southwest ACA Collector Connector

VOLUME 36, NUMBER 1, WINTER 2023

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Medical Debt
Ethics & Compliance

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DEPARTMENTS

Cover Photo: With 2023 being a Legislative Year for both states, we thought it appropriate to feature the Oklahoma and Texas flags. We may be two different states but we are united as Southwest Collectors Association. This can also be a reminder to keep an eye on just what your legislators are doing!

SOLUTIONS *for* YOUR SUCCESS

SWCA ASSOCIATE MEMBER

"48 years ago, in 1973 my family started a collection firm when I was 12 and I have worked in the ARM industry since. 31 years ago, in 1990 I became an ACA Certified Instructor and have trained thousands of ARM industry owners and collectors. 17 years ago, in 2004-2005, I served as your President of ACA International. 2 years ago, in 2020 I joined the team at Applied Innovation Inc.

Today, I'd like to take this lifetime of ARM industry experience and help your organization grow and prosper with the solutions offered by Applied Innovation and our dynamic team. There are many pathways to choose. Let me help lead the way."

Applied Innovation Platforms Include:

- Client Portal Access
- Document Management and Storage
- Consumer Portals with Full Negotiation Functions
- Reg E Focused Electronic Recurring Payment Authorizations
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Applied Innovation™

appliedinnovationinc.com

Contact: **Dan Bloomgarden,**
VP of Business Development,
dbloomgarden@appliedinnovationinc.com

Harry Strausser, President,
hstrausser@appliedinnovationinc.com

FROM THE PRESIDENT By Stacy Willis

IT'S ALL ABOUT OUR MEMBERS!

The annual conference, which we just held in October, provided an opportunity for our members to connect, share information, and learn about new developments in the industry. I want to personally thank all of those involved including our educational session leaders, exhibitors as well as all of the members who attended.

In person conferences are important for a variety of reasons to our association and its members. They provide opportunities for professionals and individuals to meet, network, and learn from one another leading to business opportunities, collaborations, and career growth. Conferences expose attendees to new ideas and perspectives that they may not have encountered otherwise. This can broaden thinking and help members stay innovative.

We design our conferences to help our members improve their knowledge and skills and stay up to date with the industry trends and best practices. To ensure we are representing all of our members individual views and experience, we have put together a survey that you all will be receiving in the near future. We want to ensure that you all are satisfied with the level of service you are receiving from the association as well as adapt services to meet any needs brought to light from these responses. Thank you in advance for your participation in these crucial surveys.

If you have not already renewed your membership, we strongly encourage you to do so. Your renewals help to ensure continuity and financial stability for the association. Allowing us to continue providing resources, education, advocacy, and support to our members in the collections industry. Our mission is to advance and advocate for your general welfare and interests and to serve as the collective voice of all members.

The leadership, integrity, and work ethic of the members of this association are second to none! The significance of SWCA is undeniable, and it is my absolute honor to serve as your president; but more importantly, to be a member of this association working alongside all of you.
I am proud of who we are and all that we accomplish together.

We are BETTER together.
Stacy Willis, President 2022-23

"The Declaration of Independence, the United States Constitution, the constitutions of the several states, and the organic laws of the territories all alike propose to protect the people in the exercise of their God-given rights. Not one of them pretends to bestow rights."

Susan B. Anthony

EXECUTIVE DIRECTOR'S COMMENTS By Tom Morgan

IT'S A NEW (ODD) YEAR... THE LEGISLATURES ARE IN SESSION!

Both Texas and Oklahoma legislatures are in session and already there are bills that need to be reviewed and watched. If members see or hear about a bill that might be an issue, please notify me and our Legislative Committee Chair, Paul Nagy, asap. You can find Paul's Legislative update on page 17.

We have engaged a new printer for this issue. Please look it over and let us hear from you about the layout, the ads (our Associate Members) and the articles. What topics would you like to see addressed?

Speaking of articles, this issue features three very prominent and active companies in the Merger & Acquisition (M&A) business who have submitted articles addressing the "state of the ARM industry." Other articles address Ethics and Compliance, Medical Debt, and the CFPB and complaints. And don't overlook the Sales article on page 9!

President Willis has created a Task Force comprised of members and exhibitors to look into how we can make our annual conference better for our members and for our exhibitors. Members and exhibitors will be sent surveys soon and we ask that if you receive one that you complete it and send back your comments as soon as possible. We truly need your input and ideas.

As a trade association Southwest Collectors Association exists to serve our members with timely educational opportunities such as our conference (the major event). We are also looking into the prospect of hosting monthly webinars to address the issues and concerns of our members. Watch for the notices when we get started.

Our NEW SWCA website became fully operational in time for attendees and exhibitors to use it to register for the conference! The website is continually being updated as needed. Go here to see it: **https://southwestcollectors.org.** If you have suggestions for improvements or additions, please let us know.

Got comments, questions or concerns regarding this issue, the articles or other material included? Feel free to send me an email. We welcome **"Letters to the Editor"** especially regarding a topic you would like to see addressed.

As always, thank you for allowing me the privilege to serve as your Executive Director. If I can assist you in any way, please do not hesitate to give me a call or send me an email.

Lastly, on behalf of the SWCA Officers and Directors, we want to wish all of our members and other readers, a very blessed Easter Holiday.

Sincerely,
Tom Morgan, Executive Director

"You can't be for big government, big taxes, and big bureaucracy and still be for the little guy."

Ronald Reagan

CRITICAL CHANGES IN HOW CREDITORS HIRE AGENCIES

By Marc Trezza

The way that organizations buy collection services has changed a great deal over the 2 past years. Most obviously, the process has become a lot more "virtualized" than it used to be; in-person pitch meetings have had to give way to Zoom sessions and conference calls.

But that's not what I want to talk about today. Instead, I want to focus on one of the more subtle shifts that's taken place just beneath the surface of clients' procurement processes. Because at the same time as clients have changed how they buy services, there have been some significant knock-on effects when it comes to who is involved in that buying process.

Salespeople I've spoken to have consistently reported that, in the course of landing a deal, they now have to interact with a much broader range of stakeholders within the prospect organization than they used to. And conversations with creditors of all types backs this up. Over 60% said that the pandemic has had the effect of increasing the number of people involved in an average purchasing decision — while only 15% felt it had had the opposite effect.

There are three key reasons underpinning this shift. First, there is the simple matter of convenience. If a prospect in New York thinks they would benefit from having someone from the West Coast office sit in on a proposal review session with an agency, it's a lot easier to make that happen when all it entails is sending them a Zoom link, rather than asking them to fly out and lose a whole day to travelling and preparation.

Then there is the matter of risk. The stakes of projects are higher than they've ever been financially, and the costs of making a bad bet have never been greater. Clients aren't unwilling to spend money when they have to; but they do want to take extra precautions to make sure they're spending that money wisely. Often, that means spending more time seeking out the counsel of key stakeholders within their organization. It doesn't hurt either that every extra person you speak to gives you that much more plausible deniability should the agency fail to deliver on the "promise."

Lastly, and perhaps most significantly, this trend is reflective of an underlying shift in the nature of the challenges creditors are dealing with. Even before the pandemic, more and more buyers were talking about the importance of finding an agency who knew how to work in a "multidisciplinary" way. Particularly in markets like healthcare and education – student, or patient relations, trumps recovery rate in the minds of buyers – so there is a sense that the agency that only talks about out-collecting the competition is not a good match (or even dangerous) and instead, they required coordinated effort across multiple aspects of the relationship, such as patient relations, communications (between agency and client) administrative burden (how will you reduce their workload?) and of course there are compliance issues – all of this before we can even begin a discussion about fee. If anything, COVID has accelerated this shift. Right now, clients are having to grapple with complex problems that sit right at the intersection of technology, public relations, finance, and risk. So, it's only natural that they'd want to bring a greater variety of stakeholders into their purchasing decisions. There are those of course, who will simply roadblock you with "Well what's your fee?" there are effective ways to handle that, but that is a matter of collection sales training. For now, let's talk about the rest of the buyers.

So, what can agencies do if they want to set themselves up for success in this new environment? Agencies should keep in mind that any piece of sales collateral they produce (if it's good enough to have impact) is more likely than ever to work its way through a client's organization — and to be read by a wide variety of important stakeholders across different verticals and horizontals. That means that it's vital that your marketing materials differentiate you from other agencies in terms of what the relationship will be like. Brochures and proposals that focus on:

- **State of the Art Technology**
- **Market experience**
- **And other features that virtually every agency has:**

These DO NOT distinguish your agency – and in fact probably do more harm than good. Its not that what you're saying is wrong – its that you've left out all of the things that might actually distinguish you from other good agencies.

Focus on answering basic questions clearly — "What are we going to do? How are we going to do it? Why will it be an effective solution? How will it create value?" — instead of taking the cheap road to credibility via technical jargon and canned sales pitches. That is a dead-end approach with jargon that might be understandable to everyone on your management team, but it will fall completely flat with the prospect when asked to listen to a canned pitch, read your brochure, or go through your proposal.

One of the most impactful conversation I ever had with a creditor happened when he showed me a stack of proposals on his desk. In frustration, he said, "I went through every one of these cover-to-cover, and not one gave me any sense whatsoever of what it would be like to do business with any of them on a day-to-day basis." Please let that sink in.

Look at every line and claim in your marketing materials and ask yourself – "How is this different from what other agencies / salespeople say?" How does it go beyond features and claims that every good agency says? Where does it demonstrate value for the reader that other agency materials do not?

Wow-factor marketing materials cannot be the same as your competitor's. When it comes to selling agency services, they've never been as important as they are right now.

Bottom line action items to do right now:

- Review your brochure – does it really differentiate you?
- Review your proposal – does it focus on value or just requirements?
- Review your sales process – is it canned sales pitches? Does your salesperson collaborate with prospects to develop mutually profitable solutions – or just pitch features and fee?

If you are not 100% that all of these 3 areas truly differentiate you from other agencies – its time to invest in positive change. The question you have to ask yourself is, "Can you afford to lose even one sale because your sales efforts were less than the best?"

About Marc Trezza
Considered the collection industry's leading expert on sales, Marc Trezza has been providing sales management solutions to collection agencies since 1991. He can be contacted at either snctrezza@mindspring.com or (844) 465-3300.

ACCOUNTS RECEIVABLE MANAGEMENT (ARM) TRENDS FROM 2022 & CAS INSIGHTS FOR 2023

By Michael Lamm

In 2022, deal volume in the ARM industry experienced a contraction due to placement volumes increasing from previous years of artificially low charge-offs while liquidations decreased across most asset classes. Overall, total non-housing outstanding credit grew in 2022, reflecting the robust demand amid higher prices of goods and services. With U.S. credit card debt hitting an all-time high of over $930B in Q4 2022, it is fair to assume we will see distinct increases in delinquencies in the first half of 2023.

An important trend to watch unfold in 2023 is the pending student loan forgiveness being ushered along by President Biden's executive order. Student loans are a significant piece of consumer debt, making up 30% of total non-mortgage debt. They've been on pause since 2020, and the pause in repayment was recently extended to August 2023. When payments resume, credit risk will immediately increase in all asset classes.

An industry to monitor in 2023 is the buy-now, pay-later (BNPL) or point-of-sale credit extension. The Federal Reserve currently omits BNPL in its measurement of total outstanding debt. Considering the expected rise in delinquencies to come in the unsecured credit card vertical, the rapid growth of BNPL could be a potential giant lurking in the shadows of delinquencies that might exacerbate the issue. Although data is yet to be released for 2022, per the CFPB, charge-off rates in BNPL have increased from 2.9% in 2020 to 3.8% in 2021. Seeing how charge-off and delinquency rates were falling in the credit card vertical during that time, a potential narrative begins to weave together. This trend has the potential to be an early warning for the broader economy if charge-offs continue to rise in the BNPL vertical.

CAS advised on six transactions in the ARM vertical during 2022. While two have yet to be disclosed, CAS served as the exclusive buy-side advisor to Complete Recovery on the purchase of both Prince Parker & Associates and Waypoint Resource Group. We also closed on the sale of Healthcare Collections Inc. to CCRM3 and JP Recovery Services to Meduit.

There continues to be investor interest in the Collections vertical as we prepare for a potential economic downturn. New entrants to the market are coming from international domiciles interested in entering various stages of the delinquency cycle. Companies like Sedric are working on automating and optimizing agent compliance protocols and procedures for ARM companies. ArborKnot is taking a "consumer friendly" approach to debt purchase, and Retrieval Alliance is taking a technology-focused approach to commercial receivables.

From omnichannel collection strategies and self-service tools to artificial intelligence-based collections management, the ARM industry is going to continue to transform in the coming years. Along with this rapid digitization, CAS expects further consolidation in 2023 to be driven by the continued pressure of decreased liquidations, maintaining compliance with Reg-F, increased labor costs, and inflationary pressure for vendors and suppliers.

For more information regarding Corporate Advisory Solutions, see the below links:

Website: https://corpadvisorysolutions.com/

LinkedIn: https://www.linkedin.com/company/corporate-advisory-solutions-llc/

Twitter: https://twitter.com/CorpAdvSolution

Congratulations!

Our newest Professional Collection Specialist (PCS)

Destiney Williamson, Account Management Resources, OKC

We salute our newest Credit and Collection Compliance Officer (CCCO)

Camille Lindsey, Account Management Resources, OKC

Congratulations to Tiffany Heidenreich!

From Credit Systems International, Fort Worth, she has earned **3 Certifications!**

1. Collection Industry Professional
2. Healthcare Collection Management
3. Trainer Specialist

2023 M&A AND PERFORMANCE OUTLOOK FOR U.S. ARM COMPANIES

By Mike Ginsberg

Challenges and opportunities abound for debt collection agencies and other accounts receivable management (ARM) companies in 2023. Kaulkin Ginsberg looked closely at performance trends and mergers and acquisitions (M&A) developments that owners and investors must pay close attention to.

Market Trends Dramatically Impacting ARM Companies

- Increased regulatory scrutiny and enforcement caused some collection companies to stop credit reporting in part or entirely, removing leverage from bill collectors.

- With US consumer credit card debt skyrocketing at the end of 2022. We expect a sharp increase in delinquencies in Q1 2003.

- Collection efforts will continue to be negatively impacted by challenging economic conditions and increased costs-of-living expenses for most consumers.

- We are anticipating a solid tax collection season starting in mid-February and continuing through Q1 2023.

- Rising labor costs continue to threaten profit margins, causing some ARM companies to find different ways to reduce their workforce such as downsizing operations, investing in new technologies, and/or developing nearshore or offshore partnerships.

- The use of digital communications will increasingly be utilized by tech-advantaged agencies, creating a distinct competitive advantage over less sophisticated agencies.

- Maintaining stringent, compliant data security systems will become the norm for ARM compliance.

- We expect intense Federal oversight and enforcement particularly from the CFPB in 2023 and 2024.

- Inflation is likely to remain at an elevated level, at least in the short term, resulting in increased costs of capital and decreased discretionary consumer spending.

- The number of ARM companies in the U.S. will continue to decrease as more agencies sell out, shutdown operations, or merge into larger companies.

M&A Pricing Trends in the U.S. ARM Industry

- Experienced business buyers still assign a multiple to the selling company's EBITDA to set pricing.

- Buyers continue to add back any excess or one-time operating expenses, and subtract out any replacement costs, into their pricing model.

- Starting in Q3 of 2020, the letter C was added to the end of EBITDA to account for any temporary revenue reductions and one-time (non-recurring) expenses associated with the Coronavirus pandemic
.

- Buyers are demanding that sellers have a highly diversified client base. In today's market, this percentage has decreased to 10%.

- Today, pricing for small size ARM companies (under $5 million in annual revenues or fees) falls in the range of 2-4 times seller's annual discretionary earnings. Sellers with revenues less than $1 million a year are typically priced at the lower end of the range.

- For midsize ARM companies ($5-20 million), performing companies are being priced in the range of 3-7 times seller's annual adjusted EBITDA. Structure for midsize sellers may include cash, multi-year earn-outs, seller notes, escrow holdbacks, and possible equity retention.
- In today's highly competitive market for larger size performing ARM Companies ($20-100+ million), pricing is falling in a range of 6-8+ times the seller's annual adjusted EBITDA.

- Pricing for unprofitable ARM companies is being calculated as a small percentage of the selling company's operating revenues to be paid over a negotiated, but finite, timeframe. Sellers should expect very little to no cash paid at closing unless the overall purchase price is extremely low. The structure is very similar to a commission that would be paid to a salesperson without any upfront base salary.

What Can We Expect in 2023?

The rate at which M&A transactions are closing, compared to previous years, plummeted in the second half of 2022. Kaulkin Ginsberg attributes this reduction directly to the selling company's volatile financial performance. Concerns about specific market segment trends, including medical debts and student loans, are driving some buyers to either sit on the sidelines or heavily structure transactions to share risk with the sellers. "Vulture" buyers have emerged, looking for distressed companies they could purchase for little or no cash.

About Kaulkin Ginsberg Company

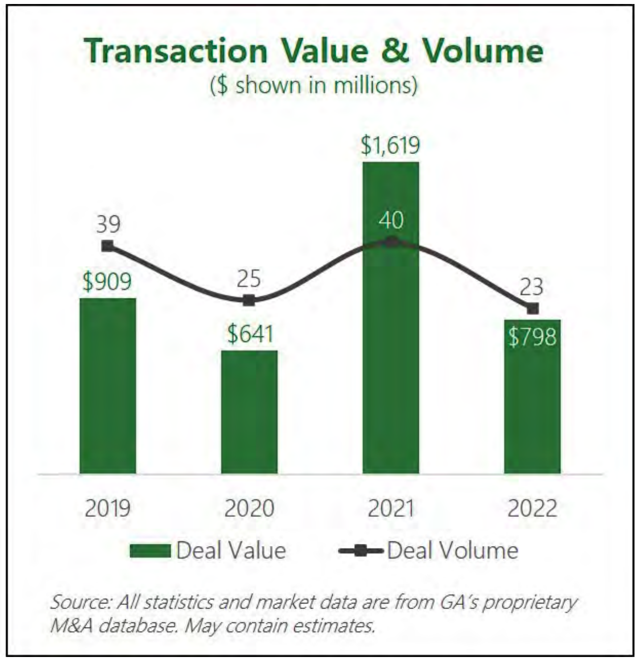
Since 1991, Kaulkin Ginsberg Company has provided critical strategic advice to the ARM industry. We provide mergers and acquisition advisory, strategic consulting, and valuation services. To confidentially discuss your interests, please contact us at hq@kaulkin.com or visit our website.

GREENBERG ADVISORS' 2022 M&A RECAP IN ARM

By Brian Greenberg

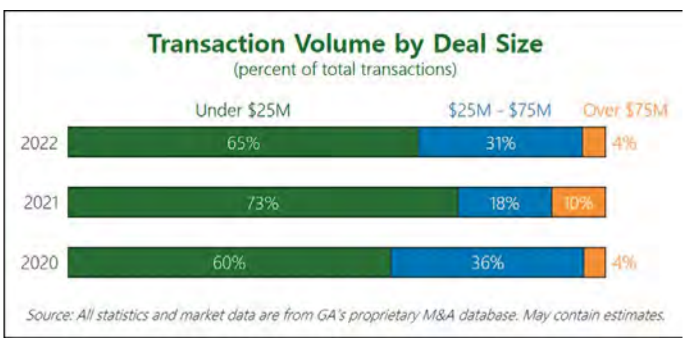
M&A activity in 2022 included 23 transactions representing nearly $800 million in deal value, representing a decline from 2021. We believe that a few of the many factors that caused M&A activity to pull back in 2022 included the inflationary environment / interest rate hikes, concerns regarding the potential of a recession in the US, and some uncertainty from buyers around the degree to which public assistance (i.e., stimulus) fueled growth for ARM companies.

As far as Greenberg Advisors' activity, we are excited about the results we achieved for our clients, which led to the completion of ten transactions in 2022. You can learn more about our transactions on our website.



A Roller Coaster of Activity

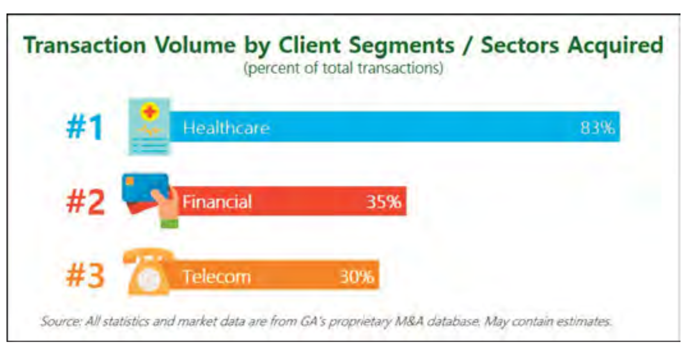
M&A activity over the past few years has had its ups and downs. This is largely due to the pandemic's impact on the timing of transactions; many of the transactions put "on hold" at the onset of the pandemic were resumed in Q4 2020 and closed in 2021. As evidence, 24 deals closed in the first half of 2021 compared to just 12 in 1H 2020 and 10 in 1H 2022. So, what's the point? Mainly that the decline in the 2022 numbers is not indicative of actual buyer and seller sentiment. Instead, the decline is as much a result of comparing 2022 activity to inflated 2021 numbers.



Now, let's get to the 2022 trends. As we typically see, deal volume was driven by transactions that were under $25 million in deal size. While larger transactions that exceeded $75 million declined, mid-sized transactions between $25 million and $75 million were on the rise, representing 31% of all deals in 2022, up from 18% in 2021.

Doctors, Banks, and... Telephones

As we look at the client segments that were most often acquired, the healthcare and financial segments maintain their long-held positions at the top. Healthcare increased its lead, with 83% of sellers servicing healthcare clients. Interestingly, telecommunications ARM vendors were more active in 2022, making it the third most sought-after specialty. Commercial, utility, education, insurance, and real estate end-markets also showed increased activity relative to 2021.



Continued on page 28

LEGISLATIVE UPDATE

By Paul Nagy, Legislative Committee Chair

The Texas and Oklahoma legislatures are currently in session with Oklahoma continuing until May 26th and Texas until May 29th.

The Texas Speaker of the House remains Rep. Dade Phelan (R, District 21, Beaumont area) and he presides over 85 additional Republicans (3 more than in 2021) and 64 Democrat representatives. Lt. Gov. Dan Patrick (R) continues to preside over 19 Republicans (up 1 from 2021) and 12 Democrats in the Texas Senate.

While the Texas House is continuing the tradition of the minority party chairing some committees in an effort to maintain bipartisanship in the legislative process, the number of committees chaired by Democrats has been reduced to 9 from 13. The House Business & Industry Committee continues to be chaired by a Democrat and, significantly, they now have a 5 to 4 majority of the committee members. The House Pensions, Investments & Financial Services Committee, however, is now chaired by a Republican unlike in 2021. All Texas Senate committees continue to be chaired by Republicans.

The Oklahoma House and Senate continue to have Republican supermajorities. They hold 81 of 101 seats (down 1 seat) in the House and 40 of 48 seats (up 1 seat) in the Senate. The House is led by Speaker Charles McCall and the Senate is led by Lt. Gov. Matt Pinnell.

Do you know anyone on these key committees that normally see legislation affecting our industry? If yes, please let Tom Morgan and me know as it could be helpful in advocating for or against legislation in our states.

Texas House Business & Industry Committee: Chair: Oscar Longoria D-Mission, Vice-Chair: Cody Vasut R-Angleton, Sheryl Cole D-Austin, Frederick Frazier R-McKinney, Jessica González D-Dallas, Gina Hinojosa D-Austin, Carrie Isaac R-Dripping Springs, Stan Lambert R-Abilene, Victoria Neave Criado D-Dallas.

Texas House Pensions, Investments & Financial Services Committee: Chair: Giovanni Capriglione R-Southlake, Vice-Chair Stan Lambert R-Abilene, Salman Bhojani D-Euless, John Bryant D-Dallas, Frederick Frazier R-McKinney, Teresa "Terri" Leo-Wilson R-Galveston, Mihaela Plesa D-Dallas, Gary VanDeaver R-New Boston, Vo Hubert D-Houston.

Texas Senate Committee on Business and Commerce: Chair: Charles Schwertner R-Georgetown, Vice Chair: Phil King R-Weatherford, Brian Birdwell R-Granbury, Donna Campbell R-New Braunfels, Brandon Creighton R-Conroe, Lois Kolkhorst R-Brenham, José Menéndez D-San Antonio, Mayes Middleton R-Galveston, Robert Nichols R-Jacksonville, Judith Zaffirini D-Laredo.

Oklahoma House Banking, Financial Services and Pensions Committee: Chair: Mark Lepak (R), Vice Chair: John Kane (R), Chad Caldwell (R), Ross Ford (R), Andy Fugate (D), Neil Hays (R), Robert Manger (R), Stan May (R), Cody Maynard (R), Suzanne Schreiber (D), Preston Stinson (R).

Oklahoma House Business and Commerce Committee: Chair: Kevin McDugle (R), Vice Chair: Chris Banning (R), Meloyde Blancett (D), Rusty Cornwell (R), Mike Dobrinski (R), Regina Goodwin (D), Gerrid Kendrix (R), Preston Stinson (R), Mark Tedford (R).

Oklahoma Senate Business, Commerce and Tourism Committee: Chair: Bill Coleman (R), Vice Chair: Kristen Thompson (R), Michael Brooks (D), George Burns (R), John Haste (R), Shane Jett (R), Joe Newhouse (R), Dana Prieto (R), Adam Pugh (R), Ally Seifried (R), Darrell Weaver (R), George Young (D).

Legislative Information (including bill tracking):
Texas: www.capitol.texas.gov
Oklahoma: www.oklegislature.gov

Information Sources:

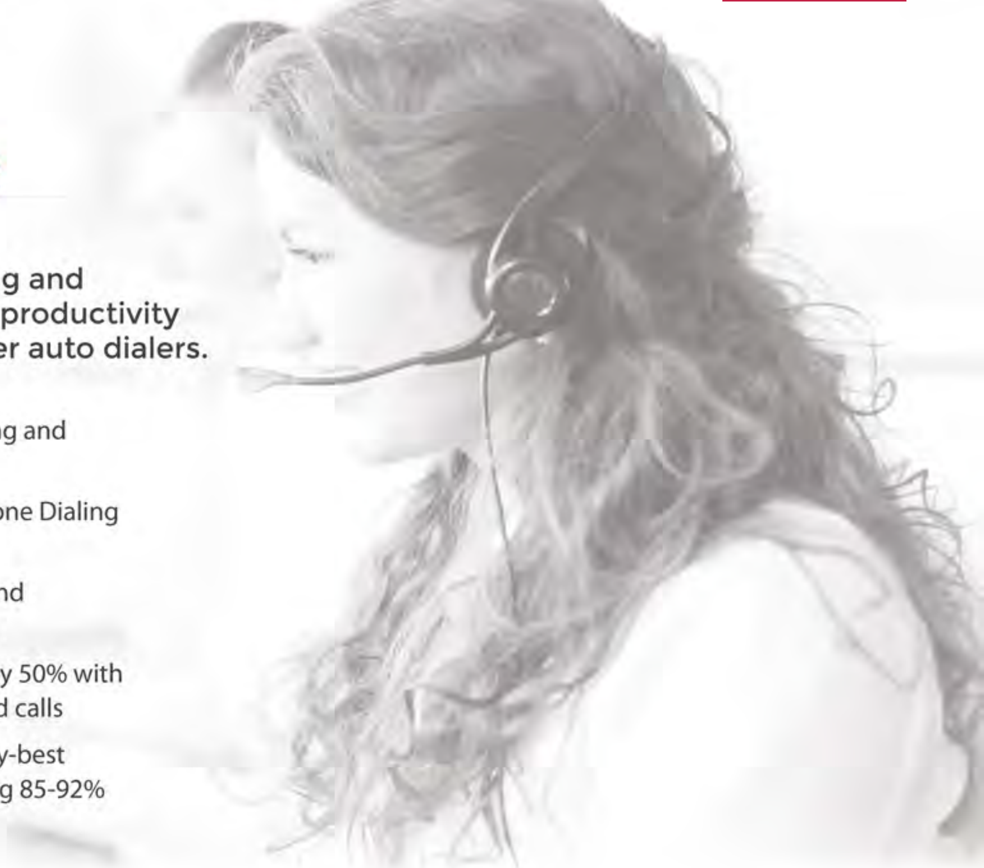
Oklahoma Statewide News:
The Oklahoman
https://oklahoman.com/

Texas Statewide News:
Texas Tribune
www.texastribune.org

National Political News and Opinion:
Real Clear Politics
www.realclearpolitics.com

INTELLIGENT CONTACTS
Connect. Collect. Comply.

SWCA ASSOCIATE MEMBER



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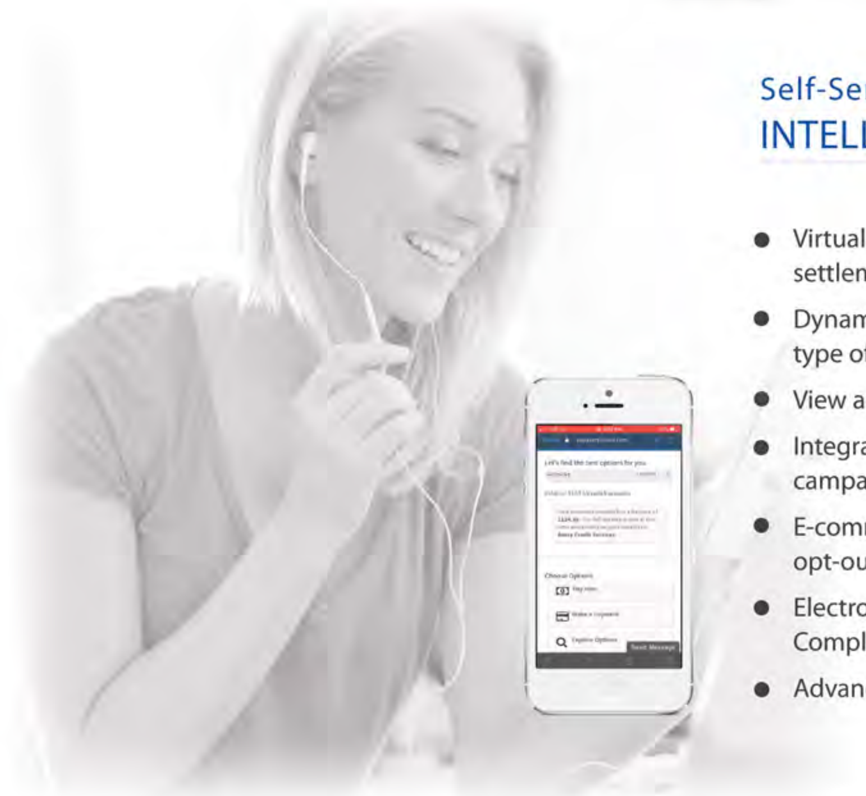
- Reduces agent idle time by half with industry-best answering machine detection rates averaging 85-92%



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2022: A YEAR IN REVIEW - MEDICAL DEBT **By Shannon Miller**

Coming on the heels of the COVID-19 pandemic, which produced hospitalizations and the provision of medical care in record numbers, 2022 saw a heavy governmental response, on both the state and federal levels, to how medical services are provided and how the resultant medical debt is serviced. The COVID-19 pandemic created record amounts of unexpected medical debt being borne by consumers not just due to the unanticipated necessity of medical services which COVID produced, but also because of certain fundamental flaws in the healthcare industry, specifically related to how medical services are billed and what understanding consumers have regarding exactly what their financial responsibility may be for the receipt of medical services. In this regard 2022 saw an influx of state and federal regulation regarding what information must be conveyed to consumers in anticipation of the provision of medical services as well as how resultant medical debt should be collected upon, including certain themes which place limitations on collections.

Initially, 2022 saw the federal No Surprises Act ("NSA") become effective as of January 1, establishing new federal protections for consumers against "surprise medical bills". The NSA regulates how medical providers may bill consumers for services and specifically bans surprise bills for emergency services, bans higher co-pay for out-of-network services, bans out of network charges for services provided during in network facility visit, requires medical providers to provide consumers with notice of the NSA protections and requires medical providers to provide uninsured consumers an up-front good faith estimate of costs for services.

Coinciding with the NSA becoming effective, the CFPB issued its first bulletin regarding the collection and credit reporting of medical debt. The bulletin's purpose acted as a refresher of sorts, reminding those who operate in the medical debt realm to comply with the FDCPA and the FCRA. Importantly, the bulletin concluded that medical debt posed a "special risk" to consumers because medical debt is typically an unanticipated indebtedness, consumers are not always advised of the costs of medical services in advance, there no real "marketplace" for medical services where consumers can shop around for the best value and a lack of education among consumers regarding the insurance process and how to identify potential billing errors.

The bulletin warned the industry that the CFPB was going to target abusive collection efforts related to medical debt, specifically in the collection of amounts not properly owed in consideration of the NSA as well as the furnishing and credit reporting of inaccurate medical debt information. To this end, the CFBP identified that credit reporting agencies ("CRAs") and furnishers shall have in place, and follow, reasonable procedures to assure the accuracy of the information being reported and furnished, including as it relates to investigation and dispute resolution practices, with the CFPB to "closely review the practices of those engaged in the collection or reporting of medical debt".

Next, in March of 2022, the CFPB issued its "official report" regarding the burden on consumers created by medical debt. The report's key findings were that there was approximately $88 billion in medical debt reflected on consumer credit records as of June 2021 with most of the related tradelines being $500 or less and that 58% of all consumer tradelines as of 2021 were medical debt. This was problematic pursuant to the report because these tradelines were negatively impacting credit scores, were not a good predictor of creditworthiness, and significantly and disproportionately impacted certain communities. The CFPB concluded that the current practices related to the collections and credit reporting of medical debt can cause "significant harm" to consumers. The CFPB also warned that it intends to hold CRAs accountable for having reasonable procedures in place to assure that medical debt information is accurate and to take action against furnishers who report inaccurate information.

Coming as no surprise, also in March of 2022, the CRAs responded to the CFPB's official report, and its intention to target the credit reporting practices related to medical debt, by identified certain consumer-conscious changes they were implementing. Specifically, beginning July 1, 2022, defaulted medical debt placed for collections and which had subsequently been paid would no longer appear on a consumer credit report, diverging from the text of the FCRA which allows for defaulted debt to be reported for 7 years, regardless whether it has been paid, and defaulted medical debt will not be reported until one year after default, diverging from the CRAs' prior policy of reporting same after 6 months. Thereafter, beginning March 30, 2023, the CRAs also will not place medical debts with furnished balances below $500 on a consumer report.

Not yet finished, the CFPB issued a complaint bulletin in April of 2022 illustrating how medical billing and collections may negatively impact consumers. The bulletin identified the most common complaints regarding medical debt as consumers not recognizing, or disputing that they owe, a medical debt, that collection notices either contained too little information regarding the nature of the debt or too much personal medical information, and that medical debt was being credit reported improperly. The CFPB concluded that the nature of the consumer complaints being received in relation to medical debt "strongly suggest that many medical bills reported on credit reports are disputed, inaccurate, or not owed" and that the CFPB intended to "hold bad actors in the consumer financial services marketplace accountable."

On the State level, 2022 saw many states enacted laws similar to the NSA as well as laws regulating medical debt and its collection, with many other states having legislation related to medical debt pending as we enter 2023. The state laws passed and currently pending share common themes including providing greater protections to indigent patients by limiting the actions creditors and collectors can take to recover balances owed, requiring noticeto be provided to consumers prior to collection activity beginning with an opportunity to cure any default, emphasizing and requiring the provision of detailed information regarding a medical debt to a consumer to assist in identifying the debt, and limiting the legal remedies and recourses available to recover on a medical debt, including limits on the ability to bring a suit and executing on any judgment obtained on a medical debt.

To round out 2022, in late November of 2022 a bill was introduced in the US Senate taking aim at the collection of medical debt. S. 5150, the "Strengthening Consumer Protections and Medical Debt Transparency Act", (the "Bill") which was introduced by Sen. Chris Murphy [D-Conn.], provides for certain consumer protections related to medical debt collection practices to be adhered to by both the medical facility providing services as well as any "debt collector", as defined by the federal Fair Debt Collection Practices Act.

Continued on page 28

"THE FEDS ARE LOOKING: WHAT COMPLIANCE NEEDS TO KNOW ABOUT THE JUSTICE DEPARTMENT'S REVIEW BUSINESS" By Chuck Gallagher

You're driving down the road using Waze as your GPS guide and you hear, "Police reported ahead." What do you do? I've asked that question at a number of conferences recently and everyone says unanimously – "Slow down!"

Attorney General Merrick Garland has made it clear in recent speeches and that the Department of Justice is coming for white collar crime in business. Organizations that have had prior ethics and fraud convictions will be at the top of their list to reexamine. In fact, just in one market segment criminal charges were filed against 36 defendants in 13 federal districts across the United States for more than $1.2 billion in alleged fraudulent telemedicine, cardiovascular and cancer genetic testing, and durable medical equipment (DME) schemes.

"The Department of Justice is committed to prosecuting people who abuse our business system and environment."

It's time to re-evaluate where we've been, what we've done and what needs to change, because we just heard – "Police reported ahead!"

Now let's be clear, most organizations, including associations, don't voluntarily choose to make unethical (or illegal) choices. In fact, it's been said, "We're all ethical, till we're not." Cynical... maybe not. If I asked, "How many of you would voluntarily make an unethical choice," few people would raise their hands. Follow that question with, "How many of your think voluntarily breaking the law is unethical," the hands start to go up. But here's the kicker...if I asked, "How many of you drive on the highways and exceed the speed limit," all hands would go up!

What? That's right, it's easy to make unethical choices when those choices seem to be socially acceptable. It happens every day and considering that we all have experienced something that is unprecedented – a global pandemic – the norms of operation have changed and so have our habits. In fact, we are in the trifecta of times when all three reasons people may stray off the "straight and narrow" are in play – Financial Challenges, Relationship Challenges, and Health Challenges.

Here's the problem, it's all too easy to continue doing what's been done in the past saying, "Well, everybody does it," assuming that is a defense. If there's one thing that's clear, the current administration is tired of lax application of well-known rules. And they are actively looking... so the question most organizations, especially the compliance departments need to ask is – "what are we doing to shore up our employee's behavior so that we don't fall victim to the active approach the Justice Department is taking?"

Let me pose this question to you – what makes smart, well-educated, well-intentioned people make unethical choices? Let me be clear unethical actions don't start big. It's one step on a slippery slope that leads to another and before one knows it, you're on a black diamond slope headed for a disaster. It all can be prevented.

Let me give you an example. A Fortune 50 business had a salesperson who dominated his territory. He was so good that it was hard for other competitors to make any headway. He knew the rules, but to him they were just guidelines – kind of like the speed limit. So, rules be dammed. He routinely provided lunches to corporate client staff, bought small gifts for birthdays or holidays, and was known to pick up the tab for office items – "just to help the operation," he'd say. This was just how it was done. As he put it, "Everybody does it."

To be clear the competitors were beside themselves. What was being done was outside of the guidelines and wrong, but it was hard to convince the salespeople from other firms to be compliant when their sales suffered at the hands of a player that played loose with the rules – or ignored them.

Enter the Justice Department announcing – "Police reported ahead." His company recognized that while his sales were outstanding, he was a liability. Their choice, keep a successful salesperson that ignored the rules and risk the fury of the Justice Department or let him go. Better to cut someone who breaks the rules and say, "We're solving an internal compliance problem," than to have a full-blown audit of all company compliance activities.

So, let's cut to the chase. The US Sentencing Guidelines (the rules used to sentence folks to prison) say in summary: To have an effective compliance and ethics program, an organization shall — (1) exercise due diligence to prevent and detect criminal conduct; and (2) otherwise promote an organizational culture that encourages ethical conduct and a commitment to compliance with the law.

Most programs of compliance and ethics fail both tests. It's time to re-think, re-imagine and re-invent how we communicate our ethics training and do it in a way that is not "check the box" boring! Taking it a step further, here's a question to ponder. Is it time to remind your members about the importance of ethics in a way that is engaging and connects the dots between behavior and consequences?

There has never been greater legal focus on the ethics crisis facing associations and organizations than now! Why? What has changed over the past decades that created the environment for such amazingly poor behavior? What real pressures are people facing that make them feel backed into a corner? The pressures will not get easier.

"Police reported ahead!" You've been warned. It's time to take action to demonstrate that you care about ethics, preventing and detecting criminal conduct and encouraging a culture of ethical compliance with the law. Failure to do so... we'll let's say I'd hate to see someone in an orange jumpsuit.

About the Author

Chuck Gallagher, CSP (Certified Speaking Professional) is the President of the Ethics Resource Group – an organization that provides keynotes, training programs and consulting to organizations regarding ethics and compliance – including ethics reviews and guideline creation that meets US Guidelines for criminal protection. He can be reached at chuck@chuckgallagher.com or 1-828-244-1400 for more information.

CFPB EXPANDS CONSUMER COMPLAINT ACCESS TO LOCAL GOVERNMENTS

By Michael Gordon

In a recent blog post, the CFPB announced that it has started sharing consumer complaint data with local governments through its Government Portal. The Government Portal gives local, state, and federal government agencies access to more granular information about consumers' complaints and companies' responses than the public is able to view through the CFPB's public-facing Consumer Complaint Database. The CFPB indicated that this initiative is intended to "increase the impact of our complaint data" by giving cities and counties information that will allow them to "increase their efforts to protect consumers at the local level." The initiative is consistent with statements made by Director Chopra regarding increased CFPB collaboration with other enforcement authorities. The cities and counties initially chosen by the CFPB to receive access were those the CFPB deemed "best positioned to benefit from the CFPB's complaint data" consisting of:

Local governments with civil or criminal prosecutorial authority to monitor and enforce their own consumer protection laws as well as force-multiply enforcement of federal consumer financial protection laws such as those available under the Consumer Financial Protection Act; and Local governments that have, or that are working to create, financial empowerment offices and financial empowerment strategies to improve financial stability for low- and moderate-income households.

To be onboarded onto the Government Portal, cities and counties must sign a confidentiality and data access agreement with personal data protection requirements. A city or county that is onboarded is able to:

- See in real-time what consumers are experiencing in the financial marketplace and how companies are responding
- Download complaints, including consumer- and company-provided documents.
- Filter and export information to allow targeted analysis by time period, company, geography, and more
- Compare problems their constituents are facing to other localities and nationwide
- Securely refer individual complaints to the CFPB
- Receive the list of companies responding to complaints through CFPB's process

The CFPB states that in a period of less than three months, more than a dozen cities and counties have expressed interest in accessing the Government Portal.

The participating jurisdictions include:

Department of Consumer and Business Affairs, Los Angeles County, CA

Office of the Harris County Attorney, Harris County, TX

Montgomery County Office of Consumer Protection, Montgomery County, MD

Sacramento County District Attorney's Office, Sacramento, CA

Los Angeles Office of the City Attorney, Consumer and Workplace Protection, Los Angeles, CA

New York City Department of Consumer and Worker Protection, New York City, NY

City of Albuquerque Consumer Protection, Office of Policy, Albuquerque, NM

City of Austin, Regulatory Monitor, Office of Telecommunications & Regulatory Affairs, Austin, TX

Office of the Columbus City Attorney, Columbus, OH

Office of Oakland City Attorney, Oakland, CA

The CFPB's initiative expands enforcement risk by making local governments aware of potential violations of law as to which they have enforcement authority.

COLLECTORS PLEDGE

- I believe every person has worth as an individual.
- I believe every person should be treated with dignity and respect.
- I will make it my personal responsibility to help consumers find ways to pay their just debts.
- I will be professional and ethical.
- I commit to honoring this pledge.

This pledge represents our members' commitment to professionalism and ethical practices.

COLLECTPAC NEWS **By Stephanie Rifenberg, Chair, CollectPAC Trustees**

This industry is certainly not for the faint of heart or anyone who is not open to adaptation. But if there is one thing that remains a constant, it is that legislators are continually trying to regulate, and often constrict our ability to operate our businesses. Reg F and Nevada's certified mail requirement are a few of the newest challenges we are facing. And then add the continual attacks from predatory plaintiff attorneys and we find ourselves constantly pivoting to dodge the attacks.

As we all have made varying degrees of a pivot in our business operations, we must also make a pivot regarding our PAC and our legislative efforts, both as an industry and as an association. This is not intended to be a political statement in favor of, or against either Democrats or Republicans. While control over both houses of the Texas and Oklahoma Legislatures, there are those who have our industry in their legislative sights. And for this reason, we must pivot our legislative efforts to become more offensive, as opposed to defensive. Such a plan requires more financial contributions to our PACs and more **member communications** to all legislators, not just our industry-friendly legislators. **It is critical that we all contribute to the PACs and then also voice our concerns to legislators**. If we don't, they most likely will not realize the potentially damaging effects of a bill's unintended consequences.

We desperately need everyone to consider giving, or to consider giving more if you've already made a contribution. For many of us, cash flow has been impaired due to COVID-19, but the likelihood of potentially-damaging legislation being introduced in the legislative sessions has increased.

To reach our goal, we need support from every member! Please mail your ***personal* check** or ***personal* credit card** contribution to our Association office at 305 S Broadway, Suite 706, Tyler, Texas 75702. Even though it is not a secure transmission, you may also scan and email your credit card contributions to our association office at: info@texascollectors.com.

Please remember that PAC contributions cannot be made using a company check or credit card.

Thank you for helping in our efforts to promote and protect our industry!

American Collectors Association of Texas Political Action Committee
CollectPAC Contribution & Pledge Card

Member Contribution Levels

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For more information or to establish a monthly or quarterly payment schedule, contact Tom Morgan at 512-458-8666 or tmorgan@texascollectors.com State law prohibits corporate checks. Mail your check and this pledge card to: ACA of Texas CollectPAC, 305 South Broadway, Suite 706, Tyler TX 75702


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Providing Educational Opportunities is a Key Component of the Mission of a Trade Association. We are committed to assisting members with training issues, as well as coordinating professional skills development and training programs sponsored by ACA International. It is our goal to ensure that our SWCA Annual Conference brings together nationally recognized speakers and subject matter experts to present the most up-to-date information regarding the issues facing our members.

If you would like local area training, we can assist with that as well. We are here to assist our members in accessing the finest training available. We look forward to serving you.

Campus ACA is the umbrella organization for ACA International's diverse professional and educational certification programs for collectors and agencies. Some upcoming educational opportunities **(partial list):**

Date	Event	Location/Type
2/28	State Specific for Collectors 1	Online
3/6-7	Building High-Performance Teams	Online
3/8	Marketing Fundamentals	Online
3/10	Exceptional Leadership	Online
3/13-14	Managing the Collection Floor	Online
3/15	Introduction to Debt Buying	Online
3/21-22	Level Up Leadership Experience	Las Vegas
3/22– 3/24/23	IGNITE!	IGNITE!
4/3	Successful Hiring Strategies	Online
4/6	Effective Performance Management	Online
4/10	Introduction to Collection Compliance	Online
7/26/23-7/28/23	ACA International Convention	Chicago
Wednesdays	The Huddle! With ACA Staff and invited guests	Zoom

For more information and a complete listing of these educational opportunities, visit www.acainternational.org www.acainternational.org or contact the Education Department at 800-269-1607.

Please let us know how we can better serve your education and training needs!

Southwest Collectors Association (SWCA) thanks all members and other attendees and exhibitors who attended our Annual Conference and Expo:

The Educational Content included; Reg F, Compliance, Medical Debt, Payment Processing, New Technologies, Debtor Communication, Collector Improvement, Communication Strategies, Litigation Updates and Best Ideas Roundtables with Harry Strausser! There was something for everyone! See you next year, YES?

ACA will continue to hold online meetings and the weekly Huddle to cover member issues. Watch for those opportunities! They will be helpful!

Medical Debt continued fom page 20

Most noteworthy as it relates to medical debt collections, the Bill would limit a health care entity, or its debt collector, from engaging in "extraordinary collection actions" ("ECAs") with respect to consumers by putting in place certain prerequisites. EACs are defined to include selling an individual's debt to another party, reporting adverse information about the individual to consumer credit reporting agencies or credit bureaus, deferring or denying, or requiring a payment before providing, medically necessary care because of an individual's nonpayment of one or more bills for previously provided care, and actions that require a legal or judicial process.

Specifically, the Bill prevents engaging in an ECA by a healthcare provider or its debt collector before the provider determines if the patient qualifies for financial assistance via state or federal programs, or via the facility's own charity or assistance programs. It also prohibits engaging in an ECA until the expiration of a 180-day period beginning on the date on which an initial bill is sent to the consumer. The Bill also requires that, an ECA shall not commence, or if already commenced shall be halted, if notice is provided that a health insurance coverage appeal is pending.

Beyond ECAs, the Bill also requires that prior to any collection activity the facility or its debt collector "make all reasonable efforts to confirm the identity of the debtor". It also requires that the facility or its collector provide the patient consumer with "an easy-to-understand itemized statement" of the debt owed prior to any debt collection activity and a copy of any receipts for any payments made on the debt within 30 days of any such payment.

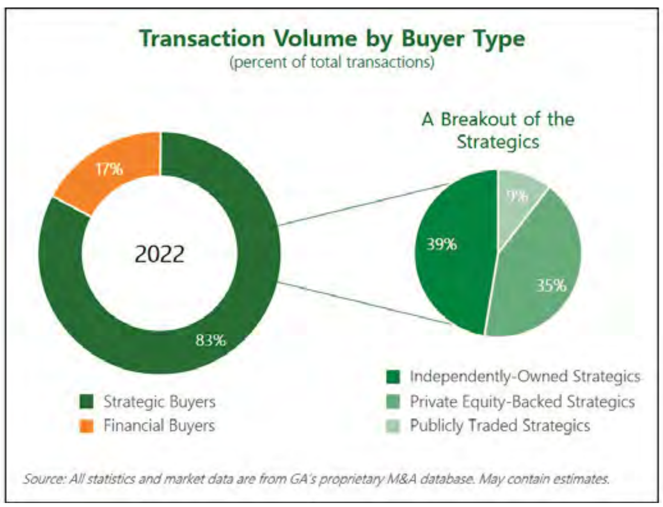
The message should be received by the receivables management industry loud and clear: medical debt is an area of great concern for state and federal regulators and law makers. The industry needs to respond accordingly by ensuring compliance with the newly enacted laws, including the NSA and state regulations. This includes revamping policies and procedures related to resolving consumer disputes of medical debt, ensuring the accuracy of any medical debt data being furnished and confirming that any furnishing is done consistent with the CRAs' policy changes being implemented. The accuracy and propriety of medical debt balances being collected upon and credit reported will face heightened scrutiny from regulators and, in turn, the consumer bar who will no doubt pay more attention than ever to the collection of medical debt. It will be thorough and detailed policies and procedures with documented compliance therewith that will likely be a heavy determining factor as it relates to potential enforcement actions and liability to consumers.

About Shannon Miller
Shannon Miller is a Partner in the Philadelphia office of MauriceWutscher. As we progress into 2023, the attorneys at Maurice Wutscher, LLP will continue to monitor and provide update on all developments in the medical debt space.

Greenberg Advisors continued fom page 15

Who Were the Buyers?

Strategics remain the dominant buyer type in ARM, a figure that's unlikely to change given the dynamics of the industry including the fragmented nature of the ARM market and the size of the majority of firms within it. Among the transactions involving strategic buyers, independently-owned strategics grew to be the most active buyer type in 2022 with 39% of all deals.



2022 – An Active Year of M&A

We'd classify 2022 M&A as active, but not necessarily abundant. We're optimistic about the outlook for 2023 – there's no shortage of ready and willing buyers and sellers! That may be amplified if liquidations continue to show signs of decreasing, as buyers may turn to acquisitions to sustain the growth that organic efforts provided, while some sellers will feel that 2023 is the right time to sell in order to capitalize on growth from the last few years. Of course, the ability to complete a transaction hinges on the participants agreeing to terms. Good news is that for ARM firms that are growing and profitable, valuations are still strong.

About Greenberg Advisors
Greenberg Advisors is an independent investment bank providing M&A and strategic advisory solutions to companies in the Accounts Receivable Management (ARM), Revenue Cycle Management (RCM), Healthcare Information Technology (HCIT), and Business Process Outsourcing (BPO) sectors. Since 2020, the firm has facilitated over $450 million in transaction value.

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IMPORTANT READER INFORMATION

LETTERS TO THE EDITOR

Letters [or emails] to the Editor are welcome but must be signed, please include full name and address. Not all letters can be published. Letters that are published may be edited for space, brevity, clarity and other editorial considerations. We look forward to your constructive criticism; let us know if there is anything in particular you would like to see us address. We appreciate the opportunity to hear from our readers. Unfortunately, there are no letters this quarter.

MEMBERSHIP EVENT POSTINGS

The SWCA Southwest Collector Connector will post member announcements for anniversaries, birthdays, graduations, weddings or other significant events that occur in the lives of our members. Since this is a quarterly publication, the announcements can be in the recent past or in the future. Please send all announcements to tmorgan@ texascollectors.com and, if possible, they will be published in the next issue to be published. Include your name and a contact phone number.

WE NEED YOUR HELP

Help us keep our membership records current so that you receive the most up-to-date information possible. This will become especially important during the upcoming year. Contact tmorgan@texascollectors.com or call 903- 530-4040 with updated mailing and e-mail addresses and phone numbers. Also, be sure to send us your website address for posting to www.southwestcollectors.org.

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www.knowmydebt.com

An advocacy and education project from the members of ACA International, The Association of Credit and Collection Professionals.