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December 21, 2017

The Honorable Maureen K. Ohlhausen
Acting Chairman
Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, D.C., 20580

Dear Acting Chairman Ohlhausen,

I write to share input from one of my constituents on proposed changes to the Commission's Contact Lens Rule.

Please see the attached letter from Dr. Stephen Montaquila. I hope you consider Dr. Montaquila's insight as you proceed with the rulemaking process and issue a final decision.

Sincerely,


James R. Langevin
Member of Congress



David W. Ferris, O.D., D.O.S.
Stephen M. Montaquila, O.D., F.A.A.O.
Georgia Patsiopoulos, O.D., F.A.A.O.

Congressman James Langevin
2077 Rayburn House Office Building
Washington, DC 20515

November 21, 2017

Dear Jim,

I am writing regarding concerns that I have pertaining to the Federal Trade Commission's proposed amendments to the Contact Lens Rule. As you may be aware, in 2016, the FTC issued proposed amendments to the Fairness to Contact Lens Consumers Act (FCLCA, 2004). The FCLCA ensures that consumers are free to purchase contact lenses from a resource of their choice and requires that the prescriber give a copy of the contact lens prescription to the patient. In our office, we adhere to this law and I feel that the overwhelming majority of my colleagues do the same. In fact, it is always the patient's rights to receive a copy of their prescription as well as their medical records.

The FTC proposed rule from 2016 goes a step further, in fact, I feel a step too far. In it, they further require that not only must we provide patients with a copy of their contact lens prescription, we also must maintain an acknowledgement signed by the patient in their file for at least 3 years presumably as some sort of proof that the doctor is complying with the FCLCA. The major concern is not with the added process in the office, rather it is in 2 distinct areas. First and foremost, the interference with the doctor patient relationship. With this proposed rule, doctors would have to somehow, in addition to explaining the results, health aspects, etc. of the examination, provide a copy of the prescription and then also explain that it is necessary for the patient to sign a statement acknowledging receipt of their contact lens prescription, a new mandate of the federal government. As you can imagine, adding these steps will only make it more difficult to provide health care services. Second, there is an added cost for carrying out this rule. The FTC itself estimated that cost to be roughly 10.5 million dollars systemwide in the first year alone. According to a study done by Avalon Health Economics, my office can estimate that it will cost just over \$56,000 to implement this rule, a cost that will unfortunately and reluctantly have to be passed onto our patients.

This is a huge price to pay given the relative paucity of complaints on this issue. My understanding is that there were a mere 309 consumer complaints over a 5 year study period and during that time over 200 million contact lens prescriptions were written. It would appear that this rule is being put forth to resolve the 0.000001545% of complaints, and at a significant cost to me and thus to the consumer as small businesses like mine simply cannot absorb the costs associated with implementation of this unnecessary and burdensome rule.





David W. Ferris, O.D., D.O.S.
Stephen M. Montaquila, O.D., F.A.A.O.
Georgia Patsiopoulos, O.D., F.A.A.O.

I am working diligently to drive down the cost of delivering health care. I chair a group of eye doctors who have partnered with Rhode Island Primary Care Physicians Corporation to form an eye care network within their IPA with the goal of allow for us to work collaboratively on effective and efficient patient care. Further, we are discussing possibilities with the Lifespan physician IPA.

This rule with its anticipated costs runs contrary to all that we are working towards. It will necessitate that we increase our fees as it unnecessarily increases our costs of doing business, thus many patients will suffer in an attempt to resolve the issues that 309 out of 200,000,000 seem to have encountered.

It is my hope that you will consider reaching out to the FTC on this important and costly issue. The costs to small businesses and to consumers are overwhelming given the magnitude of the concerns raised. At a time when forward thinking health care providers are working on bending the cost curve of providing health care services in the right direction, rules like this serve only to drive up the cost burden to small businesses and consumers as well as to the health care delivery system.

The FCLCA is clear and given the number of complaints raised, it appears to me to be effective. I am hopeful that the FTC will reconsider this costly proposal and instead focus on enforcement of the FCLCA as it is written, to protect consumers.

Sincerely,

Stephen M. Montaquila, OD, FAAO

Cc: Todd Adams
Elyssa Malin

