



North Jersey Eye Associates

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NJ

Federal Trade Commission
Office of the Secretary
Room 159-H (Annex A)
600 Pennsylvania Ave NW
Washington DC 20580

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RE: Contact Lens Rule, Project No.R411002

I am writing with great concern about the passive verification of Contact Lens prescriptions and its practical implications. In our office alone, we have received over 200 passive verification requests and over **30%** of the requests have been invalid due to expired or invalid contact lens prescriptions.

We have received a significant number of requests for contact lens verification for patients who have **never been in our office** or **have never been fit for contact lenses**. I have examples of many patients that have not been in our office in more than 5 years. All they have to say is Dr Lesko is their eye doctor and they get lens prescribed by me, if I am unable to monitor my fax machine hourly. Who checks that the faxes we fax back are logged in by the lens company in a timely fashion so those lens prescriptions that are not valid are not filled. Is there some time frame to which they must adhere to in processing incoming faxes?

Passive Verification by fax has many inherent problems

1 There is no way to know if the doctor's office ever receives the fax, so you are relying on not receiving something back when in fact the doctor never received the fax in the first place. We often receive faxes intended for other doctor's offices. Is it my responsibility to address faxes that are errantly sent to my office or risk the liability of verifying contact lens prescriptions for patients I have never treated.??

2 There is no verification that the fax number is even that of the physician (or someone who is properly licensed to prescribe contacts). I have tried myself and given a fictitious doctor's name and my home fax and that was no problem.

3. 1-800-CONTACTS has no mechanism in place to accept a properly written contact lens prescription by fax. If I write a contact lens Rx on a New Jersey State mandated prescription blank, with all the proper parameters, 1-800-CONTACTS will not accept that from the patient. They prefer to passively verify the Rx. They should be required to accept properly written RX's directly from patients (just like a pharmacy, optical shop, or mail in prescription center). I write out a Contact Lens Rx for every patient with an expiration date, yet they are not honored by the dispensers. Try calling 1-800-CONTACTS and tell them you have a written Rx from your doctor and can you send it to them or fax it to them....the answer is NO.

3. By our own experience, many times we have properly faxed backed within the allotted 8 hour time frame that the prescription has expired and is not valid, yet they patient receives the lenses.

Who is monitoring what happens to the faxes we send into 1-800-CONTACTS????

At what time after they are faxed is the time logged, is there a delay?? If we have only 8 hours to verify Rx's what time frame do the dispensers have to match up the faxes with the patient orders?

Since we get no feed back from the companies we have no idea whose requests are being filled. We know who we have verified and denied but not idea what is actually dispensed. If they accepted Rx written by doctors then this would not be an issue. They would only have to passively verify very few and then should be required to inform (by fax) the physician what was dispensed using their license.. This way there is some checks and balances in the system.

We are relying on the seller of the contacts to police themselves, and not to sell to certain clients???? The recourse of filing a complaint with the FTC is not very helpful. For instance, I received a verification request today for a patient who has not been in my office in over 10 years; I immediately faxed back giving the dates of the exam and the expiration date (1995!!!). I have to assume that

these lenses were not dispensed. But if they were, I would never know to file a complaint. So if they would like to passively verify Rx's, the onus should be on the dispenser to notify the prescriber, which passively verified requests were honored/denied by a daily or weekly report.

4. The eight business hour time frame is ludicrous. I operate all day Monday and Tuesday mornings, therefore any faxes that are received in my office from 4pm on Friday through Monday will all be passively verified without my ever seeing them. What is to be done with vacation time, does that mean you have to pay a licensed physician to check you fax machine every eight hours.

I would like everyone on the commission to imagine what could happen if every request sent to your fax machine was considered verified if you did not respond within 8 business hours, including those sent to you that you never received. Then attach to that the medical liability of inadvertently verifying a contact lens RX for someone who should not be wearing lenses (by not be able to respond in 8 hours).... When they lose an eye to a pseudomonas ulcer....

Congress has essentially granted these dispensers the right to practice medicine with our licenses.... Please help us protect the patients and ourselves by at least giving us a reasonable amount of time to respond to these requests. And in addition requiring these dispensers to accept prescriptions written on prescription blanks, and including some notification system whereby we know who is being dispensed lenses in this passive verification system. Without the notification we are essentially letting the fox guard the hen's house.

Thank you

I feel very strongly about this issue and would be happy to give more input or provide real examples of the problems we are facing.

A handwritten signature in black ink, appearing to read "Cecily Lesko MD FACS". The signature is fluid and cursive, with the letters "MD" and "FACS" written in a slightly different style than the name.

Cecily Lesko MD FACS