

Congress of the United States
Washington, DC 20515

July 24, 2017

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

Dear Acting Chairwoman Ohlhausen,

The Fairness to Contact Lens Consumers Act (FCLCA) became law in 2004. Under the FCLCA, the Federal Trade Commission plays an important role in overseeing and enforcing the law's key provisions. The FCLCA requires that contact lens prescribers provide consumers with a copy of their contact lens prescription. Since 2004, eye doctors have dutifully complied with this requirement. As part of the FTC's ten-year review of regulations implementing the FCLCA, the Commission issued a proposed change to the Contact Lens Rule which appears to be based on limited evidence and would place an unnecessary requirement on patients and costly regulatory burden on the nation's eye doctors, many of which are small business owners.

In late 2016, then-FTC Chairwoman Ramirez led the agency in putting forward a proposed rule seeking to mandate that every one of about 50,000 active practicing eye doctors who prescribe contact lenses in the United States – optometrists and ophthalmologists – obtain from each contact lens wearing patient a signed document indicating that the patient received a copy of their contact lens prescription. Doctors would then be required to maintain each document for at least three years, a substantial record keeping burden that over time will encompass most, if not all, 40 million Americans who wear contact lenses.

In issuing the proposed changes, the FTC justified the proposal by pointing to anecdotal reports and non-definitive surveys submitted by commenters to its earlier request for information. The FTC also claimed an "ongoing pattern of consumer complaints" despite data obtained through a 2017 FOIA request showing that the FTC received a total of 309 complaints (of which roughly half were unrelated to any violation of the law) regarding prescription release between 2011 and 2016. While the FTC should investigate and act on legitimate violations of the law and the rule, this relatively small percentage of complaints in relation to nearly 40 million contact lens prescriptions each year does not justify costly new industry-wide rules.

While the FTC estimates that the new mandate would cost the industry roughly \$10.5 million, a study conducted by Avalon Health Economics has found that, if finalized, the costs to an eye doctor practice with one doctor and one support staff member could be as high as \$18,795 in the initial year of implementation. For practices that have a higher than average volume of contact lens patients and have more than one eye doctor, the total cost could be as high as \$74,667. In many parts of the country, this additional regulatory cost is equivalent to full time annual salary of one or more support staff member in a doctor's office. If finalized, this new requirement would force many small business owners to rethink hiring new staff and possibly to even consider eliminating support staff jobs.

The FTC's proposed change to the Contact Lens Rule represents an unnecessary requirement for patients and costly regulatory burden on the nation's eye doctors. We urge the FTC to reconsider this proposal as it could prove detrimental to patients, their eye doctors, and small businesses across America. As an alternate approach, we encourage the FTC to consider supporting the posting of signage notifying patients of their rights under the law.

Sincerely,



Leonard Lance
Member of Congress



Brett Guthrie
Member of Congress



Ralph Abraham, M.D.
Member of Congress



Mike Thompson
Member of Congress



Pete Sessions
Member of Congress



Collin C. Peterson
Member of Congress



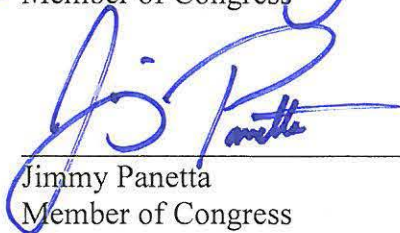
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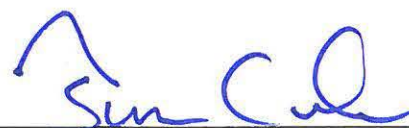
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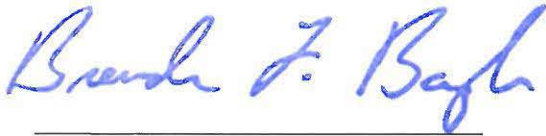
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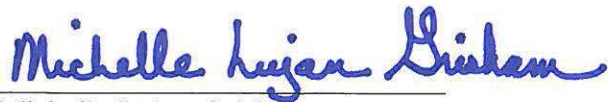
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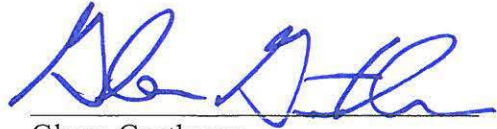
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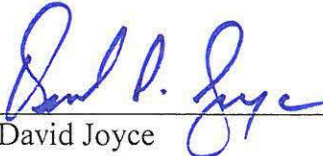
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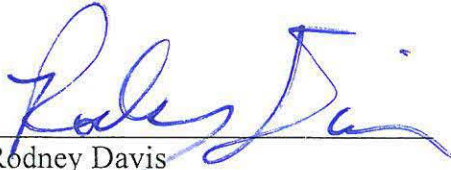
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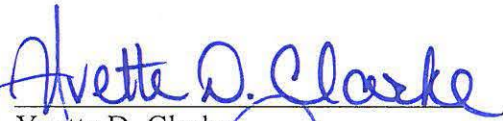
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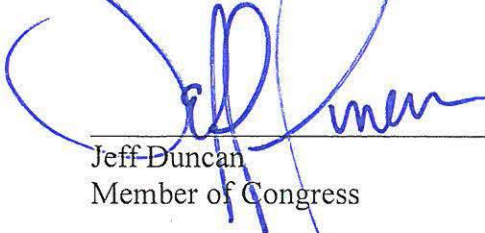
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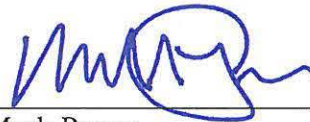
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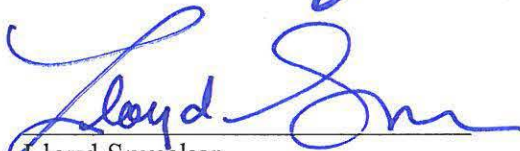
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