



March 22, 2018

The Hon. Joshua Miller
Senate Committee on Health & Human Services
Senate Lounge - State House
Providence, RI 02903

S-2404 – AN ACT RELATING TO HEALTH & SAFETY – THE CONSUMER PROTECTION IN EYE CARE ACT

Dear Chairman Miller and Members of the Committee:

I am writing on behalf of the 150 members of the Rhode Island Optometric Association to express our strong support for the above referenced legislation.

As optometrists, we remain resolute in our belief of the importance of first class eye care and the protection of the doctor-patient relationship in Rhode Island. Doctors of Optometry routinely diagnose and treat medical conditions and are often proven to be an important gateway into the healthcare system. Our patients are always our priority.

S-2404 recognizes the current standard of eye care in Rhode Island and, if enacted, places the necessary regulations in state law to ensure the safe and efficacious use of online eye tests or apps.

It does not prohibit the use of these technologies but rather ensures that patients who use them do so in the safest possible way. In short, it places the fair and reasonable guardrails necessary for the safe and appropriate use of these largely unproven, out-of-state technologies. Discussion relating to what is best for a patients' ongoing care will take place where it belongs - between the doctor and patient.

Currently marketed online "eye tests" are not telemedicine. S-2404 was introduced to protect consumers from an inferior service designed to sell contact lenses and eyeglasses but cannot improve patient outcomes.

The U.S. Food and Drug Administration (FDA) has issued a cease-and-desist order to Opternative, Inc. citing the company's failure to receive marketing clearance or approval for its "On-Line Opternative Eye Examination Mobile Medical App" device. The device is unproven in the eyes of the FDA and yet is still accessible to Rhode Islanders today. ⁱ

The bill is in concert with the state's existing definition of telemedicine (§ 27-81-3)ⁱⁱ and the Rhode Island Board of Medical Licensure and Discipline's "Guidelines for the Appropriate Use of Telemedicine and the Internet in Medical Practice."ⁱⁱⁱ Copies of the state law and guidelines are attached.

These online applications masquerade as telemedicine and purport to provide a "convenient" and "cost-effective" service for Rhode Islanders looking for contact lens or eyeglass prescriptions. The cost of the automated programs range from \$20-\$60. In doing so, Rhode Islanders are paying for, in essence, 1/12th of an eye exam. Compared to the average co-payment or even total cost for a comprehensive eye examination, this is outrageously expensive.

Co-payments for comprehensive eye exams in today's insurance marketplace range from \$0 to \$60. Given the tremendous reduction in acceptable standards of care, one must ask: Where's the value?

Unsuspecting Rhode Islanders who choose to move forward with these unproven online and app based technologies may be lulled into mistakenly thinking:

- 1) I'm getting a good deal.
- 2) Prescription in my inbox = Healthy Eyes

As primary eye care doctors, we know better. For those who utilize these apps, 11 of the remaining 12 essential components an optometrist would check via an in-person exam will be left for a later date. A delay in treatment can mean catastrophic loss of vision or even worse. The stakes have always been high.

Health insurers, optometrists and ophthalmologists are all in agreement. Regular eye exams are critical. The RIOA is in further agreement with the American Academy of Ophthalmology's recommendation to "Get regular eye exams. If you wear contact lenses, you should be examined by an eye care provider annually, and more often as needed."^{iv}

Despite the consensus from local doctors, one company, Simple Contacts, markets their service to Rhode Islanders (their prospective customers) by asking if he/she is "**Ready to Skip an Office Visit?**"^v

How reckless can you be? For out-of-state companies, the bottom line must trump all.

We are not alone in our concerns.

The Rhode Island Board of Medical Licensure and Discipline's "Guidelines for the Appropriate Use of Telemedicine and the Internet in Medical Practice," states that the issuance of "a prescription, based solely on an online questionnaire without an appropriate evaluation does not constitute an acceptable standard of care and is considered *unprofessional conduct.*"

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The Federal Trade Commission ruled in October 2017 against 1-800-CONTACTS, the massive out-of-state contact lens reseller, for making it harder for consumers to comparison shop online. 1-800-CONTACTS was found to have hampered price-conscious consumers from finding rival contact lens sellers and checking their prices.^{vi} They were gaming internet search engines to drive up costs and drive out lower cost competitors yet they present here in Rhode Island as a less costly alternative.

The Consumer Protection in Eye Care Act would take a strong step forward in solidifying Rhode Island's commitment to telemedicine, maintaining acceptable standards of care, improving patient outcomes while supporting the local doctors entrusted to properly care for their patients.

Thank you for your consideration of S-2404. Should you have any questions or need anything further, please do not hesitate to call the RIOA at (401) 949-0433 or email rioptometric@gmail.com.

Sincerely,



Brian Kiley, OD
President

ⁱ <https://www.fda.gov/ICECI/EnforcementActions/WarningLetters/2017/ucm600029.htm>

ⁱⁱ <http://webserver.rilin.state.ri.us/Statutes/TITLE27/27-81/INDEX.HTM>

ⁱⁱⁱ <http://health.ri.gov/publications/guidelines/provider/AppropriateUseOfTelemedicineAndTheInternetInMedicalPractice.pdf>

^{iv} <https://www.aao.org/EYE-HEALTH/GLASSES-CONTACTS/CONTACT-LENS-CARE>

^v <https://www.simplecontacts.com/test>

^{vi} <https://www.ftc.gov/news-events/press-releases/2017/10/administrative-law-judge-upholds-ftcs-complaint-1-800-contacts>