

FTC: Response to Comments Sought in Regards to Eyeglass Rule and Contact Lens Rule

Eyeglass Rule:

1. Relevant technology and economic conditions: This generalized question could represent a whole host of non-specific issues. Per my education and clinical experience ophthalmic/refractive prescriptions should be generated as part of a comprehensive ocular examination conducted directly by doctor of optometry (optometrist) or a specialized doctor of medicine (ophthalmologist). Multiple patients who have presented to my office for a "refractive" complaint ended up being diagnosed with life saving medical issues that would not have been found without a comprehensive eye exam.

With respect to economics, I know of no other medical specialty that is as affordable to the public as eye care. Access to doctors of optometry is also very well established across the entire United States.

2. Pupillary Distance: Pupillary distance and other measurements are only required in the dispensing of a pair of lenses. Generation of this measurement is not a part of a comprehensive ocular exam or refraction. Due to the specifics of each patient's situation and needs this measurement and others specific to dispensing ophthalmic eyewear should be performed by the patient's chosen dispenser of prescription ophthalmic devices. CPT codes 920x4 and 92015 define the services provided by the eye doctor.
3. Copies of refractive prescriptions: Refractive prescriptions are medical prescriptions generated by a doctoral-level medical professional. Inaccurate refractive prescriptions can lead to a significant number of problems including diplopia, asthenopia, headaches, fatigue, loss of productivity, decreased visual attention and performance, negative effects on pediatric ocular development and other issues. As I understand the current requirements a patient is allowed to request additional copies of their ophthalmic prescription as long as their account is in good standing and the prescription is not expired.

4. Verification of ophthalmic prescriptions: Significant enforcement of active prescription verification is currently necessary. As it stands now a vast majority of ophthalmic prescriptions are not verified by non brick and mortar suppliers. Our office has never personally received a verification request for prescription eyewear purchased online. A quick survey of common sites reveals no such requirement for a valid prescription or proof that such a prescription exists.

Active prescription verification should be required and should be required to be a minimal burden on the prescriber. The current verification of contact lenses is also universally abused by non-prescribing suppliers. Prescriptions should be actively verified by suppliers with proof of verification subject to review and prosecution. Violation of active verification should carry meaningful penalties. Since verification does place a manpower burden on prescribing offices the process should be efficient and accurate or include reimbursement for the time involved.

This verification is further required as evidenced by a recent study by the American Optometric Association that showed that almost half of prescription eyewear ordered online was incorrect or had safety issues.

Contact lens rule:

1. Technology and Economic conditions: There does not seem to be any recent changes in regards to technology and economics to affect how contact lenses are prescribed. Contact lenses are a prescription medical device that if used improperly can cause permanent vision loss. As a prescribed medical device they should be respected as such. Non prescribing resellers have attempted to continue to commoditize these medical devices for their financial gain which should be seen as a dangerous goal.
2. As it stands today, most prescribers are small businesses. The Contact Lens Rule I do believe places an additional burden on prescribing offices and has allowed no-prescribing resellers to ignore the requirement for a valid prescription.

In the FTCs statement above it reads: *"It also mandates that a contact lens seller may sell contact lenses only in accordance with a*

prescription the seller has received from the patient or prescriber, or has verified via direct communication with the prescriber."

Per my direct experience and the overwhelming consensus of my colleagues, the above mandate is essentially ignored by a vast majority of the internet based resellers. The FTC needs to assure active prescription verification with required proof that the reseller has verified the Rx is current and valid. This includes mandating that the prescription is both not expired and that the total number of lenses prescribed has not been exceeded. The 8 hour passive verification is not only a burden on prescribers but easily allows abuses as a patient can input a false prescriber and fax number.

Active verification needs to be non-encumbering to the prescriber, verifiable, traceable, and subject to meaningful fines or prosecution to the offending re-seller. It should also be noted that current verification does place a burden on the prescriber in terms of non-compensated staff time.

As a final note, the FTC should also assure that prescriptive integrity is maintained by resellers operating outside of the USA.