



Division of  
Advertising Practices

United States of America  
FEDERAL TRADE COMMISSION  
Washington, D.C. 20580

January 27, 2023

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**VIA FED EX**

### **CEASE AND DESIST DEMAND**

To Whom It May Concern:

The staff of the Division of Advertising Practices of the Federal Trade Commission recently received a complaint claiming that your office failed to automatically provide a patient with their eyeglass and contact lens prescriptions immediately upon completion of their eyeglass exam and contact lens fitting and required the patient to pay a fee as a condition of releasing the prescriptions. Such practices violate the Fairness to Contact Lens Consumers Act (“the Act”), 15 U.S.C. § 7601 et seq., and the Contact Lens Rule, 16 C.F.R. Part 315, which require prescribers to provide a copy of the contact lens prescription to the patient at the end of the contact lens fitting, *even if the patient does not request it*, and prohibit prescribers from requiring payment of additional fees as a condition of providing or verifying a patient’s prescription. Such practices also violate the FTC’s Ophthalmic Practice Rules, 16 C.F.R. Part 456, known as the Eyeglass Rule, which require prescribers to provide a copy of the eyeglass prescription immediately after the eye examination, *even if the patient does not request it*, and prohibit prescribers from charging any fee in addition to the examination fee as a condition to releasing the prescription.<sup>1</sup>

In addition, the Act and the Rules prohibit prescribers from requiring that patients buy ophthalmic goods as a condition of providing a copy of the prescription, and prohibit prescribers from requiring patients to sign a waiver or release as a condition of releasing the prescription. 15 U.S.C. § 7601(b); 16 C.F.R. § 315.3; 16 C.F.R. § 456.2. According to the Eyeglass Rule, prescribers cannot refuse to perform an eye exam unless the patient purchases ophthalmic goods from the prescriber. 16 C.F.R. § 456.2.

The Contact Lens Rule also requires a prescriber with a direct or indirect financial interest in the sale of contact lenses to ask patients to confirm that they received their

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<sup>1</sup> A prescriber may require a patient to pay for the eye exam (and fitting for contact lens exams) before giving the patient a copy of the prescriptions, but only if the prescriber also requires immediate payment from patients whose exams reveal no need for ophthalmic goods. 15 U.S.C. § 7602; 16 C.F.R. § 315.4; 16 C.F.R. § 456.2(a).

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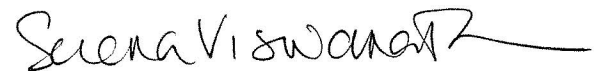
prescription by signing an acknowledgment of receipt, a prescriber-retained copy of a contact lens prescription, or a prescriber-retained copy of the examination receipt. 16 C.F.R. § 315.3(c)(1)(A-C). Both the Act and the Rules impose requirements on prescribers that are intended to allow consumers to comparison shop for contact lenses and eyeglasses.

You are advised to immediately cease and desist from engaging in any acts or practices that violate the Act and the Rules. Violations of the Rules may result in legal action, including civil penalties of up to \$50,120 per violation.

You should review the Rules and revise your practices as necessary to ensure that they comply with the Rules' requirements. For your reference, you may find copies of business guidance publications produced by the FTC, "*The Contact Lens Rule: A Guide for Prescribers and Sellers*", "*Complying with the Contact Lens Rule*", and "*Complying with the Eyeglass Rule*", on our web site at <https://www.ftc.gov/tips-advice/business-center/guidance/contact-lens-rule-guide-prescribers-sellers>, <https://www.ftc.gov/tips-advice/business-center/guidance/faqs-complying-contact-lens-rule>, and <https://www.ftc.gov/business-guidance/resources/complying-eyeglass-rule>.

**Within 5 business days of receipt of this letter**, send a message to Alysa Bernstein and Sarah Botha via electronic mail at [abernstein@ftc.gov](mailto:abernstein@ftc.gov) and [sbotha@ftc.gov](mailto:sbotha@ftc.gov) describing the specific action you plan to take to address the reported violations. For any questions you have, please contact Ms. Bernstein at (202) 326-3289 or Ms. Botha at (202) 326-2036. Thank you for your prompt attention to this matter.

Very truly yours,



Serena Viswanathan  
Associate Director  
Division of Advertising Practices