

Dear Colleague:

Please join us as a cosponsor of the *Contact Lens Consumer Health Protection Act*, commonsense legislation that modernizes 2003's Fairness to Contact Lens Consumers Act (FCLCA) and defends contact lens users and eye health professionals against unscrupulous business practices. By taking advantage of flexibilities afforded to them by federal statute, sellers of contact lenses bypass health professional oversight of contact lens prescriptions. By closing this loophole and making timely updates to reflect modern technology, we seek to give back to eye health professionals the ability to appropriately supervise prescriptions of contact lenses.

What's happening today: Currently, the FCLCA (15 U.S.C. 102) requires sellers to contact doctors of optometry and ophthalmology (prescribers) for verification of a contact lens prescription. However, if the prescriber does not respond within 8 business hours, then the prescription is automatically "verified." While this was intended to expedite the system for most people, this also allows sellers to fill incorrect prescriptions for patients. As FDA regulated schedule II medical devices, prescriber oversight of the use of contact lenses is a public health priority. Sellers have been engaging in several activities that weaken the integrity of the contact lens prescription system and harm patients.

Business Practices That Harm Patients:

- More than 20 sellers have been reported for **selling contacts without prescriptions**
- Even when patients have been fitted and prescribed specific contact lenses, **many have received contact lenses of a different, incorrect prescription**
- In all reported cases of adverse events due to the use of improper contact lenses, the **lenses were bought without a valid and current prescription**

Prescribers in nearly every state have filed formal complaints, and providers from all of the states have raised concerns about negative health consequences that these business practices are having on their patients.

The prescription verification requirements of the FCLCA have been routinely ignored or abused by some sellers. Many doctors cite being overwhelmed by robo-calls from certain contact lens sellers. These calls are incomprehensible or incomplete, and prescribers are having difficulty contacting sellers to discuss concerns about the appropriateness of contact lens prescriptions.

Many of these issues would be solved by giving prescribers the ability to provide better oversight of contact lenses that are being filled. The *Contact Lens Consumer Health Protection Act* modernizes existing statute and clarifies FTC regulations to address these patient and prescriber concerns:

- If prescribers raise concerns about improper substitutions or modifications to prescriptions, prevents prescribers' medical concerns from being ignored
 - Ensures that patients can have a valid prescription filled
 - Provides safeguards against patients getting the wrong contact lens, while ensuring rapid access to contact lenses
- Protects consumers against false advertising by sellers offering contacts without a valid prescription
- Calls for sellers of contact lenses to provide eye health professionals with a working toll free number and an email address for more rapid communication.
- Alleviates the flood of robo-calls to prescriber offices by allowing prescribers to choose a preferred method of communication from sellers
- Preserves accuracy of contact lens sales by creating records of prescription expiration dates
- **Clarifies** FTC's jurisdiction over business practices of all online sellers of contact lenses who sell to Americans, and updates the penalties the FTC may impose on violators

Additionally, the *Contact Lens Consumer Health Protection Act* calls for a study that will look into violations of the FLCLA, FTC enforcement of the FLCLA, adverse effects to consumers of bad business practices in this sector, and the prevalence of overfilling and improper filling of contact lens prescriptions.

Please help us tackle these threats to patient safety by cosponsoring *Contact Lens Consumer Health Protection Act*. If you are interested or need further information please contact Pranay Udutha at Pranay_Udutha@Cassidy.Senate.gov.

Sincerely,

Bill Cassidy, M.D.

Senator Bill Cassidy, M.D.