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DISTRICT 15

Arizona House of Representatives Phoenix, Arizona 85007

October 26, 2015

Federal Trade Commission
600 Pennsylvania Avenue N.W.
Washington, D.C. 20580

Re: Contact Lens Rule, Matter No. R511995

To Whom It May Concern:

This year in Arizona, I sponsored pro-competitive consumer legislation that would have prohibited price fixing in the contact lens market, and thereby extended to Arizona consumers more competitive purchasing options for contact lenses. The hearings, meetings, and testimony that accompanied this legislation was an eye-opening experience, and one that ultimately led to the creation of an interim ad hoc committee (House Ad Hoc Committee on Aspects of the Contact Lens Market) focused on exploring potential opportunities to make the contact lens industry more consumer friendly. We have held a number of hearings on this topic, and as the Chair of this committee it is my intention to continue to meet and identify ways that Arizona can ensure that contact lens wearers enjoy the most competitive market possible. Thank you for the opportunity to submit these comments to the Federal Trade Commission.

As the Chair of the Arizona House Health Committee, I have seen my share of battles over scope of practice. However, none have been as intense as those in the vision industry. Many times, the conversation is focused on what is the best business model for the provider, and not necessarily what's in the best interest of the patient. The legislation I sponsored this year was indicative of this ongoing battle, and one of the goals of the ad hoc committee is to evaluate the various claims made during the legislative session, and explore opportunities to improve the contact lens market in Arizona for consumers.

The contact lens industry appears to be riddled with a variety of anti-consumer issues and this seems to be an ongoing concern despite historical attempts to address the problems. My focus, however, is on the patient, who ultimately becomes a consumer purchasing contact lenses. I question the practice of prescribers selling the products they prescribe for a profit. It is not a far stretch to question the relationships between manufacturers and prescribers. Many of these same concerns were addressed in the Physician Payments Sunshine Act. While this act relates specifically to the Medicare, Medicaid and State Children's Health Insurance Program (SCHIP), why wouldn't the same concerns relate to patients who are cash payers or use private vision insurance?

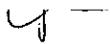
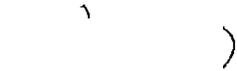
Notwithstanding my general concerns with this industry, my comments will specifically address aspects of the Contact Lens Rule that the Commission should consider in its review. First, in some situations, patients are not automatically being provided a copy of their prescription, as required by the Fairness to Contact Lens Consumers Act. I am considering sponsoring legislation that will address this in the state of Arizona by requiring eye care providers to obtain signatures from their patients acknowledging and confirming the automatic release of their prescription.

Second, as I have researched the FTC's complaint process, it appears to be unbalanced against resellers. The complaint process needs to be easy to navigate and impartial as to which entity a consumer may choose to submit a claim, including the ability to file a claim against their eye care provider, which is not necessarily the way the language reads in the current proposal. I propose that the FTC consider simplifying the complaint process to make it easier for consumers to file complaints against their eye care provider, as well as replacement contact lens resellers.

Third, testimony presented to our committee suggests that there is work to be done to make the contact lens market more consumer-friendly. In keeping with the spirit of the FCLCA, technological advances in the availability and distribution of contact lenses have drastically improved convenience and reduced the cost of contact lenses for customers. The Commission should revisit the investigative tools and enforcement mechanisms necessary to protect consumer choice in this market and allow new, innovative technologies to thrive.

It is important that the Commission takes every step possible and uses every means necessary to encourage and ensure competition in the contact lens market today on behalf of patients and consumers. Thank you for your time and consideration of my comments.

Sincerely,



Representative Heather Carter
Legislative District 15