



STATE OF NEVADA

DEPARTMENT OF BUSINESS AND INDUSTRY

FINANCIAL INSTITUTIONS DIVISION

DEBT COLLECTION IN NEVADA

Regulators

Financial Institutions Division (FID)

Regulates 3rd party debt collectors in the State of Nevada in accordance with NRS 649.

Consumer Financial Protection Bureau (CFPB) and the Federal Trade Commission (FTC)

Oversee both 1st and 3rd party debt collections on the federal level in accordance with the Fair Debt Collection Practices Act (FDCPA).

Collection Agency Defined

NRS 649.020 defines a collection agency as:

“all persons engaging, directly or indirectly, and as a primary or a secondary object, business or pursuit, in the collection of or in soliciting or obtaining in any manner the payment of a claim owed or due or asserted to be owed or due to another.”

3rd Party vs. 1st Party Debt

3rd party debt collectors must comply with Nevada Revised Statutes (NRS) and Nevada Administrative Code (NAC) Chapter 649, and the Fair Debt Collection Practices Act (FDCPA).

Debt purchasers are not a collection agency under state (NRS 649) or federal law (FDCPA). Debt purchasers buy the debt, therefore, are collecting on their own debt, which is considered 1st party collections and not 3rd party collections.

Consumer Disclosures

Both state and federal laws require certain disclosures by a collection agency when they collect on 3rd party debt.

NRS 649.332 Verification of debt.

1. To verify a debt, a collection agency shall:
 - (a) Obtain or attempt to obtain from the creditor any document that is not in the possession of the collection agency and is reasonably responsive to the dispute of the debtor, if any; and
 - (b) If such a document is obtained, mail the document to the debtor.
2. When collecting a debt on behalf of a hospital, within 5 days after the initial communication with the debtor in connection with the collection of the debt, a collection agency shall, unless the following information is included in the initial communication, send a written notice to the debtor that includes a statement indicating that:
 - (a) If the debtor pays or agrees to pay the debt or any portion of the debt, the payment or agreement to pay may be construed as:
 - (1) An acknowledgment of the debt by the debtor; and
 - (2) A waiver by the debtor of any applicable statute of limitations set forth in NRS 11.190 that otherwise precludes the collection of the debt; and
 - (b) If the debtor does not understand or has questions concerning his or her legal rights or obligations relating to the debt, the debtor should seek legal advice.
3. As used in this section, “hospital” has the meaning ascribed to it in NRS 449.012.

FDCPA § 809. Validation of Debts

(a) Notice of debt; contents

Within five days after the initial communication with a consumer in connection with the collection of any debt, a debt collector shall, unless the following information is contained in the initial communication or the consumer has paid the debt, send the consumer a written notice containing --

- (1) the amount of the debt;
- (2) the name of the creditor to whom the debt is owed;
- (3) a statement that unless the consumer, within thirty days after receipt of the notice, disputes the validity of the debt, or any portion thereof, the debt will be assumed to be valid by the debt collector;
- (4) a statement that if the consumer notifies the debt collector in writing within the thirty-day period that the debt, or any portion thereof, is disputed, the debt collector will obtain verification of the debt or a copy of a judgment against the consumer and a copy of such verification or judgment will be mailed to the consumer by the debt collector; and
- (5) a statement that, upon the consumer's written request within the thirty-day period, the debt collector will provide the consumer with the name and address of the original creditor, if different from the current creditor.

Fair Debt Collection Practices Act (FDCPA)

There are nine main sections of the FDCPA:

- § 804. Acquisition of Location Information
- § 805. Communication in Connection with Debt Collection
- § 806. Harassment or Abuse
- § 807. False or Misleading Representations
- § 808. Unfair Practices
- § 809. Validation of Debts
- § 810. Multiple Debts
- § 811. Legal Actions by Debt Collectors
- § 812. Furnishing Certain Deceptive Forms

To read FDCPA in its full text:

<https://www.ftc.gov/enforcement/rules/rulemaking-regulatory-reform-proceedings/fair-debt-collection-practices-act-text#805>

Summary of FDCPA Sections

§ 804. Acquisition of Location Information

This section covers the requirements for a debt collector communicating with any person other than the consumer for the purpose of acquiring location information about the consumer

§ 805. Communication in Connection With Debt Collection

This section covers topics relating to prohibited communication tactics and the corresponding requirements (i.e. restricted call times*, third party communication)

*8am – 9pm local time at consumers location

§ 806. Harassment or Abuse

A debt collector may not engage in any conduct the natural consequence of which is to harass, oppress, or abuse any person in connection with the collection of a debt.

§ 807. False or Misleading Representations

A debt collector may not use any false, deceptive, or misleading representation or means in connection with the collection of any debt

§ 808. Unfair Practices

A debt collector may not use unfair or unconscionable means to collect or attempt to collect any debt

§ 809. Validation Of Debts

This section covers the requirements for validating debt including the information that must be included in the validation, timeframes, and disputed debt verification.

§ 810. Multiple Debts

If any consumer owes multiple debts and makes any single payment to any debt collector with respect to such debts, such debt collector may not apply such payment to any debt which is disputed by the consumer and, where applicable, shall apply such payment in accordance with the consumer's directions

§ 811. Legal Actions by Debt Collectors

This section discusses the venue requirements if legal action is taken on a debt.

§ 812. Furnishing Certain Deceptive Forms

This section states in part,

It is unlawful to design, compile, and furnish any form knowing that such form would be used to create the false belief in a consumer that a person other than the creditor of such consumer is participating in the collection of or in an attempt to collect a debt such consumer allegedly owes such creditor, when in fact such person is not so participating

Current Trend

More professional services debt being purchased by debt buyers.

- Debt purchasers do not meet the definition of a 3rd party collection agency under state or federal law.
- They are not licensed or regulated by the FID, nor are they required to comply with the FDCPA rules.
- Nevada consumers may file a complaint with the CFPB and FTC. They may also file a complaint with the FID so an investigation can be conducted to determine if the collector is a debt purchaser or 3rd party debt collector.

What is Medical Debt?

Medical debt arises from any services received from an establishment for the diagnosis, care and treatment of human illness as defined in NRS 449.012:

NRS 449.012 “Hospital” defined. “Hospital” means an establishment for the diagnosis, care and treatment of human illness, including care available 24 hours each day from persons licensed to practice professional nursing who are under the direction of a physician, services of a medical laboratory and medical, radiological, dietary and pharmaceutical services.

Limitations on Efforts of Hospitals to Collect; Date for Accrual of Interest; Rate of Interest; Limitations on Additional Fees

NRS 449.757 Limitations on efforts of hospitals to collect; date for accrual of interest; rate of interest; limitations on additional fees

1. When a person receives hospital care, the hospital must not proceed with any efforts to collect on any amount owed to the hospital for the hospital care from the responsible party, other than for any copayment or deductible, if the responsible party has health insurance or may be eligible for Medicaid, the Children's Health Insurance Program or any other public program which may pay all or part of the bill, until the hospital has submitted a bill to the health insurance company or public program and the health insurance company or public program has made a determination concerning payment of the claim.
2. Collection efforts and interest may begin to accrue on any amount owed to the hospital for hospital care which remains unpaid by the responsible party not sooner than 30 days after the responsible party is sent a bill by mail stating the amount that he or she is responsible to pay which has been established after receiving a determination concerning payment of the claim by any insurer or public program and after applying any discounts. Interest must accrue at a rate which does not exceed the prime rate at the largest bank in Nevada as ascertained by the Commissioner of Financial Institutions on January 1 or July 1, as the case may be, immediately preceding the date on which the payment becomes due, plus 2 percent. The rate must be adjusted accordingly on each January 1 and July 1 thereafter until the payment is satisfied.
3. Except for the interest authorized pursuant to subsection 2 and any court costs and attorney's fees awarded by a court, no other fees may be charged concerning the amount that remains unpaid, including, without limitation, collection fees, other attorney's fees or any other fees or costs.

NRS 449.759 Manner of collection. A hospital, or any person acting on its behalf who seeks to collect a debt from a responsible party for any amount owed to the hospital for hospital care must collect the debt in a professional, fair and lawful manner. When collecting such a debt, the hospital or other person acting on its behalf must act in accordance with sections 803 to 812, inclusive, of the federal Fair Debt Collection Practices Act, as amended, 15 U.S.C. §§ 1692a to 1692j, inclusive, even if the hospital or person acting on its behalf is not otherwise subject to the provisions of that Act.

Statute of Limitations

Collection agencies can still collect on debt that is out of statute of limitations. It does not eliminate the debt, it merely limits the judicial remedies.

Per NRS 11.190, statute of limitations differ on the type of debt (written, oral, open or closed end credit)

To read NRS 11.190 in its full text:

<https://www.leg.state.nv.us/NRS/NRS-011.html>

NRS 11.200 Computation of time. The time in NRS 11.190 shall be deemed to date from the last transaction or the last item charged or last credit given; and whenever any payment on principal or interest has been or shall be made upon an existing contract, whether it be a bill of exchange, promissory note or other evidence of indebtedness if such payment be made after the same shall have become due, the limitation shall commence from the time the last payment was made.

Any payment made, or promise to pay, can “revive” the debt and re-starts the clock.

COMPLAINTS

Consumers can file complaints against any 3rd party debt collector:

State of Nevada Financial Institutions Division (FID)

<http://fid.nv.gov>

Call with questions 702-486-4120 (FID cannot give legal advice)

Consumers can file complaints against any 1st party or 3rd party debt collector:

Consumer Financial Protection Bureau (CFPB)

<https://www.consumerfinance.gov/complaint/>

Federal Trade Commission (FTC)

<https://www.ftccomplaintassistant.gov>

RESOURCES

State of Nevada Financial Institutions Division (FID)

<http://fid.nv.gov>

702-486-4120

Consumer Financial Protection Bureau (CFPB)

<https://www.consumerfinance.gov/>

(855) 411-CFPB

Federal Trade Commission (FTC)

<https://www.ftccomplaintassistant.gov>

Nevada Legislature Law Library

State Laws and Regulations- Nevada Revised Statutes (NRS) & Nevada Administrative Code (NAC)

<https://www.leg.state.nv.us/law1.cfm>

FDCPA Rules

<https://www.ftc.gov/enforcement/rules/rulemaking-regulatory-reform-proceedings/fair-debt-collection-practices-act-text#805>

Questions?

Q&A

Thank you