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## United States Senate

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April 5, 2018

The Honorable Maureen K. Ohlhausen  
Acting Chairwoman  
Federal Trade Commission  
600 Pennsylvania Avenue, NW  
Washington, DC 20580

Dear Acting Chairwoman Ohlhausen:

I write to you today about the Fairness to Contact Lens Consumers Act (FCLCA) of 2004 and the Federal Trade Commission's (FTC) proposed rule that would require eye doctors to obtain from their patients written acknowledgement that the patient received a copy of the contact lens prescription as required under the FCLCA.

As you know, the FCLCA requires that contact lens prescribers provide consumers with a copy of their contact lens prescription. In 2016, then-Chairwoman Ramirez put forward a proposed rule that would mandate that optometrists and ophthalmologists obtain from each contact lens wearing patient a signed document indicating the patient received his or her prescription. Providers would then be required to maintain those documents for three years. While I applaud the FTC's willingness to ensure patients are well informed of their rights, I believe there is a better way to protect consumers and while continuing to promote competition in the contact lens market.

I am concerned the FTC's proposed rule would unduly burden ophthalmology and optometry practices. I am not aware of any other regulation or law that requires medical prescribers in any field or discipline to certify, in writing, the receipt of a prescription. Singling out optometrists and ophthalmologists strikes me as an overreaction to any purported problem in the contact lens market. Notwithstanding this concern, I agree with the FTC that patients should both know about their rights under the FCLCA and understand that they can fill their contact lens prescription either in their eye doctor's office or elsewhere. For this reason, I urge the FTC to reconsider its proposal and consider an alternate approach that promotes the FTC's goals of competition and consumer protection.

One alternative the FTC might consider could require providers to post a conspicuous sign notifying patients of their rights under the law. After all, doctors frequently notify patients of their rights through the prominent posting of signs in their offices. By doing this, the FTC would promote a less adversarial, more common-sense way to help ensure that contact lens consumers can make the best decision for their families.

Thank you for your consideration.

Sincerely,

A handwritten signature in blue ink that reads "Robert Menendez." The signature is fluid and cursive, with a prominent initial "R" and a long, sweeping underline.

ROBERT MENENDEZ  
United States Senator