

# Achieving a Better Life Experience (ABLE) Act Washington State Governing Board Meeting Minutes

Date: December 5, 2016  
Time: 9:30a.m. to 2:30p.m.  
Location: WA State Department of Commerce

Governing Board Members Present: Jeff Manson, Betty Lochner, Carole McRae, Amy Patterson, Shane Hamlin, Brad Hendrickson

Governing Board Members Not Present: None

Department of Commerce , Disabilities Workgroup Present: Peter Tassoni, Chris Gagnon, Jessicarae Nuñez

Department of Commerce Staff Members Present: Brian Bonlender, Commerce Director, Diane Klontz, CHSD Assistant Director, Regina Stark, Commerce Bank on Washington

Community Stakeholders Present: Patti Bell, Arc of Washington, Michael Bennion, WSAC/GET

**Meeting Called to Order by Peter Tassoni, Commerce Disabilities Workgroup Manager 9:37a.m.**

Round robin introductions of all present.

**Review of Agenda and approval to move forward.** Betty Lochner moves to approve agenda as is. 2<sup>nd</sup> by Jeff Manson. Approved.

**Preferred communication method(s) for board members.** Preference for electronic materials emailed to board members for review prior to meeting and staff updates hard copies in binders and brings to each meeting. All in agreement. Staff will supply printed 'travel copies' for members Lochner and McRae for note taking.

**Review of approval of Meeting Norms.** Yes. All in agreement.

**Inquiry as to preferred board structure.** Betty Lochner suggests that all members be considered equal participants whether they are assigned from a state agency or a public participant. All in agreement.

**Meeting frequency and logistics:**

Peter Tassoni suggests meeting monthly for at least the first 6 months in Olympia; possibly the first year. Then moving to quarterly after that. All in agreement. Peter shares that there is a possibility of changing locations if the vacant position appointed by the Governor is east of the mountains. All understood. All in agreement.

## **Director Bonlender's welcoming remarks to board members, staff and guests.**

### **Meeting frequency and logistics continued...**

A consistent Monday would be best. Possibly the 2<sup>nd</sup> or 4<sup>th</sup> Monday of each month following our previously scheduled January 23, 2016 meeting. Jessicarae will send out an email to board members with lists of possible dates for availability.

Best 'go to' method for attendance? Betty recommends in person or face-to-face interactions for all board members as a first option, unless someone is truly unable to attend. Feels this adds to the quality of the meeting's success. All in agreement. In the event a board member cannot attend, phone attendance is the preference for attendance. All in agreement.

**Meeting Structure.** Reviewed Roberts Rules of Order, Bylaws. All in agreement for using an abbreviated Roberts Rules for meetings. Bylaws needed a few changes. 1) Chair cannot remove a member for missing meetings. 2) needs a Mission Statement (to be developed later). 3) Peter suggests a change to a 4-person quorum OR majority. All in agreement.

**Discussion:** Discussed the target date for implementation. July 2017 launch. Very ambitious. Possible soft open. May need legislative changes to SSI, Social Security, IRS. Watch them and see what is working for existing programs. Are other states up and running? Yes, some. Varies from state to state.

**Board member required trainings.** Peter brought attention to the Governor's required trainings for all members: such as Ethics, Public Disclosure, Open Public Meetings Act, etc.

**ABLE Marketing and Advertising on Commerce Website.** Suggestion made to post draft minutes for transparency. In addition to agenda, post a safe roster. The minutes should have a conscious effort be made towards plain language and language that is easily understandable to the developmentally disabled community that is being served. Define acronyms. Easy access point to field questions from public. Website should meet general accessibility standards. Links from state partner websites to ABLE resources and websites once it is up. Be sure that Google search for 'Washington ABLE' goes directly to website.

**Board Positions.** Peter asks who would like to be chair, vice chair, and how to handle the selection process. Suggested that the chair be a public member and the vice chair be a state agency member. Jeff Manson would like to be chair. Betty Lochner would like to be vice chair. Carole McRae volunteered to be the secretary and act to support the chair or vice chair in their absence. Amy Patterson motioned to approve these nominees. Carole McRae 2<sup>nd</sup>. All in favor.

**Budget and Funding.** Michael Bennion spoke to the fiscal note being \$572,000.00 x 2 years. Contingent on the Governor's budget. Shane Hamlin: carried forward the fiscal note. There were no cuts or asks for additional funds. Peter shared that WSIB wrote that it does not make sense for them to be the investment agent. Five states have launched as of today. Oregon is scheduled to launch tomorrow.

**MaryAnne Busse PowerPoint/Telephone Presentation.** 529 Consultant and the primary national expert on ABLE programs. Most ABLE programs are modeled under 529 and are collaborative. See PowerPoint for reference.

Question and Answer:

Q: Of states not offering, are you referring to nationally or any state? A: Nationally referring to any program marketing nationally.

Q: Can a state deny someone from another state from enrolling in their program? A: Yes, they could restrict or deny enrollment for out of state requests.

Amy Patterson states that she noticed some states have higher fees for out of state participants.

Q: Wouldn't you want out of state participants? Why would you charge higher rates? A: Legislation is written to benefit in-state residents first.

Q: How is the consortium going? A: The consortium offers lower fees and is able to have a central marketing message. It is taking longer for the 10 states to reach a mutual agreement.

Q: Is the consortium open to other states continuing to join? A: Yes, but new states don't get the same voice in process and decision making as the original consortium states. Pennsylvania and Illinois are carrying the weight of the other states.

Q: I have heard that the three national programs and consortium has issues? Do you think that the best option for Washington State is a stand-alone program or to join the consortium? A: There are pros and cons to both. With the consortium, there may be communication issues. With a stand-alone program, you can make independent decisions.

Q: Will it be easier to join a consortium once it is finalized? A: Possibly, but a contracting state has less options and possibly higher fees. Smaller population states may have a tighter budget. Stand-alone programs may be more expensive for the account owners and participants. The host state sets the investment options. The final say rests with the host state. Not as much flexibility in investment options.

Q: What is the economy of scale in managing 529 programs jointly? Is it the same investment pool? A: There has been much discussion at the national level regarding overlapping offerings. To date, no one has gotten comfortable with offering comingled 529 college and 529 ABLÉ plans. Each program requires different obligations, tax reporting, operational perspectives, etc. therefore operated separately but as 'sister programs'.

Q: Is it fiscally possible to negotiate a better rate? A: Yes, if you have the same administration such as 529 or 529A programs there might be synergy. In a typical 529 savings program, for age based, college going students, the actuarial rates are very different than the anticipate ABLÉ investment profiles. College and ABLÉ 529 programs have different investment timelines and goals.

Q: In Nebraska and Alaska compact, is Alaska recouping costs? Where through? A: Yes, through consult with Nebraska. Can share public information for a fee. First Bank will administer and market the program. Relying on social media due to modest marketing budgets. Standard statistics. Host state does the administration work in exchange for a fee. This alleviates the administration burden.

Q: What is the minimum asset base for a viable program? A: This differs among programs. A few hundred million up to 500 million. This will take a long time.

Q: What entity within the state is making the determination as to who is eligible or if their withdrawals qualify? A: Department of Treasury agreement 529/529A. They have similar requirements. IRS says that individual states they DO NOT have to determine eligibility or determine if withdrawals are legitimate. During

the enrollment process that is completed by the enrollee, the enrollee is responsible for reporting and changes, not the hosting state. Withdrawals get reported to SSI and the IRS.

Q: What if the asset hasn't been identified as an asset? A: There is no one-stop shop. An eligible person opened an ABLE account. Medicaid and other benefits were cancelled because of it. Big concern. That benefit program providers and agency employees are not properly educated that this program should not affect their qualifying for benefits.

Q: Are Medicaid, food benefit providers, etc. being made aware? A: federal agencies are supposed to be making the state providers aware.

Q: What can you tell us about Oregon's program that is launching tomorrow? A: They are going to have two programs; Oregon ABLE Savings Account for Oregonians and an ABLE for All program offered nationally.

### **Philosophical Items for Decision-Making / Board Members Conversation regarding agenda items 8a-j:**

#### **Contracting with another state or stand-alone?**

Q: What information does the board need to make an informed decision regarding a single state versus a consortium model? A: We need a cost analysis from existing states for comparison. There are between 130 and 180 thousand persons eligible for an ABLE account in Washington. By 2022, there could be 4000 accounts. From Arc: The DDETF was totally supported by year 4 through management fees. Deferred pending more information.

Q: Is there a concern for overlap with the DDETF and ABLE accounts? A: From Arc: We see it as more of a partnership. DDETF has a very narrow eligibility margin compared to ABLE. ABLE is not a trust account, whereas DDETF is a trust account. ABLE has a \$14,000 cap. The IRS has no disability experience. Concern about cross over education for providers so that services are not being cancelled. A suggestion is made to house the benefits/registration for ABLE in the DSHS offices around the state where a large number of participants already receive other services.

Peter suggests inviting David Bell from Oregon to our January meeting. Michael Bannion shares that Bank of NY Mellon had a past partnership with a former agency. That they were not entirely pleased with the outcome and program administration. Fiscal agent for state not filing and no follow through. They, unfortunately did not know this until the new contractor came in and identified errors and oversights. In-house solicitations take time. IT staff says 1 year at least to set up an account management system. Would there be a benefit to having Social Security come and talk at an upcoming meeting?

Q: What is our legal liability? A: Regina Stark shares that she believes that participants need to either file a Determination for Purposes of SSID or file a disability document with the Secretary of Treasury to be legally considered disabled for the purposes of enrollment. Amy Patterson reads from the legislation and believes that there is no specific requirement of proof to be filed when enrolling in an ABLE program per legislation. IRS requires each ABLE account to file 1099QA and 5498QA forms.

Q: Does board want a master contract or a series of sub-contracts? A: Would like numbers regarding developmental disabilities. The population for DDETF's is 2500 accounts, but they have different requirements. Investigate if there have been any lawsuits for DD settlements. Any audits? What was the outcome? Deferred pending more information and needs.

Q: Would the board like to create the agenda or have a staff directed agenda? A: A staff drafted agenda that is circulated to the chair and vice chair prior to the meeting for edits/additions.

Q: Charge user fees for contractor profits or state subsidized? How does the DDEF work through Arc (contractor)? A: DDEF used \$220,000 appropriations from the state legislature to get it started with the understanding that \$110,000 would be repaid as a loan. Original 1000 accounts get a match and then contributing appropriate for the first 3 years. Deferred pending more information.

Q: Is a contract allowed? A: \$150,000 towards contract services. Other state partnerships and interagency agreements don't need an RFP. Check procurement laws and how is that working? What's the timeline? A: By next meeting. Legislative appropriation is not easy this year.

Q: Could we partner with another state to use their infrastructure, but do our own branding? Deferred pending more information.

Q: What about a subsidized match? No income tax. Board members are considered individuals. We can do a Governor ask as a state agency, but cannot lobby.

Q: Should the board develop a legislative agenda? A: Parking Lot item.

Q: Do we have a responsibility to assure that disability expenses from these accounts are qualified? A: No.

Q: Does the State have a role in ensuring financial literacy component for ABLE accounts? A: For most individuals in poverty, with or without a disability, the concept of saving is very new. This would be a missed opportunity if we didn't take advantage of education. This should be linked to resources and partnerships. FDIC insured checking accounts are pros for these clients. They have historically been trained to spend so that they don't lose their benefits.

Q: Work income into ABLE will not lower your monthly income amount. Money can go into the account. There is a difference between income standards and resource standards. Contacted Heather Sachs, NDSS Attorney for verification. A: During the month that income from work is incurred, yes, it would count towards your meeting income qualifications/standards for benefits. After the month in which it was earned, it can be deposited into ABLE account as a resource and will not count against a person in regards to their benefits.

Q: Open to enrollments from other states or WA residents only? A: Board is open to enrollees from other states to build assets. Incentive for outside state persons. Market to other states.

Remaining agenda items: Need to decide on program structure first in order to make a decision on these items. Email to Regina to solicit in-house art work for ABLE logo using in kind state resources. Heather Sachs is willing to provide Federal and State Legislative updates monthly at our meetings pertaining to ABLE.

Standing Items: Changes and Updates. Any new IRS rules.