

January 18, 2017

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

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

The Wisconsin Optometric Association (WOA) is a nonprofit affiliation of approximately 630 licensed doctors of optometry who have been serving the citizens of our great state for 117 years. WOA members are dedicated to the preservation and enhancement of the vision and eye health welfare of the people of Wisconsin.

Members of the WOA thank the Federal Trade Commission for the opportunity to provide comments on proposed changes to the Contact Lens Rule [Federal Register / Vol. 81, No. 235 / Wednesday, December 7, 2016 / Proposed Rules].

The WOA believes that to ensure a safe and competitive 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 extremely disappointed to see that the Commission did not offer 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. Wisconsin doctors of optometry are extremely concerned that retailers' lack of compliance with this critical provision of the FCLCA has and will continue to place consumers' vision and eye health at risk.

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, the WOA and our national association, the American Optometric Association (AOA), are committed to continuing education of both prescribers and patients in our state in regards to 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. 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. In the past, FTC has underestimated and subsequently corrected the estimated burden on physicians for complying with the Contact Lens Rule. We are 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 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 contact Mr. Peter Theo, WOA Executive Vice President, at [petertheo@theoconsulting.net](mailto:petertheo@theoconsulting.net) or (608) 824-2200.

Sincerely,

Dave Nelson, O.D.  
2017 WOA President