



April 23, 2020

Majority Leader McConnell
Minority Leader Schumer
Appropriations Chair Richard Shelby
Appropriations Ranking Member Patrick Leahy
Commerce Chair Roger Wicker
Commerce Ranking Member Maria Cantwell

United States Senate
United States Capitol
Washington, DC 20510

Dear Majority Leader McConnell, Minority Leader Schumer, Chair Shelby, Chair Wicker, Ranking Member Leahy, Ranking Member Cantwell, and distinguished members of the Senate,

As America confronts the COVID-19 pandemic, Members of Congress have often and admirably come together in bipartisan fashion with local, state and federal officials to find solutions to the pressing and challenging issues facing the country today. In numerous instances, you and your colleagues have recognized the need to act quickly, creatively and nimbly to change laws and provide relief to Americans facing an unprecedented reality.

As you work on your next major piece of relief legislation, we wanted to highlight a growing problem for millions of people in every state in the country: the pressing need for vision care in order to live and work during this pandemic. Specifically, Congress needs to act quickly to temporarily extend the expiration date of glasses and contact lens prescriptions and remove barriers preventing consumers from accessing ocular telemedicine resources during the duration of this crisis.

There are more than 45 million Americans in this country who wear contact lenses and more than 160 million Americans who wear glasses. Since the pandemic began, many of them in communities across the country are struggling to access vision care. As optometrist offices across the country are temporarily shut down, many Americans cannot get copies of their current prescription and purchase new eyeglasses and contacts as supplies dwindle and frames get broken.

On March 17, the CDC issued guidance recommending that all routine medical care be delayed, including eye care, as America shelters in place to flatten the curve of the pandemic. As a result, hundreds of thousands of opticians and optometrists in communities across the country have closed their doors and temporarily shut down their practices. Yet their patients still need to see; frustrations are surfacing as they attempt to seek copies of their prescriptions. The reality is that many optical centers/offices are closed and a significant number of patients are unable to access their prescriptions.

At the same time, there are a wide variety of alternative providers like pharmacies, big box stores and online providers who can help patients fill prescriptions. Ocular telemedicine technologies enable patients to get their prescriptions renewed online, which can help meet the growing need for vision care with some easy regulatory support on the federal and state level.

Here are three important ways that Congress could provide some temporary relief during this time.

1. - **Extend prescription expiration dates temporarily so consumers can buy contacts and glasses from providers who are open.** Since most optometrists have closed their doors and the CDC is discouraging routine medical visits and care during this time, it is imperative that patients be allowed to use existing contact lens and eye glass prescriptions that have expired within the past 12 months to order glasses and contacts from providers who are open for business. It is imperative that, for now, consumers can use existing prescriptions to get eyewear and contact lenses.

2. – **Increase the use of telemedicine for ocular care.** Online prescription renewal tests and vision checks have been offered across the country since 2016 and are currently supported in 38 states. Millions of online prescription renewal tests have been performed using online platforms, and we are unaware of a single adverse event, medical malpractice claim, or consumer initiated medical board complaint as a result of using these services. We have been encouraged by Congressional and Executive actions to date during the pandemic calling for the increased use of telemedicine. There are several areas specifically relating to ocular telemedicine where Congress could provide much-needed help by eliminating the barriers to accessing critical vision care services online.

- a. **Eliminate requirements for face-to-face or two-way audio, visual or audio & visual interactions for the establishment of doctor/patient relationship.** Many of the most promising telemedicine and ocular telemedicine innovations rely on asynchronous or “store and forward” telemedicine. This allows technology to capture clinical information provided by the patient. That clinical data is then forwarded to a board-certified physician that is licensed in the patient’s state of residence. The physician then reviews that information and determines if the contact lens or glasses prescription can be renewed. Relaxing the laws requiring face-to-face or two-way interactions temporarily could greatly expand provider bandwidth during the pandemic. This would increase access for routine care and all but eliminate unnecessary patient in-person visits that could put otherwise healthy individuals in contact with COVID-19.
- b. **Temporarily relax licensure laws that prevent physicians and ophthalmologists from providing care across state lines as long as they have a valid license in another state.** The Federal Trade Commission has already explored this type of reform in some depth over the past several years, and their work could readily inform Congressional action.
- c. **Temporarily relax laws requiring professional corporations to be registered in each state where they provide care, and instead allow them to extend that care to additional states where they are not currently registered.**

3. **Encourage the states to follow Congress’s lead in helping Americans access vision care during this time.** Several states have already taken important steps during the COVID-19 crisis to allow telemedicine and ocular telemedicine. Maryland passed a law allowing ocular telemedicine, reversing its ban on the process, and Arkansas has begun to allow asynchronous telemedicine. However, there are still many states with one or more

provisions in their laws that prohibit ocular telemedicine platforms from operating within their jurisdictions. We need the federal government to give guidance and demonstrate additional leadership in this area.

For far too long, the current system of vision care has been designed to steer consumers toward only one option -buying their lenses and glasses from their retail optometrist. There is no motive for optometrists to release patients' prescriptions when they can't sell them products. This situation has not only kept many patients from receiving convenient and lower-cost care, it has also prevented taxpayers from realizing savings in programs such as government employee health insurance. During this pandemic, patients are paying the price of allowing this "monopoly" like structure to exist. There is no motive for optometrists to release patient's prescriptions when they can't sell them contacts. By applying *your* vision to solving this problem, you ensure *their* vision is protected.

Our organizations, while very different in ideology and practice, have been working both individually and together in various coalitions over the past few years on the local, state and federal levels to help Americans access better and more affordable vision care. We represent millions of Americans who need your help desperately during these trying times. We urge you to consider and act on our recommendations for temporary relief, and we stand ready to assist you in any way that we can.

Thank you for your continuing leadership and vision.

Sincerely,

Consumer Action
National Taxpayers Union - NTU
Progressive Policy Institute - PPI
R Street Institute

cc: Senate Leadership and Members of the Senate Appropriations and Senate Commerce Committee