

DR'S DRIVER & CLARK, OPTOMETRIST, P.A.

1100 W. South St, Salina, KS 67401 (785)-825-4679

311 N. Mill, Minneapolis, KS 67467 (785) 392-2126

March 8, 2004

TO: Federal Trade Commission / Office of the Secretary
Room 159-H, (Annex A)
600 Pennsylvania Ave, NW
Washington, DC 20580

FROM: Kenton Driver, O.D.

RE: Contact Lens Rule, Project HR 411002, AKA: The Burr Act

I think this new legislation is a good start to answer some problems that patients may face in obtaining a contact lens prescription. We have always been happy to release a patient's current prescription and we agree that they have an absolute right to such. However, I would like to take a moment of your time to relay some frustration's we encounter on a daily basis and to voice a few concerns with the new legislation.

1) We operate a small outreach eye clinic in a rural community in Minneapolis Kansas. Our eye clinic is only open 2 days a week. My concern is with the 8 hours verification policy on contact lens prescriptions. Obviously, it will be impossible for our doctors to comply with this rule since the patient's charts are at the outreach clinic and the clinic is not open everyday. Often I will find 1 or 2 contact lens "verification request" sheet sitting in the fax machine when we get there in the morning or have a message on the answering on our first day of the week that being a Tuesday. The final trade rule should provide reasonable accommodations for satellite offices. If the doctors are required to notify the internet vendors of our days of operation, we could easily comply.

2) On 2 recent occasions we received a computerized voice response /request from 1-800-Contacts to verify a patient's contact lens prescription. My receptionist put the call on hold to quickly pull the patients file and upon returning to the phone - the line had been disconnected. Our attempts to call 1-800-Contacts were in vain because of more complicated automated phone response systems. This is completely ridiculous for my staff to try and play this game in the middle of our busy day. There must be a better way! Please ban the automated calls used by some companies to verify prescriptions because this isn't "direct communication".

3) I recently had a patient ask to be changed from his current brand of contact lenses into a different brand because of what he had read on an internet vendor's web site. The current brand that he was wearing was decided on years ago only after an indepth

fitting and evaluation period. The chart shows that we had tried on many different styles in an attempt to obtain a correct physiological response with his low tear film, shape of his cornea and difficulty in handling the lenses. He had successfully worn this lens for years with only a few minor adverse events due to overwear. His recent biomicroscopic evaluation and pachymetry examination found his corneas to be healthy and his visual acuity was sharp. His request to change brands came only because of what he read while ordering replacement lenses on this particular web site. The company apparently has a full page of negative propaganda and misinformation about this specific lens because apparently the company can not buy the lens in high bulk volume in order to resale it at a profit. The site states that the only reason eye doctors prescribe this lens is to make it difficult for patients to obtain replacements. The fact is that this lens is readily obtainable through virtually all vendors and is cost comparable to all other lenses of similar design. The fact is that some patients just do better in a certain style, curvature, ionic polymeric material, and water content than another brand. We utilize virtually 15 different lens companies and their different lenses in fitting and managing our contact lens patients to ensure a proper fit and maintain eye health. It's certainly not in our patient's best interest to have an internet vendor telling them what lens is best for them.

4) We recently had a patient come to the office for an examination and contact lens evaluation. She stated that she had "noticed some blurriness to her vision but hoped she wouldn't have had to come in for a few years because she had plenty of replacement lenses". Her eye health evaluation was normal except for early neovascularization of her cornea. Fortunately, her blurry vision was due only to a slight change in her prescription. I wrote out her new prescription for her and instructed her on proper wear, care and replacement schedule and discussed the need to follow her corneal changes. She understood but wondered what she was to do with her 8 remaining unopened 6-pack boxes (48 lenses) of contacts? She said that when she ordered replacement lenses last year through an internet vendor she quadrupled her order to get the "Best Deal of the Day" on quantity pricing, this in spite of her prescription showing a maximum order of 12 pair of "Monthly" lenses per year, (4 - "6-packs" or 24 lenses). Obviously there needs to be better checks and balances to track the number of lenses patient's can purchase based on a single prescription, so that the patient is not being taken advantage of by the internet vendor and visa-versa. This is irrespective of the eye health concerns and escalating health care cost this can cause.

We must be able to track number of refills!!

In summary; I think a uniform release form is in order and there should be some exception for outreach/satellite clinics with respect to this 8 hour verification rule.

I also think that contact lens vendors should be held liable for fraudulent statements made in an attempt to persuade patients into a different lens styles just so they can make more money. It also seems that the so called savings available from some of these companies is wildly exaggerated. Obviously the patient's eye health concerns are not

these companies main concern.

Written prescriptions are obviously the best answer to positive verification and the computerized voice response system should be stopped.

There should be some way of tracking and controlling the number of refills a patient can obtain. Much like a pharmacy would do for a controlled drug.

Thank you for taking the time to hear my concerns and in helping my patients.

Sincerely,

Kenton Driver, O.D.