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AMERICAN
OPTOMETRIC
ASSOCIATION

July 1, 2020

The Honorable Joseph J. Simons
Chairman
Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, DC 20580

Dear Chairman Simons,

The undersigned organizations write to express our serious concern regarding the substance and timing of the Federal Trade Commission's (FTC, the Commission) recent action on the Contact Lens Rule. The Final Rule places a new regulatory burden with serious financial implications on health care practices across the country amid a nationwide public health emergency and a global pandemic.

Mandatory stay-at-home orders and specific guidance from the Centers for Disease Control and Prevention (CDC) recommending patients postpone eye care and elective surgical procedures has had a serious impact on the practices of optometrists and ophthalmologists. Many of these practices have just recently begun to reopen and are grappling with significant financial losses and staffing concerns while also implementing and refining new patient care procedures to limit the potential spread of the coronavirus. The timing for a new regulatory requirement for these practices could not have occurred at a more challenging time.

The most significant regulatory change in the Rule introduces a new requirement requiring patient signatures. This regulatory action itself suggests a disregard for what health care providers and patients are currently experiencing in health care. Many patients are currently taking efforts to avoid signing documents, even credit card receipts, within health care practices. Doctors are implementing policies to avoid the potential spread of the virus by disinfecting pens between each use. The process for obtaining a patient signature is no simple process.

Of additional concern, the Rule change also seems to be in direct opposition to the May 2020 Executive Order noting:

The heads of all agencies shall identify regulatory standards that may inhibit economic recovery and shall consider taking appropriate action, consistent with applicable law, including by issuing proposed rules as necessary, to temporarily or permanently rescind, modify, waive, or exempt persons or entities from those requirements, and to consider exercising appropriate temporary enforcement discretion or appropriate temporary extensions of time as provided for in enforceable agreements with respect to those requirements, for the purpose of promoting job creation and economic growth...¹

¹ <https://www.whitehouse.gov/presidential-actions/executive-order-regulatory-relief-support-economic-recovery/>

Our organizations continue to have serious concerns with the Rule changes and given all of the factors noted above, we are requesting the Commission, at a minimum, delay the Rule effective date to January 1, 2021 or at least three months following the end of the current public health emergency as defined by the Secretary of Health and Human Services, whichever date is later. Implementing new regulations at a time when health care facilities and practices are already grappling with the implementation of more important health and safety measures undermines the Rule's purported purpose and causes needless economic strain. Please contact Scott Haber at shaber@aoa.org or Kara Webb at kcwebb@aoa.org if more information is needed.

Sincerely,



Michael X. Repka, M.D., M.B.A.
AAO Medical Director for Government Affairs



William Reynolds, OD
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