

**From:** hugo cerri  
**Sent:** Monday, April 05, 2004 4:46 PM  
**To:** CONTACTLENSRULE  
**Subject:** Fairness to Contact Lens Consumers Act

Dear Sir,

I'm an ophthalmologist in practice in Plttsburgh, PA. I believe the new Fairness to Contact Lens Consumers Act that went into effect on 2/4/2004 is already being abused by contact lens suppliers and unscrupulous consumers as well and has many other problems with it.

For example I recently received requests on behalf a contact lens wearers who had not seen me for over 2 years for an eye exam, and even in cases where the patients had not even been seen for anything relating to contact lenses. SOME PATIENT HAVE KNON FULL WELL THAT I HAD NOT PRESCRIBED THEIR CONTACT LENSES NOR HAD I EVER WRITTEN A COPY OF A PRESCRIPTION FOR THEIR CONTACT LENSES, AND IN FACT THE EYE EXAM I DID FOR THEM DID NOT EVEN DEAL WITH EVALUATING THEIR CONTACT LENSES. Nevertheless they called 800-CONTACTS who sent my office a request for verification for a contact lens prescription I never wrote. This happened early after the law went into effect, some on particularly busy office day so no one in my office was aware of this situation and thus no one could act within 8 hours to stop this abuse. Presumably some patients got their contacts prescriptions supposedly "verified" by default and thus got their contacts without my actual knowlege or consent on those days. This is an abuse of this law.

I believe patients requesting contact lens verification should be required to attest, under penalty of fraud, that 1) the eye care practitioner they claimed prescribed their contact lenses or evaluated their contacts did in fact do so, and not just saw them for an unrelated issue such as treatment of a conjunctivitis, a diabetic or glaucoma eye exam or other such problem.  
2) that the patient has in fact been seen by said eye care practitioner within no more than 12 months, so that their contact lens prescription is indeed current.

If neither situation applies, then patients should be forbidden from requesting contact lens verifications and there should be penalties for doing so. Otherwise, if there are no penalties, what is to keep for example a patient with an old contact lens prescription written from another state or even another country to simply "KEEP FISHING" in the yellow pages for names and phone numbers of eye care professionals to give to 800-CONTACTS and then claim that they got their contacts from them, and have 800-CONTACTS fax contact lens verifications to those

doctors?. Sooner or later they'll get lucky and get a busy office that fails to reply within 8 business hours and thereby get their contact lenses prescription "verified".

Also there is a problem with the method used by 800-CONTACTS to request contact lens verification.

1) NOWHERE in either their cover letter or verification forms are there instructions or a place for the eye doctor TO DENY VERIFICATION OF THE PRESCRIPTION (some of the grounds for refusal can include: This patient has never been seen by this office, The contact lens prescription is too old and thus has expired, patient has not been seen in this office for a long time, patient HAS BEEN SEEN in the office but contact lenses NEVER prescribed or evaluated, etc). One is forced to scribble at the margins of their form that the verification is denied and the grounds for it. Even calling them for help in this matter is not helpful, their automated line as of last week made no provision for denial of verification for cause.

2) Their method of contacting the doctor is by fax- they have no obligation to insure that the fax: a) HAS INDEED BEEN RECEIVED b) IS LEGIBLE c) The right person in the office or department has received the fax.

3) Also even if the doctor writes somewhere in their verification form that verification is denied and faxes it back to them (this is the preferred method of 800-CONTACTS to be notified of denied verification), there is no easy way for the doctor to verify that his denial has been heeded. What is to keep 800\_CONTACTS from claiming that they didn't receive the fax, or that they thought the doctor had written YES to verification when in reality he wrote NO, or simply to ignore a clear denial?. Most eye doctors are simply too busy to chase them to see if the denial has been honored.

Also I believe 800-CONTACTS and other similar contact lens sellers should be REQUIRED to CONTACT THE EYE CARE PROFESSIONAL OR A PERSON SPECIFICALLY AUTHORIZED BY HIM TO REPLY TO CONTACT LENSES REQUEST- such as an optician, technician or other qualified professional, for contact lens verification BY PHONE AND DOCUMENT IT IN A RECORDED LINE, rather than just simply send a fax that may or may not be received, may or not be seen by the right person, may or no be legible, may be sent to an office that may have closed that business day for a special emergency, event, illness, or absence of the eye care professional. Phone requests for verification should NOT COUNT toward the 8 hour time limit if they are left with a secretary or other person in the doctor's office who is not qualified or knowledgeable about these matters and does not or is not able to reach the eye doctor in time for him to comply with the 8 hour time limit. He could be busy in surgery, or other work outside the office, and should not have to drop whatever he's doing just to comply with the time limit. No, I believe for the purpose of the rules on this law THE CLOCK SHOULD

NOT "START TICKING" UNTIL 800-CONTACTS CAN DOCUMENT,  
ON A RECORDED LINE, THAT THEY ACTUALLY SPOKE TO THE  
DOCTOR OR HIS AUTHORIZED CONTACT LENS ASSISTANT TO  
REQUEST A VERIFICATION OF A CONTACT LENS PRESCRIPTION.

Thank you,

Sincerely,

Hugo Cerri, M.D.