The Armed Forces Optometric Society

Serving Federal Service Optometrists since 1970

January 15, 2017

Donald S. Clark
Federal Trade Commission
Office of the Secretary
600 Pennsylvania Avenue NW.
Suite CC–5610 (Annex C)
Washington, DC 20580

RE: Contact Lens Rule, 16 CFR part 315, Project No. R511995

The Armed Forces Optometric Society (AFOS) proudly represents over 1,100 federal service optometrists. Our doctors of optometry are responsible for the eye care of approximately 2.5 million active duty (and in many locations, their family members) and active reserve military service men and women over 20 million military veterans, and a large proportion of our nation's Native American population. AFOS is one of the largest optometric organizations in the nation.

The Armed Forces Optometric Society appreciates this opportunity to offer comment to the Federal Trade Commission on proposed changes to the Contact Lens Rule [Federal Register / Vol. 81, No. 235 / Wednesday, December 7, 2016 / Proposed Rules]

Foremost, our organization believes that to ensure a competitive and safe contact lens marketplace, there must be full compliance with the Fairness to Contact Lens Consumers Act and the Contact Lens Rule by both prescribers and contact lens retailers. Our organization was disappointed to see that the Commission offered no proposals which would better address the retailers that openly violate the FCLCA and the Rule by selling contact lenses without a prescription. The FTC statement that “The Commission does not find the evidence proffered in this Rule review sufficient to support a conclusion that the Rule inadequately protects consumer eye health” is especially concerning given the number of online and brick and mortar retailers that sell these regulated medical devices without a prescription.

Our organization believes that those who violate the Contact Lens Rule should face enforcement action. The Commission indicated that prescribers may be mistaken in assessing their compliance with the Rule and that patients may be confused regarding the timing of prescription release. To address these issues, our organization is committed to continuing the education of both prescribers and patients regarding the requirements of the Rule.
The FTC has indicated that its objectives are to: remind prescribers to release prescriptions, inform patients of their rights, reduce misunderstandings, and improve the Commission’s verification and enforcement ability. We believe that these goals can be achieved through approaches that are reasonable and balanced.

Patients receiving contact lens examinations at federal facilities and subsequent prescriptions, receive their contact lens prescription in writing. Our facilities do not provide contact lenses to our patients beyond the original fitting or contact lenses that are deemed mission essential by their Service. In both instances, the contact lenses are provided at no cost to our patients. All contact lens prescriptions are given to the patient without recommendation of where to ultimately purchase their contact lenses as we cannot appear partial to any specific entity.

We oppose the new FTC proposal to require that all contact lens wearing patients sign an acknowledgement of receipt of a contact lens prescription and that the form be kept on file for three years. This requirement is a heavy-handed step which presupposes that all doctors of optometry are not complying with federal law. It also would disrupt the doctor-patient relationship by communicating to patients, without justification, that they should be wary of their physician and presume that their eye doctor is a violator of federal law. Additionally, while the FTC seems to dismiss the potential burden on physicians for complying with this requirement, the proposal would undoubtedly add new costs for doctors and patients. It would require an additional step in the patient engagement process, which would necessitate ongoing staff training to ensure that doctors are meeting this unprecedented requirement, and require additional storage for administrative paperwork not associated with actual medial documentation.

In the past, the FTC has underestimated and subsequently corrected the estimated burden on physicians for complying with the Contact Lens Rule. I am concerned that the FTC is again underestimating the potential impact of these changes. We urge the FTC not to finalize this approach and instead to focus on increased education efforts by partnering with affiliate and state optometric organizations and the American Optometric Association.

Thank you for the opportunity to comment on this important issue. If you need additional information, please feel free to contact me.

Sincerely,

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