

Dear FTC Commissioners:

I am a doctor of optometry providing essential frontline eye health and vision care in New Mexico. I am in the process of opening a two-location optometry practice later this spring with me as its sole provider. The revenue that my practice will generate will be based solely upon examination fees, i.e., no sales of eyeglasses, contact lenses, or other ophthalmic goods.

I am concerned that the current FTC Contact Lens Rule proposal is misguided in its goal to protect consumers (or, from my perspective, patients). Per research from my professional organization, it is estimated that the proposed new additional paperwork and document storage requirements will cost a small optometric practice approximately \$18,000 per year to implement. That is a substantial percentage of the revenue (and my take home pay) that I anticipate from the new practice. Should the proposed rule pass, it may negatively affect my ability to provide cost-effective care in the two New Mexico communities where I plan to open my practices.

In the interest of protecting consumers, I would urge the Commission to abandon the proposed additional documentation requirements for optometrists/ophthalmologists and instead refocus your emphasis on retailers (especially online, but also brick-and-mortar) who blatantly ignore current laws regarding contact lens sales. Contact lenses are prescribed medical devices for a reason—they have the potential to cause permanent injury to the eye (up to and including blindness) because they physically touch the eye. Examples of blatant flouting of laws regarding the sale of prescription contact lenses that I have seen personally during my career include the following:

- 1) Several of my patients ordered refills of a brand of contact lenses that they had worn for several years without complications from one large online contact lens retailer. The online retailer substituted a different brand of lenses which were made of a different plastic and had a different shape/size. The patients developed complications with the new lenses because the new lenses were not biocompatible with them. The substitution was apparent during my examination of these patients because the markings on the lenses the patients were wearing were not consistent with their prescribed brand of contact lenses. Essentially, what the retailer did was the equivalent in the pharmaceutical realm of substituting anti-depressant Celexa for the anti-inflammatory Celebrex, two pharmaceutical agents with similar sounding names but much different modes of action.
- 2) While I worked for a government medical facility I saw a glasses-wearing inpatient who had been hospitalized for a potentially life-threatening condition with ophthalmic manifestations. The patient worked for a private pharmaceutical chain which also has an online contact lens retail presence. After discharge from the hospital, the patient filled out an online renewal for

contact lenses and claimed that I was the eye doctor who had prescribed them. The company in question made no attempt to contact me (in the Eye Clinic) for verification, instead faxing the verification request to the Pharmacy in a different building on a different street. The local brick-and-mortar pharmacy for that chain had my contact information because I had previously called pharmaceutical scripts in to their location for other patients. The personnel in hospital Pharmacy department did not know the legal time requirements for contact lens prescription verification, so I found out about the matter long after the allotted time for response. The patient presumably got her contact lenses for which she had no valid prescription. I hope she did not sustain injury from said contact lenses, since she repeatedly no-showed for appointments I scheduled for her afterward.

- 3) There have been at least three brick-and-mortar stores (e.g., a clothing store, a hardware store, and a tobacco/e-vape products vendor) in the region where I live that either blatantly sold prescription color contacts to patients of mine without prescriptions or who blatantly had signs in front of their businesses advertising such lenses for sale around Halloween. The two stores that sold lenses to my patients were reported to the state Board of Pharmacy. However, how many consumers obtained contact lenses from these sources before the Board found out about them?
- 4) Travelling vendors sell prescription color contact lenses at transient events such as flea markets or "Comic-cons." The vendors are long since gone when the consumers who bought the lenses without prescription develop complications (e.g., the tween who bought lenses at a flea market as part of a reservation's Fourth of July celebrations who then developed corneal ulcers 2-3 days later that brought him to the government clinic where I worked). The "FDA-approved" advertising of the vendor I observed at the Cincinnati comic convention probably led some consumers into a false sense of security that the products for sale would be safe/biocompatible for them to wear as part of their cosplay costumes.

I appreciate the work that your commission, along with the Food and Drug Administration (FDA) and the Centers for Disease Control (CDC), do to protect Americans. As an optometrist, I share the goal of safe contact lens wear for patients. Thank you for taking the time to read my thoughts.

Sincerely,

Carol A. Bottjer, O.D., M.S.
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