



AVALON HEALTH ECONOMICS

Economic Evaluation of FTC Ruling on Contact Lens Prescriptions

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1. INTRODUCTION

The American Optometric Association (“AOA”) engaged Avalon Health Economics to conduct a study examining the burden of implementing the Federal Trade Commission proposal to require contact lens prescribers to obtain a signed patient acknowledgment after providing a contact lens wearing patient a copy of their prescription (see Contact Lens Rule, 16 CFR part 315 Federal Register / Vol. 81, No. 235 / Wednesday, December 7, 2016 / Proposed Rules¹); hereafter referred to as “Rule”. This FTC proposal was the result of the Commission’s standard 10-year regulatory review process.

2. BACKGROUND

- 2.1. *FTC Rules.*² In December of 2003, the FTC promulgated a rule pursuant to the Fairness to Contact Lens Consumers Act (FCLCA), which enabled consumers to purchase contact lenses from any seller of their choice. The rule requires that doctors verify and release contact lens prescriptions to patients, and contains a series of recordkeeping requirements that apply not only to physicians, but to contact lens sellers as well. Moreover, the law currently mandates that sellers may only sell lenses if the seller has either received the prescription from the patient or prescriber or has verified the prescription through direct communication with the prescriber
- 2.2. During the FTC scheduled 10-year review of the Contact Lens Rule, the Commission put forth a new proposal that would require prescribers to obtain a signed acknowledgement receipt from patients after they receive their contact lens fitting. If the proposal is finalized, the “Patient Receipt of Contact Lens Prescription” would have to be kept on file for a minimum of three years either in electronic or paper form. The form generally would be required to state: “My eye care professional provided me with a copy of my contact lens prescription at the completion of my contact lens fitting. I understand that I am free to purchase contact lenses from the seller of my choice,” followed by a signature line. The FTC claims that this mandate will assist with educating patients about their purchasing rights, and will assure that more patients receive their prescriptions. In addition, the FTC claims that this modification will reduce the need for doctors to verify the prescription later.
- 2.3. *Regulatory Burden.* Misguided regulations can impede productivity and force the reallocation of staffed resources, deterring employees from performing core business activities. The combined cost of regulatory changes can have a significant cost impact on businesses in the long run.³ The new FTC regulation would change the current prescription contact lens administrative guidelines and would prove to be burdensome on the optometry industry as a whole.
- 2.4. *Administrative Burden in Healthcare Industry.* There is a relatively large body of literature describing the operating and administrative costs that certain types of regulations impose on

¹https://www.ftc.gov/system/files/documents/federal_register_notices/2016/12/contact_lens_rule_published_frn12716.pdf

² Vietti-Cook, A, "Contact Lens Rule Vol 81 No 175," ed. Federal Trade Commission (2016).

³ PricewaterhouseCoopers, "Patients or Paperwork? The Regulatory Burden Facing America's Hospitals," (American Hospital Association, 2010).

industries, and how many regulations can be a drag on industry productivity.⁴ The U.S. healthcare industry is no exception. In their article on cost control strategies in U.S. healthcare, Berwick and Hackbarth (2012) argue that the reduction of waste—including high administrative costs—can save the U.S. healthcare system a substantial amount of resources.⁵ The authors state that “overtreatment, failures of care coordination, failures in execution of care processes, administrative complexity, pricing failures, and fraud and abuse—the sum of the lowest available estimates exceeds 20% of total health care expenditures.” Similarly, others have argued that administrative costs in the U.S. are unreasonably high and unsustainable.⁶

- 2.5. *Survey Methodology.* Avalon Health Economics conducted the “Contact Lens Prescription Requirements Survey” through a collaboration with members of the AOA. Preliminary survey questions were created by Avalon Health Economics, and feedback for edits was provided by the Board at the American Optometric Association and their staff. Data collection was uni-modal, with data collected via an online survey. Data collection began on December 9, 2016 and ended on January 3, 2017. The AOA sent out e-mails directly to their members requesting their participation in the survey. The survey consisted of 16 questions that asked for information pertinent to administrative time regarding staffing, patient interactions, patient engagement practices, staff training in regards to existing and proposed Federal Trade Commission Regulations, and contact lens verifications. The elements of the survey can be found in the Appendix.

3. SURVEY FINDINGS

- 3.1. A total of 130 responses were recorded during the survey period. Practices responding to the survey have an average of 12.68 staff members, with the average practice composition consisting of 9.05 administrators and 3.63 optometrists. According to survey results, an average optometric practice sees 9,415 patients annually, however recent AOA data depicts that a practice may see as many as 11,739 patients a year. The total average number of contact lens patients a year at an optometric practice as reported by AOA is 2,246 per practice.
- 3.2. On average, a practice spends 12.49 minutes per staff member to introduce a new patient engagement process into the office workflow. In addition, 108 respondents stated that they spend an average of 10.78 minutes per staff member to conduct periodic assessments of new policies and protocols when a new engagement process is introduced into their office.
- 3.3. Regarding the FTC requirement (i.e., “My eye care professional provided me with a copy of my contact lens prescription at the completion of my contact lens fitting. I understand that I am free

⁴ See generally G. Stigler, ed. *Chicago Studies in Political Economy* (Chicago: The University of Chicago Press, 1988).

⁵ D. M. Berwick and A. D. Hackbarth, "Eliminating Waste in Us Health Care," *Jama* 307, no. 14 (2012).

⁶ See generally A. Jiwani et al., "Billing and Insurance-Related Administrative Costs in United States' Health Care: Synthesis of Micro-Costing Evidence," *BMC Health Serv Res* 14 (2014); I. Mathauer and E. Nicolle, "A Global Overview of Health Insurance Administrative Costs: What Are the Reasons for Variations Found?," *Health Policy* 102, no. 2-3 (2011); R. SoRelle, "Inspector General Wants to Curb Administrative Costs for Managed Care Organizations," *Circulation* 101, no. 7 (2000).

to purchase contact lens from the seller of my choice”), practices believe that it may take an average of 3.12 minutes to explain the purpose of the acknowledgement to a patient; 109 respondents (84 percent) anticipate patients would have questions before they sign this type of acknowledgement, and it would take an average of an additional 3.41 minutes to answer patient questions about the acknowledgement. Respondents believed that 13.31 extra minutes of staff training would be required to correctly address patient concerns about this acknowledgement. Moreover, 57 respondents (44 percent) stated that they would anticipate the need for this additional staff training, while 40 respondents (31 percent) were unsure about staff training and required additional information about the acknowledgement to make a decision.

4. COST ANALYSIS AND DISCUSSION

- 4.1. Using the survey data and salary statistics from the United States Bureau of Labor Statistics (“BLS”), Avalon Health Economics was able to conduct an economic analysis on the financial impact of the new FTC regulations on optometric practices across the United States. Using data reported in hours or minutes by survey respondents, we were able to calculate the total number of annual hours contributed to specific tasks as estimated by respondent averages. Using this information, we were then able to calculate the total annual cost for each presumed event that will occur if the new mandate is passed. These total calculations were computed by optometrist, staff member, optometric practice, and all optometric practices in the US. **Table 1** provides a more detailed visual of the calculations derived from the survey responses.
- 4.2. Based on this methodology, the total cost per optometric practice in the United States for staff engagement training, periodic assessments of new policies, explanation of new FTC rules, answering questions concerning new FTC rules, and administrative time associated with adhering to rules could be as high as \$68,367 (n=3.63) for optometrists and \$49,913 (n=9.05) for staff members per practice. While the practices surveyed had an average of 3.63 optometrists and 9.05 staff members, there are many smaller practices across the country. The cost burden for a practice with one optometrist and one staff member could be as high as \$24,310.
- 4.3. This analysis also provides evidence regarding the time prescribers spend addressing issues that may arise as a result of the Rule. According to survey data, a support staff member or optometrist would spend an average of 38.27 hours annually explaining the new FTC rule at every visit, and an average of 41.74 hours annually answering patient questions that may arise as a result of the implementation of the new rule. Presupposing that a practice treats 2,246 contact lens patients annually, the estimated annual cost per administrative staff member is \$382, and \$1,301 per optometrist to explain the new Rule; and an additional \$416 per administrative staff member, and \$1,419 per optometrist for answering questions about the Rule. The FTC estimates that the annual industry cost burden for the new Rule will be approximately \$73,082,912. However, our economic analysis conducted with data from practitioners and staff members estimates that the annual cost associated with various aspects of the implementation of the new Rule will total to at least \$743,905,990 if we assume that only optometrists are providing an explanation of the rule, and \$543,106,326, if we assume only staff members are providing an explanation of the rule, per year across all U.S. optometric practices.

Table 1: Annual Costs of Burden by Optometrist and Staff Member at Practices and Nationally					
Annual Cost per Optometrist	Annual Cost for All Optometrists at Site (n= 3.63)	Annual Cost for All USA Optometrists (n= 39,580)	Annual Cost per Staff Member	Annual Cost for All Staff at Site (n= 9.05)	Annual Cost for All USA Staff (n= 98,474)
<i>All staff time per new patient engagement training. Annual assumption of four trainings (a)</i>					
\$46	\$169	\$1,834,921	\$14	\$123	\$1,339,628
<i>Periodic assessment of new patient engagement policies. Assumption of quarterly review</i>					
\$40	\$146	\$1,583,439	\$12	\$106	\$1,156,028
<i>Explanation of new FTC ruling at every patient visit (b)</i>					
\$1,301	\$4,732	\$51,498,503	\$382	\$3,455	\$37,597,711
<i>Answering questions in regards to new FTC ruling for each patient (b)</i>					
\$1,419	\$5,163	\$56,174,390	\$416	\$3,769	\$41,011,455
<i>Administrative time associated with adhering to rules</i>					
\$15,988	\$58,157	\$632,814,737	\$4,692	\$42,459	\$462,001,505
<i>Sum of all direct and indirect administrative costs associated with FTC Rule</i>					
\$18,795	\$68,367	\$743,905,989	\$5,515	\$49,913	\$543,06,326
<i>Sum of direct costs related to FTC Rule</i>					
\$2,720	\$9,895	\$107,672,892	\$798	\$7,224	\$78,609,166
Note: (a) approximately one per quarter; (b) Value calculated using annual contact lens patient visit averages; Dollar values are rounded to the nearest whole number					

APPENDIX

Contact Lens Prescription Requirements Survey

1) Zip code of practice:

2) How many full time equivalent staff members do you have in your office?

Administrative staff: _____

Licensed Optometrists: _____

3) At this practice, what is the total number of *patients* that are treated per year, by all doctors at the location?

4) What is the total number of *patient visits* per year, at the location?

5) When you introduce a new patient engagement process into your office workflow (eg. the requirement for patients to sign additional paperwork) how much staff training does this require?

Less than 5 minutes per staff member

5-10 minutes per staff member

10-15 minutes per staff member

15-20 minutes per staff member

20 or more minutes per staff member

6) When a new patient engagement process is introduced into your office, do you conduct periodic assessments to determine if protocols are being appropriately followed?

Yes

No

7) How much time do periodic assessments of new policies and protocols generally take?

0-5 minutes

5-10 minutes

10-15 minutes

15 or more minutes

Other: _____ *

8) The Federal Trade Commission has proposed to require that patients sign an acknowledgement after receiving a copy of their contact lens prescription. How much time do you anticipate it would take to explain to a patient the purpose of an acknowledgement that reads, "My eye care professional provided me with a copy of my contact lens prescription at the completion of my contact lens fitting. I understand that I am free to purchase contact lenses from the seller of my choice".

Less than 1 minute

2 minutes

3 minutes

4 minutes

More than 5 minutes

9) Do you anticipate that patients would have questions before signing this type of acknowledgement?

- Yes
- No
- Uncertain

10) If patients have questions regarding this acknowledgement, how much time do you anticipate would be necessary to answer these questions?

- Less than 1 minute
- 2 minutes
- 3 minutes
- 4 minutes
- More than 5 minutes

11) If the requirement to use this type of acknowledgement is finalized, do you anticipate that your staff members would be trained to answer all possible questions from patients regarding this acknowledgment?

- Yes
- No
- Uncertain

12) When you implement new policies that lead to increased patient questions, how much time do you spend in additional staff training to address patient concerns?

- 0-5 minutes
- 5-10 minutes
- 10-15 minutes
- 15 or more minutes
- Other: _____ *

13) How many contact lens prescription verifications do you receive per week?

- 1-5
- 6-10
- 11-15
- 16-20
- 20 or more

14) Of the contact lens prescription verifications you receive per week, on average, how many are difficult to confirm?

- 0
- 1-5
- 6-10
- 11-15
- 16-20
- 20 or more

15) Of the contact lens prescription verifications you receive per week, on average, how many require you to correct the information sent in the verifications? (Reasons for correction may include: the patient is not your patient, the prescription is expired, the prescription is incorrect, etc.)

- 0
- 1-5
- 6-10
- 11-15
- 16-20
- 20 or more

16) What is the total administrative time associated with adhering to the rules, regulations and policies regarding the operations of your practice? (per week)

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