

Thank you for considering my comments and concerns regarding the Fairness to Contact Lens Consumers Act. I wholeheartedly agree that my patients have a right to their glasses and contact lens prescriptions. The Virginia Board of Optometry has a contact lens prescription release regulation for at least 19 years.

1. Section 315.2 defines prescribers as "optometrists, ophthalmologists, or other person permitted under state law to issue prescriptions for contact lenses..." In Virginia, opticians are permitted by law to fit contact lenses from spectacle prescriptions of optometrists or ophthalmologists authorizing the fitting. I have had problems obtaining new patient's previous contact lens information because the optician wouldn't release the doctor's prescriptions even though the prescribing doctor didn't have the information. This Act needs to address this situation by having all prescribers on equal ground.

2. Section 315.2 defines business hours as 9 am to 5 pm Monday through Friday. Some doctors are closed Wednesdays, some for long holiday weekends (Thanksgiving, Christmas, and New Year), some for inclement weather, and some for solo practitioner's vacations. The Act should broaden the response time for prescription release to six working days as you define them. Obviously, the longer the doctor takes, the higher the risk of losing the patient and their family from poor customer service.

3. Section 315.6 states the prescription "shall expire not less than one year after its issue date." Medical standard of care should not be dictated by the FTC. Standard of care for contact lens follow-up is annually, or less if medically indicated. Please consider striking "not less than" from the Act.

4. Section 315.4 treats "presentation of proof of insurance coverage as a type of payment." Will you force all doctors to accept insurance even if they operate a cash only practice? If a doctor is non participating with a particular carrier, the payment will be mailed to the patient. I suggest the doctor follows their own SOP as to whether or not insurance verification constitutes payment. In my practice it depends on the insurance carrier, if they assign benefits to me, and if I participate with the carrier.

5. Section 315.5 states the prescription must be verified "through direct communication". I suggest verbal phone authorization as the sole method for prescription release. A fax may not be received because of a paper jam, no paper, no toner, or fax memory failure. An email may not be received if blocked by anti-spam software either on my computer or by my ISP. I use the same email address both for business and personally for my entire family. If I receive a request at my home or on a vacation, how can I respond without having immediate access to patient records. What if a family member inadvertently deletes the message?

6. Section 315.3 "prohibits prescribers from refusing to release or verify a prescription unless their patients purchase contact lenses from them..." This is compatible with disposable contact lenses, but is not compatible with for traditional soft, gas permeable, specialty toric, specialty cosmetic for disfigured eyes, specialty bifocal, keratoconus designs, orthokeratology contact lenses, and post surgery contacts for misshapen corneas. It takes a contact lens to fit a contact lens. I

need the right to charge the patient for the contact lens(es) utilized in the fitting process. How am I to stay in business if I need to purchase a high dollar lens to perform a fitting, when I can't return it for credit or charge the patient for the contact lens?  
Can the wording be changed to the effect of "for contact lenses other than disposable, after the initial contact is purchased from the fitter, subsequent lenses may be purchased at the location of the patient's choice"?

7. Section 315.5(b) should also include as with any medical device or pharmaceutical, the quantity permitted (number of refills). This would prevent a patient from purchasing a five year supply of contact lenses from a prescription having a one year expiration date and subsequently putting themselves at risk for adverse reactions and me at risk of litigation.

8. In Section 315.7, the FTC should NOT exclude non corrective lenses. Your premise is wrong that consumers do not need a prescription for non corrective contact lenses. The FDA says that ALL contact lenses are medical devices and available only upon the prescription of a licensed doctor.

Sincerely,

Kevin J. Green, O. D.  
VA