

Re: Contact Lens Rule, Project # R411002

From: Charles W. Kissling, O.D.

To: FTC
Ks.

As an optometrist practicing for nearly 20 years, I wish to provide comment on the proposed rules as regards the Fairness to Contact Lens Consumers legislation, hereafter referred to as the Act.

Sec. 315.5 (b)

This section lists the information that the seller must provide to the prescriber. The only identifying information listed is the patient's full name and address. **I would suggest that the patient's birth date also be provided to the prescriber.** The birth date is an unchanging, permanent part of a person's identification. In contrast, the address is temporary, and can change often. It is certainly within the realm of possibility that a request be made for a common name to a provider who cares for more than one person with that same name. If the individual has moved, the provider will be uncertain as to exactly who the verification request is for. This situation would be prevented if the birth date is also provided.

Sec. 315.2

This section defines 'business hours', and provides examples of the eight business hour period. **I would suggest that the definition of business hours must specify the time zone within which it is to apply.** While it is true that 8 hours is 8 hours regardless of the time zone, this becomes an issue when the 8 hour period begins or ends at the start of the business day, 9:00AM. When the seller is in a more eastern time zone than the prescriber, the seller's 9:00AM will occur before the prescriber's 9:00AM. In your example #2, for instance, a verification request received at 10PM Monday night would require response by 9AM Wednesday morning. If you do not specify whose time zone, the seller might ship the lenses at 9:01AM their time. If the prescriber replies at 8:30AM his time that the prescription is expired, invalid, or incorrect, the prescription will have been filled improperly in spite of the prescriber responding within the required 8 business hour time frame. Another example where this will be important is if a seller sends a verification request at 4PM their time on a Monday, but 6PM in the prescriber's time zone. The seller will be expecting a response by 4PM Tuesday. However, that would not provide 8 business hours in the prescriber's time zone. The prescriber would still have until 9AM on Wednesday to reply with 8 business hours.

This potential source of confusion can be solved in simple fashion. **Simply specify that the 8 business hour time span must always be referenced to the prescriber's time zone.**

Sincerely,

Charles W. Kissling, O.D.