

***Colorado Optometric Association***

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**TO: Federal Trade Commission**  
**FROM: Jacquie M. Bowen, O.D., F.A.A.O.,**  
**President**  
**DATE: April 5, 2004**  
**SUBJECT: Problems with Implementation of Fairness to Contact Lens Consumers Act**

**8-hour window to respond to request for a prescription--**

- If a busy medical office attempts to respond to a prescription request immediately upon receipt, the front desk personnel must leave their duties, retrieve the fax and the patient's record, alert a technician who must, in turn, leave his/her duties to alert the doctor who is then pulled away from his/her patients in the office.
- Thus in order to prevent disruptions in continuity of patient care, requests for prescriptions are typically filled early or late in the day.
- In fairness to patients who have appointments for care, the definition of 8 business hours ideally would accommodate the pattern described above.

**Actual time the fax was sent to the doctor's office --**

- Section 4 (c) (5) of the FCLCA requires that the date and time of the prescription request be verified.
- Currently the retailer supplies the verification date and time to the doctor.
- Unfortunately, some retailers are not including a date/time stamp on their faxes so a medical office has no tangible record of receipt.
- If both the retailer and the doctor are not working from the same date/time stamped document, how can there be a verification of the date and time of the prescription request?

**Time zones--**

- The window for the practitioner to respond to the prescription request should be dependent on his/her practice location, not the location of the retailer.

**Satellite offices--**

- Special consideration should be made to those practitioners who have satellite locations.
- Oftentimes, these locations are rural and not staffed full-time; the doctor may be present one or two days per week.
- Therefore, a prescription request cannot realistically be filled in an 8-hour window.

**Automated recordings requesting release of Rx--**

- The use of an automated recording to request a contact lens prescription should be prohibited.
- There are too many electronic failures to verify transmission.
- The Executive Director of our association reports that recorded requests have been received on the association lines, an organization that is not a clinic and has nothing whatsoever to do with patient care.
- Even those recordings have sometimes shut off automatically before the message was completed, making it impossible to return the call.

**Release of expired Rx--**

- Certain retailers are informing doctors that FCLCA requires the doctor to release an expired prescription.
- Communications stating anything contrary to the law should be prohibited and penalized.

**Copy of Rx even if Rx was filled –**

- When one goes to a pharmacy to fill a prescription, the patient surrenders the hard copy of the prescription to the pharmacy. When the designated refills are exhausted, only the doctor's office can authorize more.
- We feel the same rules should apply to contact lenses, which are prescribed in quantities matching the term of the prescription.

**Custom Contact lenses–**

- Patients who have undergone corneal transplants, who have corneal diseases or injuries, other corneal irregularities, or those who need prosthetic contact lenses fall under this designation. This list is not all-inclusive.
- There are instances of retailers incorrectly filling prescriptions and causing damage to the patient's corneas with a significant loss of best-corrected visual acuity.
- Those custom-designed soft and rigid gas permeable lenses should not be available for the patient to have fabricated at a place of their choosing; even with exact parameters determined by one lab, a precise duplicate from another lab cannot be guaranteed. Proper follow-up and medical management is impossible if lens design has been compromised.