(1) The prescriber confirms the prescription is accurate by direct communication with the seller.

(2) The prescriber informs the seller that the prescription is inaccurate and provides the accurate prescription.

(3) The prescriber fails to communicate with the seller within 8 business hours, or a similar time as defined by the Federal Trade Commission, after receiving from the seller the information described in subsection (c).

(e) Invalid prescription

If a prescriber informs a seller before the deadline under subsection (d)(3) that the contact lens prescription is inaccurate, expired, or otherwise invalid, the seller shall not fill the prescription. The prescriber shall specify the basis for the inaccuracy or invalidity of the prescription. If the prescription communicated by the seller to the prescriber is inaccurate, the prescriber shall correct it.

(f) No alteration

A seller may not alter a contact lens prescription. Notwithstanding the preceding sentence, if the same contact lens is manufactured by the same company and sold under multiple labels to individual providers, the seller may fill the prescription with a contact lens manufactured by that company under another label.

(g) Direct communication

As used in this section, the term ''direct communication'' includes communication by telephone, facsimile, or electronic mail.

(Pub. L. 108–164, § 4, Dec. 6, 2003, 117 Stat. 2024.)

§ 7604. Expiration of contact lens prescriptions

(a) In general

A contact lens prescription shall expire—

(1) on the date specified by the law of the State in which the prescription was written, if that date is one year or more after the issue date of the prescription;

(2) not less than one year after the issue date of the prescription if such State law specifies no date or a date that is less than one year after the issue date of the prescription; or

(3) notwithstanding paragraphs (1) and (2), on the date specified by the prescriber, if that date is based on the medical judgment of the prescriber with respect to the ocular health of the patient.

(b) Special rules for prescriptions of less than 1 year

If a prescription expires in less than 1 year, the reasons for the judgment referred to in subsection (a)(3) shall be documented in the patient's medical record. In no circumstance shall the prescription expiration date be less than the period of time recommended by the prescriber for a reexamination of the patient that is medically necessary.

(c) Definition

As used in this section, the term ''issue date'' means the date on which the patient receives a copy of the prescription.

(Pub. L. 108–164, § 5, Dec. 6, 2003, 117 Stat. 2025.)

§ 7605. Content of advertisements and other representations

Any person that engages in the manufacture, processing, assembly, sale, offering for sale, or distribution of contact lenses may not represent, by advertisement, sales presentation, or otherwise, that contact lenses may be obtained without a prescription.

(Pub. L. 108–164, § 6, Dec. 6, 2003, 117 Stat. 2026.)

§ 7606. Prohibition of certain waivers

A prescriber may not place on the prescription, or require the patient to sign, or deliver to the patient a form or notice waiving or disclaiming the liability or responsibility of the prescriber for the accuracy of the eye examination. The preceding sentence does not impose liability on a prescriber for the ophthalmic goods and services dispensed by another seller pursuant to the prescriber's correctly verified prescription.

(Pub. L. 108–164, § 7, Dec. 6, 2003, 117 Stat. 2026.)

§ 7607. Rulemaking by Federal Trade Commission

The Federal Trade Commission shall prescribe rules pursuant to section 57a of this title to carry out this chapter. Rules so prescribed shall be exempt from the requirements of the Magnuson-Moss Warranty—Federal Trade Commission Improvement Act (15 U.S.C. 2301 et seq.). Any such regulations shall be issued in accordance with section 553 of title 5. The first rules under this section shall take effect not later than 180 days after the effective date of this chapter.

(Pub. L. 108–164, § 8, Dec. 6, 2003, 117 Stat. 2026.)

REFERENCES IN TEXT

The Magnuson-Moss Warranty—Federal Trade Commission Improvement Act, referred to in text, is Pub. L. 93–637, Jan. 4, 1975, 88 Stat. 2183, as amended. Title I of the Act is classified generally to chapter 50 (§ 2301 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2301 of this title and Tables.

For effective date of this chapter, referred to in text, see section 12 of Pub. L. 108–164, set out as an Effective Date note under section 7601 of this title.

§ 7608. Violations

(a) In general

Any violation of this chapter or the rules required under section 7607 of this title shall be treated as a violation of a rule under section 18 of the Federal Trade Commission Act (15 U.S.C. 57a) regarding unfair or deceptive acts or practices.

(b) Actions by the Commission

The Federal Trade Commission shall enforce this chapter in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this chapter.

(Pub. L. 108–164, § 9, Dec. 6, 2003, 117 Stat. 2026.)

REFERENCES IN TEXT

The Federal Trade Commission Act, referred to in subsec. (b), is act Sept. 26, 1914, ch. 311, 38 Stat. 717, as

amended, which is classified generally to subchapter I (§ 41 et seq.) of chapter 2 of this title. For complete classification of this Act to the Code, see section 58 of this title and Tables.

§ 7609. Study and report

(a) Study

The Federal Trade Commission shall undertake a study to examine the strength of competition in the sale of prescription contact lenses. The study shall include an examination of the following issues:

(1) Incidence of exclusive relationships between prescribers or sellers and contact lens manufacturers and the impact of such relationships on competition.

(2) Difference between online and offline sellers of contact lenses, including price, access, and availability.

(3) Incidence, if any, of contact lens prescriptions that specify brand name or custom labeled contact lenses, the reasons for the incidence, and the effect on consumers and competition.

(4) The impact of the Federal Trade Commission eyeglasses rule (16 CFR 456 et seq.) on competition, the nature of the enforcement of the rule, and how such enforcement has impacted competition.

(5) Any other issue that has an impact on competition in the sale of prescription contact lenses.

(b) Report

Not later than 12 months after the effective date of this chapter, the Chairman of the Federal Trade Commission shall submit to the Congress a report of the study required by subsection (a).

(Pub. L. 108–164, § 10, Dec. 6, 2003, 117 Stat. 2026.)

REFERENCES IN TEXT

For effective date of this chapter, referred to in subsec. (b), see section 12 of Pub. L. 108–164, set out as an Effective Date note under section 7601 of this title.

§ 7610. Definitions

As used in this chapter:

(1) Contact lens fitting

The term ''contact lens fitting'' means the process that begins after the initial eye examination and ends when a successful fit has been achieved or, in the case of a renewal prescription, ends when the prescriber determines that no change in prescription is required, and such term may include—

(A) an examination to determine lens specifications;

(B) except in the case of a renewal of a prescription, an initial evaluation of the fit of the lens on the eye; and

(C) medically necessary follow up examinations.

(2) Prescriber

The term ''prescriber'' means, with respect to contact lens prescriptions, an ophthalmologist, optometrist, or other person permitted under State law to issue prescriptions for contact lenses in compliance with any applicable requirements established by the Food and Drug Administration.

(3) Contact lens prescription

The term ''contact lens prescription'' means a prescription, issued in accordance with State and Federal law, that contains sufficient information for the complete and accurate filling of a prescription, including the following:

(A) Name of the patient.

(B) Date of examination.

(C) Issue date and expiration date of prescription.

(D) Name, postal address, telephone number, and facsimile telephone number of prescriber.

(E) Power, material or manufacturer or both.

(F) Base curve or appropriate designation.

(G) Diameter, when appropriate.

(H) In the case of a private label contact lens, name of manufacturer, trade name of private label brand, and, if applicable, trade name of equivalent brand name.

(Pub. L. 108–164, § 11, Dec. 6, 2003, 117 Stat. 2027.)

CHAPTER 103—CONTROLLING THE ASSAULT OF NON-SOLICITED PORNOGRAPHY AND MARKETING

§ 7701. Congressional findings and policy

(a) Findings

The Congress finds the following:

(1) Electronic mail has become an extremely important and popular means of communication, relied on by millions of Americans on a daily basis for personal and commercial purposes. Its low cost and global reach make it extremely convenient and efficient, and offer unique opportunities for the development and growth of frictionless commerce.

(2) The convenience and efficiency of electronic mail are threatened by the extremely rapid growth in the volume of unsolicited commercial electronic mail. Unsolicited commercial electronic mail is currently estimated to account for over half of all electronic mail traffic, up from an estimated 7 percent in 2001, and the volume continues to rise. Most of these messages are fraudulent or deceptive in one or more respects.

(3) The receipt of unsolicited commercial electronic mail may result in costs to recipi-