

**From:** Olathe Family Vision  
**Sent:** Tuesday, March 30, 2004 2:42 AM  
**To:** CONTACTLENSRULE  
**Subject:** Contact Lens Rule

TO: Federal Trade Commission

FROM: Dr. Wayne Hemphill

RE: Proposed Trade Rule on FCLCA Law

My office has released contacts lens prescription since its inception in 1989. I have no problem with a consumer's desire for fast, convenient, price competitive products, no matter what the product.

I do have concerns in regard to the implementation of this law. My concerns stem from years of experience with contact lens sellers, in particular through the internet.

I need to know if a patient has had a contact lens prescription filled without verification from my office. First, even if filled without verification, the prescription parameters for contact lenses should ultimately be verified. This step will ensure: The consumer's economic interests are protected and that their health is protected. The March 29, 2004 press release from the FTC reads as follows:

"Consumers are more likely to adhere to recommended replacement schedules if lenses are less expensive and more conveniently available, however. Enforcement of prescription release and verification requirements will help ensure that both consumers' health and economic interests are protected."

To that end, internet contact lens sellers have shown that they can readily send a postcard (addressing what they deem important topics) to every consumer who orders lenses from them. Likewise, they should be able to send a computer generated postcard to confirm non-verified and filled prescriptions to providers. Any errors would be corrected quickly, and hopefully allow the consumer to continue to wear lenses on a long-term basis.

There are dozens of places to purchase contact lenses on the internet, all with completely different verification forms. A universal reporting form must be adopted for ease of use and to avoid mistakes. This has worked in the insurance industry in the past via the HCFA 1500 form as well as with motor vehicle and school district reporting forms.

Automated verification systems are terribly unreliable and antiquated. There is no efficient way to notify a contact lens retailer of a prescription problem or change and the call is often interrupted on the retailer end. Further, this mode of verification takes thousands of man-hours away from actual patient care at a cost of hundreds of thousands of dollars across the country.

The eight hour time period for verification must be clarified, particularly for the difference in time-zones across the country and as well as non-office hours. A seller in California, attempting to verify a prescription in New York at 12:01 EST may not get a reply within the eight hour time frame (4pm PST), as the office in New York is closed in the afternoon and the doctor is seeing patients in a satellite office.

The business of contact lens sales is complex when consumer health is not ignored. Retail contact lens sellers have been filling orders, not prescriptions, for years. This practice has been done with virtually no over-sight and sometimes in blatant disregard for federal rules; "federal law prohibits dispensing without prescription" has been on contact lens packaging for years, yet in documents filed with the SEC some publicly held companies, in the past, have noted they do business in violation of federal law. It will require an investment by sellers to suddenly take into account the ocular health portion of this equation. Again, from the March 29th FTC press release:

"Likewise, adherence to the prescription requirement is important to consumer health."

Thank you for taking comments addressing these issues.