

Dear Sir:

In response and as a clarification, I have two clinics. I am in one office on Mondays, Wednesdays, Thursday mornings and Friday mornings. I am at the other office the remainder of the week. If a request comes to my second office on a Friday morning, the earliest I could respond would be Tuesday morning, with as much as two full business days having lapsed.

Thank you for your interest. P.S. Just today, I examined a patient who received a second year's supply of contacts which were ordered and received from the 1-800Lens Express method. The patient's Rx had changed but his eyes were swollen and inflamed from improper use of the contacts. The patient said he wondered why and how he was able to get his replacement contacts from mail order. He KNEW his prescription had expired but didn't question the authorization of the new supply with no yearly examination or a valid prescription. This happens fairly frequently.

David D. Smith, OD

----- Original Message -----

From: "CONTACTLENSRULE" <CONTACTLENSRULE@ftc.gov>

Sent: Monday, March 01, 2004 12:22 PM

Subject: RE: invalid contact lens Rx verifications

Dear Dr. Smith:

We received your comment below and wanted to get clarification as to your question. Would you explain what you mean when you say that you received a verification request after the 8 business hour time limit has elapsed? Did the 8 hours elapse because you were out of the office for a day, or for some other reason? We are trying to understand what "loophole" you are referring to so that we may properly consider your comment in preparing our final rule. Thank you in advance for your response.

Division of Advertising Practices  
Federal Trade Commission

-----Original Message-----

Sent: Saturday, February 28, 2004 9:35 PM

To: CONTACTLENSRULE

Subject: invalid contact lens Rx verifications

Dear Sir,

Lately it seems that I have been swamped with requests to verify contact lens Rx's by Mail order concerns such as 1-800 Contacts and LensExpress. The vast majority of these requests are received past the 8 business hour time limit and when looking up the expiration date in the patient's chart, the Rx has expired, often by YEARS. What's the use in sending back the notice that the Rx has expired since I have received the request past the allotted time for the Rx to be considered valid and therefore, as I understand it, able to be filled? I read that the AOA had lobbied for the best language in the House Bill, but with

this loophole, distributors can fill contacts at the drop of a hat. The Law is rather anemic for the benefit of the doctor trying to provide the best health and vision care and little protection for the patient.

David D. Smith, O.D, FAAO  
NC