

# Is Your Collection Agency Putting Your Medical Practice at Risk? Guest Post by Karen Cooper

The collection agency industry is highly regulated and there are numerous laws on the books designed to protect consumers, which make it more difficult to collect. While it costs agencies more to be legally compliant and hinders their collections efforts, not complying can lead to class action suits and sanctions against the agency (and possibly their clients) that are more costly in the long run if not fatal to the agency's very existence. Let's examine how this affects your practice.

## The Laws You Know

Most Practice Administrators are familiar with the **Fair Debt Collection Practices Act (FDCPA)** of 1978 which creates a set of guidelines that collection agencies are required to follow as well as penalties for not adhering to the Act. Additionally, practices are familiar with **HIPAA** laws and the security requirements of Protected Health Information (PHI).

## But Do You Know About These Laws?

Despite having been a law since 1991, most practices are not familiar with the **Telephone Consumer Protection Act (TCPA)** which also impacts collections. Among other provisions of the TCPA (such as calls can only be made between 8am and 9pm), the TCPA prohibits the use of automated dialers to cell phones or leaving automated messages on cell phones. While auto-dialers represent a technological efficiency that allows a collection

agency to make more frequent calls and collect more money, their use is not compliant with the TCPA when the phone number the patient has provided the practice with is a cell phone. **In order to be TCPA compliant when calling a cell phone, it must be manually dialed.** Even if a live collector will be connected with the consumer upon pick up, a cell phone can not be dialed using a computer.

## **Medical Collections Impact**

A recent data analysis by Transworld Systems, a large national collection agency specializing in medical collections, revealed that **60%** of the phone numbers that their medical practice clients are obtaining from patients are cell phones. In order to avoid fines of *\$1500 per incident* and class action suits, Transworld Systems has enforced strict policies of identifying and separating land line numbers from cell phone numbers. Additional research is conducted to see if the patient also has a land line which can be put on an auto-dialer to obtain better contact rates.

## **What does all this mean for your practice?**

Today with the ever changing federal and state regulations, you need to ask more questions of your collections vendor to find out if they are compliant with all laws. Ensure your practice cannot be named as a co-defendant in a potential class action suit should your agency be accused of being non-compliant. It is important to have a **Hold Harmless Agreement** in your collection agency contract where the agency agrees to hold your practice free from responsibility for any liability or damage that might arise out of their collection activities.

Ask questions first before you have to answer for shortcuts or missteps later that could result in hefty fines for lack of compliance. It is paramount to ensure your company of choice is an expert in their field who stays abreast of, and quickly

adapts to, the seemingly endless stream of regulations designed to protect consumer's rights, often at the expense of their creditors.

Here's a sample list of questions to ask your current agency and any potential collection agency you are considering working with:

**1. Is your company compliant with TCPA, HIPAA and familiar with state laws regarding collections?** This is not a yes/no question, they should be able to provide additional information including how often their collectors are re-tested for compliance and how their performance is monitored for compliance.

**2. Does your company perform background checks on collectors in required states?**

**3. How are cell-phone calls handled?** If they don't maintain a separate policy for handling cell phone calls, that should be a red flag to you to find another vendor.

**4. Do you know what PHI is and what steps do you take to ensure its security during storage as well as communication with our practice?** Ask how they receive data from their clients (do they accept secure electronic encrypted data or do they expect you to fax or mail patient files which are more easily compromised?) Do they provide you with a secure website to view collections status and if not, do they at least have the ability to encrypt emails when attaching a list of status updates which include PHI.

**5. Is your company licensed to collect in all states?** Even if your patients are primarily local to your office, sometimes they move out of state and your agency will have to be compliant with the laws that govern the patient's new residence.

**6. Is your company bonded and insured?** Ask for copies of the

documents proving bonding and insurance to make sure your money won't disappear if your agency goes out of business, either as a result of poor performance or as a result of a fatal class action suit.



*Karen Cooper, MBA, is a District Sales Manager for **Transworld Systems Inc.** Entering her 12<sup>th</sup> year with Transworld, she personally manages a portfolio of several hundred clients in 30 states and has a background in Finance and Consumer Credit. Transworld Systems is a 42 year old company which has been recognized as an MGMA Adminiserve Partner for 15 years and is also Peer Reviewed by the HFMA for 5 years.*  
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