

From: jeffry gerson
Sent: Wednesday, March 31, 2004 12:26 PM
To: CONTACTLENSRULE
Subject: contact lens rule, project no. R411002

DATE: March 31, 2004

TO: FEDERAL TRADE COMMISSION

FROM: DR. JEFF GERSON: KS

RE: CONTACT LENS RULE, PROJECT NO. R411002

The March 24, 2004 incident outlined below illustrates the importance of the trade rule addressing activity inconsistent with the new contact lens law. These deceptive tactics are misleading to consumers and show that unlicensed individuals are providing inappropriate medical advice, including changing prescribed wearing schedules for the patient. It is vital that the prescribing doctor be informed about the number of lenses sold to our patients to monitor patient compliance.

The following is an account from a patient visit with patient MF, a 39 year-old, that occurred in my office yesterday. It was regarding his wearing contacts, and his contact lens replacement schedule.

MF came in for a follow-up on his refit into a new type of contact lens. Because his previous lenses were not fitting him properly, we changed to a different one. I chose to put MF on a 2 week replacement schedule with his new lenses in order to try to prevent any complications. At the time of the fitting, MF had no problems with this, and thought it was a good idea. When he came back in yesterday, he had a printout and some notes regarding prices from 1-800 contacts. He asked me how much our lenses were. When I told him, he remarked that they were essentially the same as 1800 contacts, but that they said that he only needed ½ as many as I had said. They told him that the lens he was using only needed to be disposed of every month. He was confused at why I had told him every 2 weeks, and why I thought he needed to buy twice as many lenses. After explaining to him why I recommended disposal every 2 weeks, he again did not have a problem with it, and purchased a year supply of 8 boxes total.

I feel that this is a problem for several reasons. First of all, and most importantly, these practices undermine the doctor-patient-relationship. It caused MF to doubt my professional judgment. The people giving him advise on how to wear his lenses were not his doctor, and therefore had no right to make clinical decisions for him. Secondly, it is a form of deceptive or fraudulent advertising. By telling a patient that they only need ½ as many lenses as they really do, the total price is artificially lowered due to the decrease in quantity. When the patient actually uses the prescribed amount, they will cost double the "estimate" by 1-800, or anybody else wrongly changing a patient's contact lens wearing schedule. This is one example of how such companies can offer lenses at a 50% savings; after all, the patient is only getting 50% of the lenses that they need. Further, this poses a potential health risk. Somebody who is not the patient's doctor cannot

possibly know the reasons for a doctor's decisions. Therefore, they may be recommending that the patient do something that would be harmful for them.

While I told my patient that I encouraged him to make sure that he was getting the best value, I wrote out a prescription for him. I did tell him that I thought that he should stay with the wearing schedule that we discussed, and not change to the one that 1-800 recommended just in order to save money.

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