

UNITED STATES OF AMERICA Federal Trade Commission Washington, D.C 20580

Office of the Chairman

TO: April Tabor
FROM: Michael Pesin
DATE: October 31, 2019

SUBJECT: ContacAPenis Rolleprised of health care providers, medical device manufacturers, vision,

and online contact lens sellers that support the need for heightened awareness regardin

to a patient's eye health and safety.

APS explained that prescribers are complying with the Rule and are giving patients prescriptions. APS supports the RMM's proposal to require that contact lens sellers provi mechanism that would allow patients to present their pressures directly to the seller because provides a more reliable methodian passive verification to transfer a patient prescription information to the seller, while also creating a paper trail.

APS asserted that the FTC should increasfereement actions against contact lens sellers that are violating the Rule. Specifically, it believes that the FTC should verify that are selling contact lenses exactly as prescribed by the physician. APS explained that whe patient purchases contact lenses from ailest the doctor does not know exact contact lense purchased; only the reseller knows this information. APS proposed that the seller should required to retain a record of the sale and provide it to the prescribing doctor.

APS noted that 1 in 4 consumers reported receiving a different brand of contact lenses than they had ordered without any notification. A Johnson & Johnson survey showed that 94% of consumers believe that it is important to receive the exact brand acctuals they order.

APS explained that brand substitution not only may have consequential health impacts, but also undermines the doctor-patient relations APS explained that freely substituting contact lenses could result in significant injumpoluding keratitis, corneal ulcerand impaired or full loss

¹ In attendance on behalf of the Health Care Alliance for Patient Safety Dr. Deanna Alexander, O.D. and Chase

of vision. Moreover, APS stated that illegal substitutions undermine patients' confidence when they cannot be guaranteed they are receiving the exact lenses prescribed to them by their doctor. APS explained that when contacts do not fit correctly, patients may stop wearing contacts altogether. APS also expressed concern about the possibility that patients may provide an online contact lens retailer with a manufacturer or brand not specified by their prescriptions when ordering contact lenses online. The SNPRM proposes to amend the prohibition on seller alteration of prescriptions by specifying that alteration includes a seller providing the prescriber with a verification request with the name of a manufacturer or brand other than that specified by the patient's prescriber, unless such name is specifically provided by the patient. APS urged the Commission to clarify that a patient providing the name of a manufacturer or brand not prescribed does not supersede what was indicated on the patient's prescription so that the patient receives exactly what the doctor prescribed.

APS expressed concern about the Commission's proposal to permit automated telephone calls for prescription verification. APS noted that an automated verification call may allow a patient to receive a different contact lens than was prescribed because there may not be a way for the prescriber to respond to the call to correct the prescription. In addition, APS explained that automated verification calls are burdensome for prescribers' offices because they require someone to transcribe the prescription information transmitted in the phone calls. APS estimated that the average office receives approximately 6-10 verification requests per day.

Instead of the SNPRM's proposal to address incomplete or incomprehensible automated telephone verification messages, APS explained that it supports elimination of the use of automated telephone calls as a verification method. According to APS, other methods of