



October 26, 2015

Federal Trade Commission

**RE: Request for Public Comment on Trade Regulation Rule**

**Ophthalmic Practice Rules (Eyeglass Rule) 16 CFR Part 456**

Professional Opticians of Florida is pleased to offer comments regarding the review of Eye glass rule 16 CFR 456 Project No. R511996.

Professional Opticians of Florida (POF) promotes excellence for Eye Care Professionals (ECP's) through conferences, educational programs, webinars, seminars and clinical training. The association provides networking opportunities, publications, and research services for those involved with, or affected by, vision care issues in Florida. The Board of Directors represents multiple chapters throughout the state and is committed to the principles of accountability, integrity and fairness.

For more than thirty years POF has been dedicated to protecting and promoting the value and validity of the profession of Opticianry. By offering a multitude of services to our members, POF enhances professional practice through the provision of top-quality continuing education, monitoring and influencing legislative and agency issues impacting Opticians, maintaining its own Political Action Committee; Opticians for Better Vision and keeping members current on the latest developments in vision care.

Opticians are health care professionals trained to ensure optimum vision to our patients through interpreting prescriptions prepared by Ophthalmologists and Optometrists then preparing and fitting, adjusting and adapting optical appliances. Delivering high quality, safe and ethical care to the public of Florida is ensured through regulation and licensing under the Florida Department of Health. Practicing in accordance with standards and guidelines, Opticians work with their patients to create, with technical precision, visual appliances that meet their individual needs while ensuring the highest standard of ethical care.

Regarding the FTC's request for comments on general issues, POF has the following comments:

1. There is there a continued need for the Eye Glass Rule to increase benefits to consumers.

*Rationale*

Yes the FTC should continue the Eye Glass Rule and increase its enforcement. Since the rule was originally written in the mid-70s there has been and dramatic increase of Ophthalmologists' and Optometrists' offices that also have Optical dispensaries associated with them that sell eyewear. Patients can easily be misled to believe that they are required to purchase the eyeglasses those offices.

2. Extend the rule to require prescribers to provide a duplicate copy of a prescription to a patient who does not currently have access to the original.

*Rationale*

The right of patients to access the information in their record or direct that the information be transferred to another health care provider should not be limited in any manner, except as allowed by regulation. It is the right of patients to choose who provides care to them and to have access to their prescription. If optometrists determine that a prescribed therapy is required, a prescription should be provided as part of the assessment without additional charge, regardless of whether or not the patient intends to purchase an optical appliance. Patients should have the right to fill their prescriptions at the dispensary or pharmacy of their choice.

In some jurisdictions, the following is considered professional misconduct for an Optometrist;

*Failing, without reasonable cause, to provide a patient with a written, signed and dated prescription for subnormal vision devices, contact lenses or eye glasses after the patient's eyes have been assessed by the member and where such a prescription is clinically indicated.*

3. Prohibit the use of expiry dates on prescriptions for vision correction for adult patients with low risk factors.

*Rationale*

The public would be best served if the proposed or future rule would separate the two procedures of the “refraction” that determines the visual acuity for the patient eyeglass prescription and the “eye examination” a medical evaluation that determines the health of the eye. A refraction is not a medical procedure, it is a mechanical process that bends light with lenses before it enters the eye to determine the refractive error of the eye which is duplicated with an optical appliance.

Currently, in most doctor’s offices, patients are required to receive an Eye Exam that is performed by the doctor and refraction that is done by non-licensed staff members or done by a piece of equipment known as an auto-refractor. Patients are required to receive both procedures in order to obtain a current prescription for their vision correction. While in the public's mind these two procedures are linked or the same, they are independent activities and needlessly drive healthcare and vision care costs up.

Ophthalmological clinical guidelines<sup>1</sup> provide a recommended timetable for periodic eye examinations in healthy adults that are asymptomatic and low risk. In these cases it is not in consumer’s best interest to be lead to believe that they should have eye examinations on a more frequent basis. In those cases where an expiry date is appropriate, Optometrists and Ophthalmologists should be required to communicate this information to the patient so it is understood why it is not appropriate to fill the prescription after the specified date. The federal government, specifically CMS/Medicare, EXCLUDES refraction as part of an eye “exam”<sup>2</sup>.

4. Appliance-specific instructions should be prohibited unless clinically necessary.

*Rationale*

The spectacle prescription should include only those items that are necessary for the preparation of the spectacles. The sphere, cylinder and axis are essential to most spectacle prescriptions. Other elements are essential in some cases: for example, reading addition, prismatic power, bicentric prism, or vertex distance of the refraction. Clinical justification should exist when a prescription contains appliance-specific information and the patient should be made aware of the recommendations and purpose.

5. Best corrected vision should be required on all prescriptions.

*Rationale*

This information is a critical data point for eye care providers in order to dispense optical appliances. Consumers should be informed about their best possible corrected vision along with information to help them understand why this is the case.

**<sup>1</sup>American Academy of Ophthalmology Comprehensive Adult Medical Eye Evaluation**

AAO Preferred Practice Patterns Committee, September 2010

COMPREHENSIVE MEDICAL EYE EVALUATION FOR ADULTS WITH NO RISK FACTORS

Age (years) Frequency of Evaluation:

65 or older Every 1–2 years

55–64 Every 1–3 years

40–54 Every 2–4 years

Under 40 5–10 years

Interim eye evaluations, consisting of vision examinations (refractions, eyeglasses, contact lens evaluations, etc.), may be performed during these periods as well. Patients with risk factors for disease or symptoms and signs of eye disease, and patients who desire an examination, may have additional evaluations during these periods.

[www.aao.org](http://www.aao.org)

**<sup>2</sup> Medicare Coverage - Eye exams**

“Medicare doesn't cover routine eye exams (sometimes called “eye refractions”) for eyeglasses or contact lenses. Medicare Part B (Medical Insurance) covers some preventive and diagnostic eye exams.”

<https://www.medicare.gov/coverage/eye-exams.html>

Regarding the FTC's request for comment on specific issues, POF has the following comments:

1. The definition of prescription **should not** be modified to include pupillary distance.

Rationale

As a standard of care issue, prior to dispensing any optical appliance, each eye care professional is required to take their own set of measurements. These would include, in eyeglasses; pupillary distance from pupil to pupil and from center of the head to each pupil as well from optical center and segment height in the case of a multifocal lens. This requirement holds the seller fully responsible for these measurements, for which they are trained to measure. It would be unreasonable to expect an Optometrist or an Ophthalmologist to take these measurement and possibly be held responsible for their accuracy. In addition, it would be a duplication of services as Licensed Opticians are required to perform this task as part of the dispensing process.

The common definition of dispensing eyewear is the preparation, adaptation and delivery of eyeglasses, contact lenses or subnormal vision devices to a person. Dispensing typically includes:

- a) Interpretation of a prescription of a physician or optometrist
- b) Provision of advice to a person regarding frame suitability with or without reference to a prescription of a physician or optometrist;
- c) Provision of advice to a person regarding lenses and lens coating suitability with or without reference to prescriptions of physician or optometrist;
- d) Evaluation of a person's needs with reference to the provision of subnormal vision devices, contact lenses or eyeglasses
- e) Taking of all measurements necessary in providing subnormal vision devices, contact lenses or eyeglasses
- f) Preparation of the final design of subnormal vision devices, contact lenses or eyeglasses;
- g) Verification of completed and/or repaired subnormal vision devices, contact lenses or eyeglasses;
- h) Fitting of subnormal vision devices, contact lenses or eyeglasses to the human face, eyes and/or head;
- i) The adapting of subnormal devices, contact lenses or eyeglasses to the human face, eyes and/or head
- j) Adjusting of subnormal vision devices, contact lenses or eyeglasses; and
- k) The provision of follow-up care relating to subnormal vision devices, contact lenses or eyeglasses

Professional Opticians of Florida appreciates the opportunity to comment on these important matters. We hope our submission will assist you in your decision making process. Should you require any additional information or have any questions, please do not hesitate to contact us.

Respectfully Submitted,



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