

To Whom It May Concern:

As a practicing ophthalmologist who fits and dispenses contact lenses as part of his practice, I would like to comment on the proposed contact lens rule. Specifically the comments relate to Section 315.2 and the questions posed below.

Section 315.2 defines "direct communication." (a) Is this definition sufficiently clear? (b) What is the impact, including costs and benefits, of defining the term in this way? (c) Is it appropriate to include messages left on telephone answering machines in this definition? (d) Should the definition expressly require, for communication by facsimile or e-mail, the receipt of a confirmation that the communication was successful? (e) Should the definition include any other means of direct communication?

Automated attendants, phone dialers, etc should not be considered a form of direct communication. Phone calls should also not be considered a form of direct communication unless the seller has the capability of leaving a detailed message on voice mail.

Currently many third party sellers of contact lenses use automated phone systems to verify prescription information. These automated phone systems, as currently set up, do not allow the prescriber to respond to the system in a timely manner.

Typically the system announces itself as a third party seller and the reason for the call as a request for contact lens prescription verification. It then asks if you would like to respond with the information requested. If you don't *immediately* respond in the affirmative the system will respond that the third party will notify the patient that the prescriber will not comply with the request and hang up.

If you are lucky enough to respond in the affirmative the system will then read/spell the patient name. It will then start reading contact lens information over the phone. Obviously it takes time to find a chart with the requested information. However, the call requires an immediate response. If you do not immediately respond the system will respond that the third party will notify the patient that the prescriber will not comply with the request and hang up.

If the office is closed or if messages are directed to voice mail, it is impossible to respond to the current automated systems. We frequently pull off messages at the start of the day with messages from these automated systems stating that the third party will notify the patient that the prescriber will not comply with the request.

We have found the best way to verify information or supply the seller with the correct information is either by fax or email request. Both of these have the advantage of allowing the seller to leave detailed messages when it is convenient/timely for them, and the prescriber to respond to the message when it is convenient/timely for them.

If you have any additional questions or require more information please feel free to contact me.

Sincerely,
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PA