



AMERICAN OPTOMETRIC ASSOCIATION

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July 19, 2016

David C. Shonka
Acting General Counsel
Federal Trade Commission
Office of the Secretary
600 Pennsylvania Avenue NW.
Suite CC-5610 (Annex J)
Washington, DC 20580

Re: Contact Lens Rule: FTC File No. P054510

Dear Mr. Shonka,

The American Optometric Association (AOA) is pleased to provide information to the Federal Trade Commission (FTC) related to the Paperwork Reduction Act (PRA) requirements for the Contact Lens Rule. The AOA represents 33,000 doctors of optometry and optometry students. The AOA is the voice of the nation's family eye doctors and a leading authority on eye health, vision care, and patient safety issues. On a daily basis, doctors of optometry prescribe contact lenses to patients.

Improper contact lens use can lead to injuries and infections. Our members are essential in mitigating this risk and ensuring that the use of contact lenses results in optimal vision. Since the passage of the Fairness to Contact Lens Consumers Act (FCLCA) in December 2003, the AOA has educated our members on the requirements of the law and has also guided our members and the public to report violations of the law. The AOA has extensive knowledge regarding how the Contact Lens Rule works on a practical level day in and out for doctors of optometry. With this knowledge we provide the comments below.

The FTC estimates that responding to verification requests requires three minutes per request. We believe the impact on prescriber practices to be higher. In 2016, the AOA conducted a survey of approximately 300 optometric practices to gather more information from prescribers regarding the passive verification system. While the FTC estimates that only 3 minutes are necessary to verify a prescription, our survey found the time commitment to be higher. Sixty-nine percent of survey respondents indicated that it takes 5 or more minutes to verify a prescription. Given this data, we recommend that the estimate for responding to verification requests be increased to a minimum of 5 minutes.

While using 5 minutes as the time necessary to verify a prescription and the FTC's estimate that prescribers' offices respond to approximately 3.2 million requests annually,¹ the AOA estimates

¹ [81 FR 31940](#)

that the responses to verification requests require a minimum of **266,377 hours annually**. [(3,196,524 × 5 minutes)/60 minutes = 266,377 hours].

In addition to our concerns with the inaccurate estimate regarding the time needed to verify prescriptions, the AOA also believes that the FTC should consider the time spent by prescribers in deciphering and adapting to shifting tactics of retailers. For example, as the FTC is well aware, in 2015 contact lens prescribers began receiving an influx of faxes with questionable claims of patient agency. Much time was spent by prescribers to distinguish between valid and improper agency requests. This sort of time lost is not currently captured in the FTC estimates.

The AOA is also concerned that the FTC has chosen to only focus on the wages of doctors of optometry in estimating prescribers' labor cost burden. While doctors of optometry provide the majority of contact lens prescriptions and verifications, omitting other physician prescribers altogether does not seem to be in the best interest of developing an estimate that is reflective of the current system. We recommend that the FTC include the labor cost burden for ophthalmologists and attribute a percentage of the verification requests to ophthalmologists when developing the overall labor estimate.

The AOA takes issue with how the FTC has characterized the contact lens prescription writing process. The FTC has indicated, "Commission staff estimates the paperwork burden of the FCLCA and Rule based on its knowledge of the eye care industry. Staff believes there will be some burden on individual prescribers to provide contact lens prescriptions, *although it involves merely writing a few items of information onto a slip of paper and handing it to the patient, or perhaps mailing or faxing it to a third party.*" (emphasis added) The AOA is concerned that this assessment of contact lens prescriptions reveals a lack of knowledge regarding contact lenses generally. While we do not wish to overstate the burden of providing contact lens prescriptions to patients, the AOA feels that this description is dismissive of the physician work that contact lens prescribers exert in order to find the contact lens that best suits every individual patient. To characterize writing prescriptions for regulated medical devices as "merely writing a few items of information onto a slip of paper" does not accurately portray the seriousness of the contact lens assessment, fitting and prescription process. In writing the contact lens prescriptions, doctors will often include the quantity of lenses needed which varies by contact lens type, replacement schedule and disinfection method. The prescriber, who is liable for the information in the prescription, must be sure what's written for the patient is accurate. States generally require the doctor, not scribes, to write prescriptions because of the medical judgement required. The patient's chart also needs to be reviewed prior to writing or verifying a prescription. We respectfully request the FTC not minimize of the professional duty of the doctor writing a prescription.

Thank you for the opportunity to provide these comments. If you have any questions, please contact Kara C. Webb at KCWebb@aoa.org.

Sincerely,



Andrea P. Thau, OD
President, American Optometric Association