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November 7, 2020

David Fish
Executive Director, Legal and Regulatory Services
New Jersey Department of Labor and Workforce Development
PO Box 110-13th Floor
Trenton, New Jersey 08625-0110
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RE: Proposal Number: PRN 2020-087 (Call Center Regulations Comments)

Dear Mr. Fish,

On behalf of our member companies that provide 1 million jobs in our state and make NJBIA the largest statewide business association in the nation, thank you for the opportunity to comment on PRN 2020-087.

NJBIA is proud of the efforts undertaken by its member companies to continue to provide goods and services to New Jersey residents during this difficult pandemic. Protecting the health of employees and customers is the priority. Many of the protocols implemented by New Jersey companies to ensure safety make monitoring and implementing the new call center law overly burdensome. The distraction and diversion of resources to development and implementation of systems and processes to implement the law should not be the current priority – instead providing seamless service while maintaining a safe operating environment should be the priority. We are troubled that the proposed regulations seem to ignore the present health crisis.

In particular, our members are concerned about the operational impact of these regulations absent clarification. Flexibility and immediate response allowed companies to continue seamless, safe operations during the pandemic. The regulations are ambiguous and ignore the new reality of the virtual workforce as well as the operational challenges in providing vital goods and services, in particular those in the communications sector. NJBIA cautions that absent clarification these proposed regulations could serve to deter employers who operate multi-state or national businesses from future employment of New Jersey residents.

First, we request the regulations address Subchapter 2's calculation of the 'staffing level capable of handling no less than 65 percent of customer volume' assumes that the average staffing level over the 6-month period was a staffing level capable of handling 100% of the call volume during that period. However, this might not make sense as an assumption.

- If the staffing level was more than was needed, then the 65% that the DOL calculates will in fact be more than the actual 65% that is needed. The issue with this is that a call center might reduce staff to a point where they are meeting 65% of the volume, but the DOL's calculation will say otherwise. In

this scenario, DOL will effectively be mandating that a call center hire more workers than it needs to abide by the rules.

- If the staffing level over the 6-month period was already insufficient to meet the caller volume, then the 65% that the DOL calculates will be lower than the actual 65% making the calculation less useful.

Subchapters 3 and 4 both grant the Commissioner of the Department of Labor and Workforce Development broad and vague power in determining ‘the appropriate penalty’ and ‘the appropriate period that the employer will remain on the list’ respectively. Specifically, the rules allow the Commissioner to consider ‘any other factors that the Commissioner deems appropriate.’ While it makes sense that the Commissioner should be able to look at things on a case-by-case basis, it also seems like this could create inconsistencies in the review of different cases and how their penalties are determined.

Additionally, we request that the regulations clarify that the Act applies only to call centers with physical operations in New Jersey. Otherwise, call center businesses who have temporarily moved operations remotely will have trouble figuring out how to apply these rules, potentially running into legal issues along the way. To address the flexibility that businesses have demonstrated in adapting their operations during the pandemic, we request a specific definition of a ‘call center’ as a physical operation or shared work location in New Jersey.

Thank you for the opportunity to comment on the regulation proposal.

Sincerely,



Chrissy Buteas
Chief Government Affairs Officer