

October 26, 2015

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Re: Eyeglass Rule

The American Academy of Ophthalmology is pleased to offer the Federal Trade Commission our comments on the Eyeglass Rule. The American Academy of Ophthalmology is the largest national members association of ophthalmologists—medical and osteopathic doctors who provide comprehensive eye care including medical, surgical, and optical care. The Eyeglass Rule, first promulgated in 1978, has been effective in ensuring that consumers have access to their prescription and have the opportunity to comparison shop for eyeglasses. The Academy supports empowering consumers by ensuring they understand and have access to their medical information, including prescriptions. We believe that the Eyeglass Rule is achieving the results that were expected when it was originally issued and compliance by the ophthalmic community continues to be strong.

We understand the Commission is considering modifications to the Rule. The Academy appreciates the opportunity to comment on a number of the issues outlined in the review. It is our view that many of the modifications outlined in the regulatory review are unnecessary and pose clinical concerns. These include modifying the definition of a prescription and additional mandates on ophthalmic practices with regards to providing copies and third party verifications of prescriptions. As the Commission reviews stakeholder input, we hope that you will exercise restraint in issuing new regulatory mandates that negatively impact ophthalmic practices, costs and access to services for our patients.

Should the definition of “prescription” be modified to include pupillary distance? Why or why not?

The Academy does not support modifications to the Eyeglass Rule that would change the definition of a prescription to include pupillary distance. Pupillary distance measurements are a dispensing service and have traditionally been taken by a trained optician fitting the eyeglasses frame. Not all ophthalmic practices have an optician on staff to perform these measurements and most ophthalmologists do not perform these services personally. For non-dispensing practices, new mandates could lead to unintended consequences including practices eliminating refractive services. The costs of pupillary measurements are built into the product and dispensing services delivered by an optical shop, not the prescribing doctor’s office.

The Academy is aware that a rising number of consumers are shopping for eyeglasses online, with many of these online vendors requiring additional measurements be added to the prescriptions. We believe that changes to the Eyeglass Rule for the benefit of online vendors should not be made at the expense of providers. Mandating all eye-care providers include pupillary distance measurements would have a tremendous impact on ophthalmic practices, including changes to the duration of a typical patient visit and the need for additional staff resources. Patients can determine the availability and cost of additional measurements prior to purchasing services from the practice. A mandate would raise the cost to all consumers.

Comments on additional modifications to the current prescription definition:

In addition to concerns over modifying the definition of prescription to include pupillary distance measurements, the Academy does not support extending the expiration of prescriptions beyond one year. While some patient populations may not experience much fluctuation in their prescription from year-to-year, certain populations experience significant changes in their vision in short time frames. Specifically, both young children and older adults can see dramatic changes in their refractive errors in a short period of time. These populations would be placed at risk by modifying the prescription expiration, as these patients need to be evaluated more frequently.

Should the Rule be extended to require that prescribers provide a duplicate copy of a prescription to a patient who does not currently access to the original?

The Academy is unaware of any significant issues with consumers receiving duplicate copies of their prescriptions from ophthalmologists. Ophthalmic practices put significant time and resources into ensuring patients are receiving care and subsequent prescriptions in a timely manner. For patients requiring duplicate copies of their original prescription, these are traditionally provided without charge.

Should the Rule be extended to require that a prescriber provide a copy to or verify a prescription with third parties authorized by the patient?

The Academy is unaware of issues with patient's ability to access their prescription from the practice or have it verified. If practices are inflexible with regards to duplicate copies or third party verification, patients will ultimately look to other providers. While the expansion of online eyeglass vendors has led to a growing need for third party verification, ophthalmic practices have worked diligently to meet this growing need. In many instances, ophthalmologists are hearing from patients about issues with eyeglasses that stem from mistakes made by these vendors. Many of these mistakes are corrected by the practitioner, free of charge, to ensure that patients have eyeglasses that correct their specific vision issues.

In recognition of current efforts by ophthalmologists, the Academy hopes that the Commission will not mandate strict timeframes for third-party prescription verification. Strict timeframes, which ophthalmologists already face with respect to contact lens verification, would cause significant administrative disruption to most practices and would create undue financial burdens due to the larger volume of these type prescriptions. Ophthalmologists are looking to ensure the best possible clinical outcomes for all patients, including getting eyeglasses to patients as quickly as possible. There is no clinical urgency for verification of an eyeglasses prescription. Thus a reasonable time frame that balances the patients and practice's needs is required.

The Academy appreciates the Federal Trade Commission's efforts to ensure that the Eyeglass Rule is regularly reviewed. With the Academy's membership representing a significant portion of eye care providers nationwide, we look forward to future engagement with the Commission on this issue. Should you have questions about any of our comments or seek additional input, please feel free to contact myself or Scott Haber, Government Affairs Representative, at shaber@aaodc.org or via phone at 202-737-6662.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael X. Repka". The signature is written in a cursive style with a long horizontal stroke extending to the right.

Michael X. Repka, MD, MBA
Medical Director for Governmental Affairs
American Academy of Ophthalmology