



Federal Agency Comment Form

Small Business Administration – Office of the National Ombudsman

Purpose: Small business owners may use this form to submit comments on Federal enforcement/compliance actions that they consider excessive or unfair. The National Ombudsman will use the information when it contacts the applicable Federal Agency for a review of action.

OMB Control #3245-0

Exp. date 6/30/2016

Case #: 181031000

Instructions

1. Complete, sign and date this form. (Signature not required if completed at www.sba.gov/ombudsman).
2. Provide a brief written statement on the reverse side regarding the specific enforcement or compliance action taken against your organization by the federal agency.
3. Submit copies of substantiating documentation, such as correspondence, citation, or notice (Note: Can be submitted separately from this form by fax or mail. Make sure to reference your name or company's name with this information).
4. If your comments concern the IRS, you must also submit a completed IRS Tax Information Authorization Form 8821, available at <http://www.irs.gov/forms> (Can be sent by fax or mail).
5. Fax, e-mail or send this form and requested information to: (1) Fax: (202) 481-5719; (2) E-mail: Ombudsman@sba.gov; (3) Address: SBA, Office of the National Ombudsman, 409 Third Street, SW, Washington, DC 20024. Telephone : (202) 205-2417.

Please Print

Organization/Company Name: Association of TeleServices International

Address: 222 S. Westmonte Drive Ste 111

City: ALTAMONTE SPRINGS State: FL Zip: 32714

Phone: 703-927-1453 Fax: _____ E-mail: dwenhold@kmgnet.com

Contact Name: Mr. Ms. Joseph Pores Title: President

Please indicate your organization type:

Small Business
 Not-for-Profit, Representing 250 Members
 Small Government (population of less than 50,000) Association, Representing 250 Members

List the federal agency with which you are having a problem:

Federal Agency Name: Department of Health and Human Services

Agency Contact person: _____

Agency Office/Division: _____

Did the federal agency listed above inform you of your right to contact the SBA Office of the National Ombudsman?

Yes No

If not, how did you learn about this office?

Confidentiality / Disclosure

The Small Business Regulatory Enforcement Fairness Act (SBREFA), allows you to keep your identity and other information private, and limit its access only to the SBA (See 15 U.S.C. 657 (b) (2) (B)). However, by requesting confidentiality the federal agency may not have sufficient information to investigate your specific problem, possibly delaying or preventing any potential resolution of your situation.

I request that my information be kept confidential. Yes No (If yes, results may be limited.)

Signature: Dave Wenhold Date: 10/31/2018

Your signature authorizes the SBA Ombudsman to proceed on your behalf.

Pursue all legal options you believe are in your company's best interest.

This process is not a substitute for legal action.

BA FORM 1993 (3-10) Previous Editions Obsolete

Please Note: The estimated burden for completing this form is 45 minutes. You are not required to respond to this information collection if a valid OMB approval number is not displayed. If you have any questions or comments concerning this estimate or other aspects of this information collection, please contact the U.S. Small Business Administration, Chief, Administrative Information Branch, Washington, D.C. 20416 and/or Office of Management and Budget, Clearance Officer, Paperwork Reduction Project (3245-0313), Washington, D.C. 20503. PLEASE DO NOT SEND FORMS TO OMB, as this will delay action on your request for assistance.

Type or (print) your comments below:

On behalf of the Association of TeleServices International (ATSI), we would like to submit our comments to address an issue that is creating unnecessary burdens on the small businesses in our industry. ATSI is the international association of telephone answering services. There are over 2,700 telephone answering services in the country that employ 45,000 Americans who handle over 3.6 billion calls annually for other Americans in need of assistance. Our members provide after-hours telephone answering services for all types of industries including public utilities, public safety offices, crisis centers like rape and suicide hotlines, and many different medical clients. Chances are if someone is in crisis after hours and calls for help, they are talking to a telephone answering service.

This submission will demonstrate how the current Health Insurance Portability and Accountability Act requirements create a tremendous burden to our industry. The original intent of HIPAA is admirable but unfortunately the unintended consequences of over-regulation have put an unreasonable financial burden on many small businesses, especially ours.

The average answering service business annual gross revenues are a little over \$500,000 with razor thin profit margins. Many of these small companies are multi-generational businesses that have serviced the local communities for decades. The current burden includes compliance training for every employee, the need to have a compliance officer, increased insurance premiums and additional hardware and software needed to simply comply with HIPAA is astounding and costs thousands of dollars a year. These are unnecessary expenditures for an industry that is simply a pass-through messaging service.

For example, the majority of our members who handle after-hours medical calls handle little to no Protected Health Information (PHI). This is the example of most of our calls (“Hi, this is Jane Doe, my son has a fever of 102 and I would like to get him in to see the doctor first thing in the morning, please call me back at....”).

For most of our members that is the extent of the call and should not constitute a violation of any Protected Health Information. As a matter of fact, the call from Jane Doe to her doctor is her consent to share this information for the purpose of setting up a consultation. Unfortunately, many fear that the government would consider this a violation and to that end there has been an entire HIPAA compliance niche market created to sell, or scare, small businesses into buying everything from additional training seminars, Business Associate Agreement software, programs, compliance consultants, insurance and even legal advice that is strictly HIPAA centric. All of this expense for passing on a message from Jane Doe about her child with a fever through a phone or text message.

I would like to highlight some additional expenses that clearly demonstrate the burden placed upon the telephone answering services industry. Some of the areas impacted within a company’s operation include:

- Increased costs for new or additional Error & Omission insurance to include higher coverage in the event of litigation
- Employee training and awareness (approximately 40 hours a year equating to around \$1000 per year per employee). Tracking the employee training compliance also adds additional costs
- Training/Staffing an In House Privacy Officer, therefore incurring additional payroll costs
- Documenting all policies and procedures including training

- Reviewing and upgrading the network infrastructure for all security and privacy issues to identify and protect any PHI
- Purchase specialized secured delivery platforms for all messages via text and email
- Creating and establishing a Business Associate agreement with all subcontractors and overseeing their performances and processes
- Time spent chasing down medical clients that refuse to sign the Business Associate agreement. This has resulted in lost business because some refuse to sign the agreement.

Many of our members have personally been negatively affected by the unintended consequences of the overreach of HIPAA regulations. They have spent tens of thousands over the years on this issue. We believe that the government should be helping small businesses and their employees succeed and achieve the American Dream and not putting up roadblocks and intimidating small businesses with the fear of excessive fines that literally could bankrupt a business.

ATSI understands the purpose behind the original intent of HIPAA and applauds the government for looking out for people's privacy. Unfortunately, regulations can sometimes be taken to the extreme and affect businesses they were never meant to, and that is the case here.

We would respectfully ask the Small Business Administration to assist ATSI in discussions with the Department of Health and Human Services to come up with a de minimis exemption for telephone answering services, which will relieve many of these businesses from the unnecessary burdens which they currently have on them.

Thank you for your time and consideration.