

Tell the FTC to Rework its Unnecessary and Costly Plan to Require Signed Forms for All Contact Lens Patients

Senators Are Urged to Join the Lankford Sign-On to the FTC

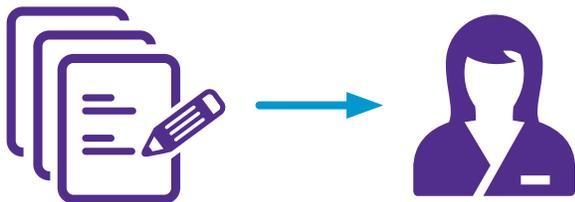
Promoting
competition
in the sale of
contact lenses



Protecting the
health of eye
care patients

In 2004, the Fairness to Contact Lens Consumers Act (FCLCA) was signed into law. **The FCLCA, while not perfect, attempted a careful balancing of interests in which Congress sought to promote competition in the sale of contact lenses and to protect the health of eye care patients**—while not imposing excessive burdens on eye care providers that would unduly raise costs and hurt competition.

Since the FCLCA's enactment, the nation's eye doctors have dutifully complied with their requirements under the law—to give patients a copy of their prescription after the completion of the contact lens fitting. In fact, a 2017 Freedom of Information Act request showed that over the 2011–2016 period, the FTC received complaints from a total of 309 consumers out of roughly 200 million contact lens prescriptions issued—and half of those complaints were unrelated to any violation of the law.



Despite overwhelming compliance, **the FTC issued a proposed change to the Contact Lens Rule in late 2016 which would mandate that every one of the more than 50,000 eye doctors in the U.S. obtain from each of the 45 million American contact lens-wearing patients a signed document (for each new prescription) indicating that the patient received a copy of their contact lens prescription.** Doctors would then be required to keep these forms on-file for three years and would need to produce them for each contact lens patient in the event of a federal investigation.

Summary

Congress charged the FTC with enforcing the Fairness to Contact Lens Consumers Act (FCLCA), including prescription release requirements. Despite eye doctors dutifully complying with the law, **the FTC has issued a proposed change to the Contact Lens Rule which would mandate that every one of the more than 50,000 eye doctors in the U.S. obtain a signed document from each of the 45 million contact lens-wearing Americans** indicating that they received a copy of their contact lens prescription. Doctors would also be required to keep these forms on-file for three years to aid in federal investigations.

The FTC proposal is being advanced despite FTC's own data showing that over a recent five-year period the Commission received a total of 309 consumer complaints out of roughly 200 million contact lens prescriptions issued—with half of those complaints being unrelated to the Rule. The FTC estimated that the new mandate will cost the industry \$10.5 million annually and an independent economic analysis of the 2016 FTC proposal indicated that the new requirement could cost as much as \$18,000 per doctor, per year. Eye doctors have offered a proposed alternative backed by the National Consumers League which would instead require the posting of signage.

An independent health economics firm—Avalon Health Economics—conducted a study examining the burden of implementing the FTC’s proposal. **After surveying a variety of eye doctor practices, Avalon computed:**

- Average anticipated cost for staff engagement training
- Periodic assessments of the new policy
- Explanation of new FTC rules
- Answering questions concerning new FTC rules
- Administrative time associated with adhering to rules
- Time and cost of complying with federal investigations



Avalon estimates that the new proposal would cost **\$18,000** per doctor per year on average.

The AOA supports ongoing efforts in Congress to urge the FTC to rework its unnecessary and costly proposal.

More than 100 U.S. House and Senate members—through two multi-member bipartisan House letters, nearly a dozen individual Senate letters, appropriations language, and direct hearing questioning—have already registered their concern with the FTC; however, more are now needed as the Commission appears committed to finalizing the proposal soon. Senators are asked to sign-on to the Lankford letter urging the FTC to reconsider its proposed contact lens paperwork mandate.



The AOA has offered an alternative to the FTC proposal (based on existing California law)—requiring that eye doctors post signage notifying patients of their rights under the law and providing information regarding where and how to file a complaint. Supporting the alternative, the National Consumers League wrote **“NCL encourages the FTC to support measures that are most likely to get the desired outcome—making patients aware of their rights to their contact lens prescription—and the best way to do that is to post a sign in clear and conspicuous language informing them of this right when they get their exam—rather than by requiring patients to sign an additional form.”**

Tell the FTC to rework its unnecessary and costly plan to require signed forms for all contact lens patients:

Senators are asked to join the Lankford sign-on to the FTC urging the Commission to reconsider its proposed contact lens paperwork mandate. To sign-on to the Lankford letter, please contact Kevin Kincheloe in Sen. Lankford’s office at 4-5754.

The members of the American Optometric Association—America’s Family Eye Doctors—are the nation’s frontline providers of eye and vision care. Doctors of Optometry serve patients, including America’s seniors, school-age children, veterans and military service personnel, in about 10,000 communities across the country.

For more information, please contact AOA Washington Office staffers:

Matt Willette
mwillette@aoa.org
703-837-1001

Chase Cannon
ccannon@aoa.org
703-837-1013

Sally Guthrie
sguthrie@aoa.org
703-837-1372

**1505 Prince Street, Suite #300
Alexandria, VA 22314
P: 800-365-2219**

 **AMERICAN OPTOMETRIC ASSOCIATION**

The Honorable Joseph J. Simons
Chairman
Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, D.C. 20530

Dear Chairman Simons,

We are writing to express continued concern with the Federal Trade Commission's December 2016 proposed revisions to the Contact Lens Rule. If finalized, the changes would require eye doctors nationwide to obtain and keep on file a signed acknowledgement from patients following the provision of every new contact lens prescription.

While we share the FTC's goal of promoting competition in the contact lens market and ensuring greater patient choice and prescription portability, the Commission's proposal is both unnecessary and overly burdensome. According to the FTC's own data, few complaints regarding prescription release have been received and the Commission estimates that this new mandate would add millions in new regulatory compliance costs. It is further troubling that the FTC's stated purpose for implementing this new requirement is to allow for increased federal investigations into eye doctor practices, many of whom are longtime small business owners and local employers.

With industry data showing that the current Contact Lens Rule is working and that consumers are aware of their rights and are taking advantage of the ability to purchase lenses from a variety of retailers, we urge the Commission to withdraw its signed acknowledgment proposal and instead consider the less onerous alternative of requiring doctors to post signage informing patients of their rights, which will address the FTC's objectives without imposing costly new regulations.

Sincerely,