correctly from the last meeting, they still had the employees that would call into Washington within 100 miles of whatever location they licensed as a branch. I think they still had to license a branch location to meet state requirements.

(01:03:09):

And so, while they may not have people coming into that office, I understood it, from the lengthy discussion we had on their training protocols, that they had employees within 100 miles of whatever branches they licensed with the state, and that we were then just waiving the 45-day in-office requirement. To speak to the, "And must have completed a training program at the licensee's business office," I don't know where we fell on that at the business office portion of it. But there was a rather lengthy discussion of what their training protocols were to make sure that it was still sufficient to grant the waiver.

(01:03:52):

I believe we had asked for a WAC review. And I think that's on the agenda for later, that some of the initial emergency provisions are not just for IQ, but I think a number of collection agencies. As the way the world has shifted coming out of the pandemic, the way labor is being utilized, I thought it warranted a review. So, I don't know where we stand on that.

(01:04:24):

And so, it's hard to... Some of your issues may be covered under a separate review as opposed to granting a waiver. And I understand the 100-mile issue. But as it was stated here earlier, we don't really have the authority to grant a waiver to the 100-mile issue. I'm not saying I wouldn't be open to it, but I can't, even if I was.

(01:04:47):

And the specifics of how you wrote the request, I mean indicated that the hardship was for bringing employees that are outside of 100 miles in for 45 days. So, it's hard to grant the waiver based upon the way it's been presented.

Jeff Phillips (01:05:11):

And I certainly appreciate all your thoughts. I, from our review of the transcripts and facts that were presented at the prior board meeting, didn't see any mention of the 100-mile piece or employees being within 100 miles of any type of business office. So, our understanding, just from that structure, it was noted that employees were spread out, located in multiple states, and the hardship requested was the fact that those individuals could not... it would be a hardship on them to have to physically come in to an office just because of the distance away they were from those offices.

(01:05:54):

I think there was something implicit in that, that, "They must be outside 100-mile radius, if it would be a hardship on them to travel in to engage in those types of either trainings or the direct oversight." So, certainly again, appreciate the board considering our request. We also appreciate the WAC review. But just based on what was granted in that March meeting, again would appreciate the board's consideration of the overall waiver request similar to what was granted to another licensee.

Sydney Muhle (01:06:31):

Again, if I can jump in here, because the board did not... Two parts. So, first of all, the piece that is on the agenda is only for consideration of WAC 308-29-085-5B. So, if the board were to consider the full request, we would need to re-agenda this, so that it can be properly listed with the full request, if that were the direction of the board, so that we're not causing an undue hardship on the applicant. If that were the direction of the board, we would look at calling a special meeting here in the next month or so for the board to consider that waiver, just so that we're not making them wait six months.

(01:07:18):

However, again, the request that was reviewed and approved in March was under a different set of circumstances. I believe the board had asked the applicant, at that point, questions about the training, and the protocol, and things like that. But I don't believe the 100-mile piece was discussed because, again, this was as out-of-state licensee. So, very different set of circumstances. And their physical office location falls under an entirely different set of requirements, set by the jurisdiction in which they are based.

(01:07:58):

So, just slightly different situation and different set of rules. Because this is a Washington-based licensee, they do fall under our jurisdictional laws and have to meet all of those requirements.

Denice Smith (01:08:15):

Thank you, Sydney. I mean, this is Denice. I kind of think that we can't vote on this subject matter at this point until the review of the WAC has taken place. I think that was substantial in the last discussion, that that needed to happen to avoid us having to do these waivers every single meeting, if that wasn't the attention back then to do that. And getting different requirements in this email form from this IQ Data is totally different than what happened in March. And I think that's why we wanted to have the full review take place is to avoid exactly what's happening today.

Justin Murphy (01:09:03):

Can I move to move this request to the end of the agenda, I guess right before the public comment? We can get through the WAC review and where that stands, and then we can decide what to do with this, whether to call a special meeting or I guess what to do with this request at that time?

Sydney Muhle (01:09:23):

So, I'll be giving a report on that under our action item list. And it's that we just need to establish the correct way to move forward with the WAC review. And so, my plan had been to work with Chair Wade on who to work with from the board on that WAC review, so that we can get that moving forward, but also understanding the board did give specific direction on 308-29-085. So, that's a much more narrow scope than a full WAC review of all of the rules top to bottom. So, it wouldn't be as lengthy.

(01:10:13):

So, that was going to be my only report at that time under the action item list, and be asking for volunteers that I can reach out to who would want to participate on that. So, that's really where it's at with the WAC review.

Justin Murphy (01:10:37):

Okay.

Fred Wade (01:10:44):

So, yeah. So, I just want to make sure I'm understanding. It sounds like some members of the board would rather hold off on making a decision regarding this waiver until we have reviewed this WAC. Is that my understanding?

Denice Smith (01:11:05):

Well-

Justin Murphy (01:11:05):

Well, that was the-

Denice Smith (01:11:05):

I'm sorry.

Justin Murphy (01:11:06):

... initial request.

Denice Smith (01:11:07):

Yeah.

Justin Murphy (01:11:08):

But I don't know how long that WAC review is going to take and I don't want to leave the licensee kinda hanging and floundering in the wind on that. Given the confines that we can only

grant a waiver of the 45-day in-house rule, and that maybe that wasn't their intent, but they kind of specifically said that they only had the hardship for employees outside of the 100-mile radius, I'd be inclined to deny this waiver at this time. But I wouldn't prejudice them from reapplying.

Denice Smith (01:11:48):

I would agree with Murphy on this one.

Mark Case (01:11:54):

This is Mark. I would agree with Justin as well.

Fred Wade (01:12:02):

Looks like Mr. Phillips has his hand up.

Jeff Phillips (01:12:12):

Yes. Just given the discussion so far, I mean, I would ask if we could respectfully ask if there's any indication of how long the WAC review could take. Obviously, that's critical to our waiver request is the hardship we're experiencing. And we appreciate the board acknowledging that, and a WAC review that could address the different sections that we've noted around physical location would certainly be helpful. But I think, on our end, it would just be helpful to better understand if there's any proposed timeline for that. And then, we could decide what we want to do specific to this waiver request if we better understood that.

Sydney Muhle (01:13:04):

Sorry. I was just getting clarification on the timeline. So, what we would be looking at with the WAC update would be working with whoever from the board were to volunteer on that. And I don't think it will take very long to look at the language on that WAC review.

(01:13:22):

And so, I anticipate we would be bringing that to the board for action to move forward on the rulemaking process. So, we'd be bringing language at the next board meeting for the board's approval, and then working with our legislative and policy office here at the Department of Licensing to actually initiate the formal rulemaking process. So, all of the public hearings and the pieces that we're required by law to do in order to change these rules.

(01:13:50):

So, we'd be looking at six months to the next board meeting. And then, once the board finalizes that language, it takes approximately three months for those rules to be finalized. So, potentially about nine months, start to finish.

Jeff Phillips (01:14:09):

I certainly understand. Given that scope the board has indicated here, and just the structure of the WAC relative to individuals within 100 miles, which can still, as I think was demonstrated at the last meeting, could be a hardship for those people to travel in, we do have the in-office training requirement, which is section 5A, which I understand it is outside the scope of what the board could consider for a waiver request. I think we would still renew our request to have a waiver of 5B, that there is a certain amount of hardship on individuals who do have to travel in

for that training program, to then, on top of that multi- week training program, have to ask them to come in for that physical direct supervision, which is what's covered by 5B for that 45-day period.

(01:15:11):

We've got very robust and comprehensive controls in place and monitoring to make sure those individuals, once they go out to their virtual location today, that oversight does not stop. It continues post that 45-day period. It's actually ongoing. They're always monitored as part of that process. So, given the board's indication of their limited ability to review the waivers, we would still request the waiver of 5B, again, to allow our employees to spend a little less time in the office and allow us to continue to monitor them outside. So, we would renew that request for the board.

Justin Murphy (01:15:56):

And Sydney, are we allowed to take, I guess, a verbal amendment to the written request at the meeting and consider it?

Sydney Muhle (01:16:06):

Because that is the only thing that we agendaized, that is the only portion of the request that can be considered. So, that would fall within the scope of this agenda item.

Justin Murphy (01:16:19):

And if he submitted a separate written request that was different than what he's currently submitted here for IQ Data, do we call a special board meeting for that request alone? Or does that just get put to the next meeting?

Sydney Muhle (01:16:37):

It would depend on the circumstances and the timing. So, if the board were to approve the waiver of 5B today, staff's feeling is that that really is the only portion of the request that can be looked at at this time. So, if Mr. Phillips were calling into our customer service line, and asking for that, that's the exact answer that we would be giving, is that 5B is the only option that the board has to wave at this time.

(01:17:15):

Knowing that there is a WAC review going on, once that rule change is completed, if the licensee wanted to resubmit for any future requirements, obviously not knowing what that rule language is going to look like in the future, but if there were something that could be waived within that future language, that would be a different subject.

(01:17:44):

Again, with 4C, there really isn't anything that the board can do. That rule is aligned with statute. So, there is no waiver that can be granted on that one. And with 5A, when 5A was discussed at the last board meeting, that was a clarification on the duration and if the-

(01:18:03):

It was a clarification on the duration, and if the intent was 45 total calendar days counting 1, 2, 3, 4, 5, 6, 7, 8, or if that actually was closer to 60 days once you factored in weekends and all of that. And so that was the discussion at that last meeting and what that clarification was. So I would caution if the applicant were to resubmit for a waiver of 5A, I would be cautioning the Board that there could be potential risk in granting a potential waiver of a rule where there is no waiver allowance. I feel like that would be a pretty significant grounds for some risk on the Board's part.

PART 3 OF 4 ENDS [01:18:04]

Denice Smith (01:18:51):

I mean, this is Denice, Sydney, and I think at this point I'm comfortable with a motion to deny.

Justin Murphy (01:19:02):

I'll second.

Fred Wade (01:19:05):

Okay. So I've heard a motion to deny the 5B waiver for IQ data. Is there a second? I'm sorry. That motion was made by Denice, is that correct?

Denice Smith (01:19:16):

Yes, that's correct.

Fred Wade (01:19:20):

And then is there a second?

Justin Murphy (01:19:22):

Second. Okay.

Fred Wade (01:19:24):

Justin second. All in favor of the motion to deny the waiver, please say aye.

Mark Case (01:19:32):

Aye.

Fred Wade (01:19:33):

Aye. Any opposed? Any abstentions? And I believe, Sam?

Sam Leonard (01:19:43):

This is Sam. I abstain.

Fred Wade (01:19:45):

Yeah. Okay.

(01:19:50):

Okay. So that waiver has been denied for IQ data, and then Sydney you said next steps will be to, well I'll let you talk about next steps.

Sydney Muhle (01:20:09):

Yeah, so our next steps, once we get into the report out under the master action item list, I'll be asking for volunteers to work on the WAC review, and we'll proceed with that with the hope of bringing back language at the Spring 2025 meeting for the Board to put forward for role making.

Fred Wade (01:20:43):

Okay.

(01:20:43):

Okay. The next item on our agenda is Board meeting schedule. Sydney?

Sydney Muhle (01:20:50):

Yes. Let me pull up my packet again. I apologize. Working across multiple screens today. All right, so there is that time of year where we get to look at our 2025 meeting calendar. We haven't proposed any changes to the calendar, just same time frames as this year copy and paste to next year. So with that, our Board meeting dates would fall on March 20th, 2025 and September 25th, 2025. We are recommending that the meeting dates or the meeting times stay at 10 A.M. as long as that is working for the Board. So we just wanted to put those dates forward for Board adoption. If there is a significant reason why we would need to move that, we can look at what those dates are. We try to stay within a week or so of those dates just because we do have nine Boards and commissions that our unit staffs, and so our meeting calendar is very, very packed.

(01:21:55):

So if we need to look at moving those dates at all, we can look and see what the available options are for that within that reason, but one, want to make sure Thursdays are still okay with everybody. Two, that those dates in March and September are looking okay at this point and that the 10 A.M. meeting start time is still working for everybody.

(01:22:20):

And as always, again, because this is a Board that meets twice a year, if there is reason why we would need to call a special meeting in between those meetings, that can always occur, and we work with Chair Wade on doing that and then pull the board on a date and time that would work, and we go through all the posting requirements for that. So it doesn't mean that those will be the guaranteed only two, but that those would be the two regularly scheduled. So with that I'm happy to answer any questions.

Justin Murphy (01:22:55):

I'll make a motion to accept those two dates.

Denice Smith (01:23:00):

I'll second.

Fred Wade (01:23:00):

Okay. All in favor say aye.

Board members (01:23:06):

Aye.

Fred Wade (01:23:10):

Any opposed? Any abstentions? Okay, looks like those dates work for everyone.

Sydney Muhle (01:23:19):

Thank you very much.

Fred Wade (01:23:22):

Next item on the agenda is report, Sydney.

Sydney Muhle (01:23:25):

And I actually got a surprise change on our first two reports for the centralized investigations and audits unit. Grace Hamilton, our investigation supervisor, was able to join us this morning, and so she will actually be covering the administrative closures report and the complaint status reports for you.

Grace Hamilton (01:23:46):

Thank you, Sydney. Good morning, everyone. This report is our admin closure report, so since the last Board meeting we've had 13 cases that were closed due to no jurisdiction, 56 cases closed with no evidence of violation found, and one case that was recommended by a case manager to be closed. If there's any questions on this?

(01:24:19):

And then so the complaint status report, the total complaints received since September of last year has been, I'm sorry, as of September of this year, is 106 for the year. We currently have 31 cases in management review. This is cases that are with case managers and then also if there's any that are to be reviewed by, if the investigation's done, but the supervisor still needs to review, then it's in there as well. So Denice currently has two cases reviewing, it's showing Dirk Bunker has two cases still, but I believe that those are actually resolved, and it just wasn't updated in the system. Justin Murphy has two cases reviewing, and Mark Case has nine. And same with the cases for Scott Hinckley. I think those were older cases that needed letter of education done and haven't gotten changed in the system but should be resolved, and we've had 97 closed for a grand total of 144.

Sydney Muhle (01:25:38):

All right. Are there any questions for Grace before I move on? Thank you very much, Grace.

(01:25:57):

All right, and I will be covering the licensee count report for all of you. Again, Board staff was double and triple booked today, so it was going to be the Sydney show for these reports. Really

grateful that Grace was able to jump in and not have me be the only one. But for our licensee count, we have 226 collection agency and 223 collection agency branches, 306 out-of-state collection agencies, and 494 out-of-state collection agency branches, all licensed within Washington, for a grand total of 1,252.

(01:26:43):

And this is a five-year comparison of our active licensees. This is something we're beginning to include for all of our Boards because a lot of Boards are interested in the trends that are hitting their, and this is one that is experiencing a slight decline. I wouldn't say that it is incredibly significant compared to a lot of our other industries, but it is something that we are seeing our licensees decline, and so that is probably something the Board may want to just keep an eye on and monitor, and we can look at what data we have that might give indications as to why those numbers are declining. But again, overall percentage wise, having had just over 1600 licensees in 2021, having that number be down just over 1200 right now, percentage wise that is a bit of a decline. But again, I don't think it's anything to be incredibly worried about at this point, but I would just recommend that the Board absolutely keep an eye on that trend line as we continue to move forward. So are there any questions on that before I move forward? Okay. All right, so then I'm going to go into item 7.3.1. This is under our units reporting. So we did receive an industry request for some discussion among the Board regarding hospital charity care requirements. When this request was received, we did dig into, as we do with all items, whether it's something the Board has jurisdiction on, when I dug into it, I started getting some red flags, didn't feel like this was something that the Board could really make a determination on as this is in RCWs and reached out to our advising Attorney General, Rebecca Kim, to make sure that what I was seeing was accurate, and she concurred that this fell outside of the Board's jurisdiction.

(01:28:57):

So the reason that this has been added to the agenda is we did not want the Board or the industry to feel as though this request had been submitted and then just disappeared into the night, and staff didn't do anything with it. We did want to notify the Board that the request had been received, however this was why it was not placed for discussion. I can answer any questions for the Board on that, however it really is just something that the Board really could not take any action on. So are there any questions on that?

Justin Murphy (01:29:33):

Just one question, and there wasn't a court case holding that certain notice requirements that are outside of RCW 19.16 are imposed on collection agencies, but I think it was a discussion in a court case, so in the event there's a holding from a court that statutes that aren't in 19.16 apply directly, sort of regulate collection agencies to where there could be a violation of the Consumer Protection Act or the Collection Agency Act even though those requirements are not specifically in 19.16, what is the Board's general authority to discuss it at that point if it ever comes? Hopefully it doesn't.

Sydney Muhle (01:30:26):

Hopefully it doesn't. I am going to see if Rebecca would be willing to answer this one for me because I feel like I would be getting into a space that is just a little out of my depth to answer.

Rebecca Kim (01:30:37):

That's a good question, Board Member Murphy. I don't feel that I can advise on that this moment, but something to kind of take on a case by case basis. I'll be monitoring the case law if that does come up.

Justin Murphy (01:30:50):

Okay.

Rebecca Kim (01:30:51):

Thank you.

Justin Murphy (01:30:54):

I've got nothing further.

Sydney Muhle (01:30:57):

Are there any other questions on this item before I move on? Okay. Click into the wrong thing, and there I go. Okay, so then reviewing our master action item list, the charter review committee meetings, that is on hold right now. We've discovered some additional provisions in different portions of the law that are kind of changing the way that the charters were approached, so we're working with our attorneys general, not just with A.A.G Kim, but as well as another advising A.A.G who works with several of our other regulatory Boards to see how that kind of changes and morphs how we were approaching this. So we'll be bringing that back, but we don't want to bring it back until we have all of the understanding of how we need to bring that back and how that will move forward. So that is why it is on hold. It is still in process. Those discussions are ongoing.

(01:32:07):

With the Rack Review, as we've kind of discussed already, this is in progress and this is where I'm going to be asking for volunteers who would like to work on the Rack Review, specifically on through 829085.

Sam Leonard (01:32:24):

So this is Sam. I actually was on the committee that originally drafted those. I'm happy to be the public member on them, but I just thought I'd throw that out there.

Justin Murphy (01:32:43):

I would work on this committee as well, but since I'm working on the other one, I'll give Mark a chance to weigh in whether he wants to do this one or not.

Mark Case (01:32:54):

Yeah, I'm happy to do so.

Sydney Muhle (01:32:56):

Okay. All right. Thank you both. So the travel for the NACARA conference, we've already discussed. That is completed and as well as sharing out the annual meeting details. So again,

the only thing that will be coming back on both of those is the report out from Board member Murphy at the next regular meeting. So are there any questions on that? All right. Right. Sorry. It keeps clicking me into another portion of my computer and then not letting me move forward.

Fred Wade (01:33:42):

All right. Well, Sydney, now it looks like we are at the public comments portion part of the meeting. 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 D-O-L-boards at Dol.wa.gov no less than two business days prior to the meeting with the subject line, Public Comment Collection Agency Board.

(01:34:23):

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.

Scott Kinkley (01:34:56):

Thank you, Chair Wade. This is Scott Kinkley. I raised my hand, but I'm just going to jump in on that invitation if you don't mind. I just want to come and thank the Board, the members of the Board and staff and Sydney and Grace on the call specifically and Chair Wade for that wonderful plaque that you presented to thin air at the last meeting. I apologize for not being there. I told Sydney that I would, but then the Cougs qualified for the NCAA tournament, and I had no choice but to hop on a plane to Omaha. I thought I would still be able to call in, but I had a flight delay, so I was in the air when it happened. I'm really sorry that I was not able to attend. I really appreciate that plaque. It is displayed in my office, I cherish it. I served on this Board for 10 years, and I already miss it having sat through one meeting. But thank you all so much for that. And yeah, I will probably be poking in from time to time to say hi and thank you all so much.

Fred Wade (01:35:58):

Thank you for your service, Scott. Any other comments?

(01:36:22):

Any other public comments? I don't see any hands raised. Sydney?

Sydney Muhle (01:36:40):

No, sir, I don't see any. And we did not have any written comments submitted either.

Fred Wade (01:36:45):

Okay. All right then we'll close the public comment period, and we'll now enter the conclusion portion of our agenda. Do any Board members or staff have announcements they would like to share?

Sydney Muhle (01:37:00):

Mr. Chair, I do if you would permit me. So we do have a new Board member who has joined us. The Board is already aware of, but unfortunately when his appointment came through, we had already set the agenda for this meeting, so we didn't get to do the formal recognition that we would normally do, but we still wanted to take the opportunity to introduce Board Member Sam Leonard and just give him an opportunity to introduce himself to the Board really quick.

Sam Leonard (01:37:28):

Hi, I'm Sam Leonard. Thank you for the introduction. I think some of you, some on the Board already know me. I'm a consumer protection attorney, and that's my primary role. I think the Board has a very important role with regard to the regulation of an industry that has a very significant impact on the public, so I'm happy to be on the Board.

Sydney Muhle (01:37:58):

And in addition, oh, sorry, Mr. Chair.

Fred Wade (01:38:02):

I was just going to say Sam, welcome, and we're looking forward to working with you.

Sydney Muhle (01:38:08):

All right. And in addition to Board Member Leonard, we also have a new staff member joining us. I don't know if she'll be comfortable coming on camera, but joining my team, replacing our former program specialist Susan Nieves, we have Alyssa Woods who has joined our team as a program specialist, so she will be helping me in providing direct support to the Collection Agency Board in addition to all of our other regulatory Boards housed within the business and professions division.

(01:38:35):

Alyssa actually has spent time with the Board's team before. She was with us in a different position a couple of years ago and then left us 11 months ago for a promotional opportunity with a different agency, and we were fortunate enough to entice her back to join us, so we're really excited to have her on Board. She's jumping in with both feet, getting up to speed. So wanted to make the Board aware of the new member who will be supporting you. We will start seeing communications coming from her here pretty much immediately, so we didn't want anybody to be surprised in going, who is this random DOL person emailing us now? So Alyssa, I don't know if you wanted to introduce yourself to the Board.

Alyssa Woods (01:39:21):

Hello, my name's Alyssa Woods. I was previously the administrative assistant when I was working with DOL before with the Boards and Commissions, so I do recognize some of your names and faces, so it's nice to see you again. I was at the Healthcare Authority for a little while. I was supporting the IT Innovation and Customer Experience Administration director and so I got a lot of experience over there, and I'm happy to bring all of that experience back and to be here and help support the Boards.

Fred Wade (01:39:59):

Welcome, Alyssa. Welcome.

Justin Murphy (01:40:06):

Yes, welcome.

Fred Wade (01:40:07):

Okay, if that's it for announcement, then the next item is do any Board members have items they would like to request to be on the next agenda? All right, hearing none. We'll move on to review of action items. Sydney, please review the action items and items for the next agenda.

Sydney Muhle (01:40:45):

Okay, I'm going to do my best to capture these. Again, unfortunately because of my setup I was not able to take as thorough of notes, so I'm going to ask Saundra Schaefer to please jump in and correct me at any point if I miss anything, but we do have the WAC review moving forward as well as the request for additional clarification from the attorney general's office and the task force on the legal financial obligations. So Saundra, did I miss anything? I think those were our two big items this round.

Saundra Schaefer (01:41:19):

No, those are captured. You're good.

Sydney Muhle (01:41:22):

Okay.

Fred Wade (01:41:29):

All right. There's nothing else. The time is now 11:42, and this meeting is adjourned. Thank you all. Have a great day.

Mark Case (01:41:41):

Thank you.

Sydney Muhle (01:41:42):

Thank you all.

Alyssa Woods (01:41:42):

Thank you.

PART 4 OF 4 ENDS [01:41:45]