



# Texas Optometric Association

*"Doctors of Optometry working together to advance excellence in eyecare for every Texan."*

3011 N. Lamar Blvd., Ste. 300, Austin, TX 78705

Ph: (512)707-2020

Fax: (512)326-8504

toa@txeyedoctors.com

http://texas.aoa.org

January 24, 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 Texas Optometric Association represents almost 4000 doctors of optometry. The Association has been active since 1900. We are dedicated to serving and public and our doctors to insure quality, affordable and safe eye care. The TOA 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 doctors have been sending complaints for several years about companies violating the FCLCA, such as sending verifying information after hours and weekend nights, as well as filling prescriptions for more lenses than prescribed, inaccurate lens parameters, no prescriptions and expired prescriptions

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 education of both prescribers and patients in our state 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

Doctors on the Frontline of Eye and Vision Care



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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 Bj Avery, TOA Executive Director, 3011 N. Lamar, Ste 300; Austin, TX 78705.

Thank you for your time and consideration.

Sincerely,

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David Frazee, OD  
President, Texas Optometric Association