

**DR. MICHAEL TURNER
OPTOMETRIST, P.A.**

KANSAS

April 3, 2004

To: Federal Trade Commission
From: Dr. Michael Turner, O.D.
RE: Proposed Trade Rule on New FCLCA Law
Contact Lens Rule, Project R411002

Dear Sir or Madam:

I am writing in regard to the Burr Bill, specifically concerning passive verification. I practice in a leased space from Wal-Mart, and as such do not sell contact lenses at all. Because of this, all my patients receive a written copy of their contact lens prescription when they leave the office. I also endeavor to promptly answer or return any phone calls or faxes requesting patient prescriptions from sellers.

I believe the passive verification system has several flaws. First, many practitioners have satellite offices which are only manned part time. Should a seller need verification, it could be several days before that office has anyone to pull the patient file to verify. Secondly, many practitioners are solo practitioners, and when they are out of the office for continuing education, vacation, or other reasons, the prescription may not be able to be verified by a staff member without asking the doctor. Also, as demonstrated with the example following, there can be malfunctions with the provider's fax machine. In my case, my fax machine began to "store" faxes in memory approximately February 14, 2004, while I was out of the office for continuing education. It continued to store faxes without my being aware of it until February 28, 2004. At that time I did become aware of it and was able to reset the machine and print out faxes it had stored. This included seven faxes from 1-800-contacts, concerning verification requests for six patients. In only one case did they send a second verification request. In that case, the patient was last examined 23 months ago, and while the Rx was technically still valid, I believe there should be some limit to the number of lenses refilled when the Rx has an expiration date less than one month from the verification request. I can only assume that all of the patients received lenses.

In summary, I believe the passive verification should require either a personal (not automated) phone call from the seller, or at least a notification by mail with all details for any prescription filled without verification by the doctor. I also think that in an instance where the seller does not hear from the provider within the "eight hour" period, the seller should be required to contact the provider by personal phone call or mail to confirm that indeed the provider received the request.

Thank you for the opportunity to comment.