

Federal Trade Commission
Office of Information and Regulatory Affairs
Office of Management and Budget
New Executive Office Building
Room 10102
Washington, D.C. 20503

ATTN: Federal Trade Commission Secretary

RE: Contact Lens Rule, Project No. R411002

The Nebraska Optometric Association would like to express concerns and recommendations regarding the Federal Contact Lens Consumers Act (FCLCA) and the proposed regulations related to the Act. Please consider these comments as the Federal Trade Commission develops the final rules and regulations.

On behalf of our 200 member optometrists, the Nebraska Optometric Association requests that the rules and regulations address and incorporate the following:

- Ban the use of automated calls to verify contact lens prescriptions. Automated telephone calls do not work to accomplish verification of prescriptions and do not constitute “direct communication.”
- Provide for required notification of prescribing doctors when prescriptions are refilled. Without such notification to the prescribing doctors, there is no way to monitor the total number of refills provided to a patient from various sellers and there is no way to prevent the prescription being used to obtain a supply that exceeds limits specified by the prescription. An alternative would be to require sellers to obtain and keep a copy of the original, hard copy prescription so that patients could not use the prescription to order more lenses than authorized by the prescribing doctor.
- Require sellers to use a standardized verification form.
- Clarify the 8 business hour requirement for verifications. In cases where the prescribing doctor responds with a question or correction, the rules should require that the seller respond appropriately or verify receipt of corrections.
- Require sellers to notify prescribing doctors of all sales made without doctor verification, in order to assure that patient medical records are accurate and complete.
- Provide for reasonable extensions to the 8 business hour rule for verifications in cases where the requests are sent to satellite offices, or when the doctor is absent for required C.E., vacation or illness.
- Minimize frivolous verification requests by sellers, involving requests to verify expired prescriptions.
- Provide penalties for sellers for false or misleading advertising regarding the FCLCA, for falsely informing patients of doctors’ refusal to verify, or for encouraging patients to file false complaints against prescribing doctors.

- Prohibit sellers from processing credit cards to pay for lenses before the verification process is complete.
- Clarify obligations of prescribing doctors to provide copies of prescriptions after the copy that is providing following completion of the fitting. If doctors are obligated to provide prescriptions any time a patient requests one, the potential exists for patients to seek additional supplies of lenses that exceed limits established by the prescribing doctor.

Thank you for your consideration of these recommendations and requests.

Sincerely,

Nebraska Optometric Association
Mark A. Blackledge, O.D., President