

Federal Trade Commission

§ 315.3

issues (the Ophthalmic Practice Rules (Eyeglass Rule)).

§ 315.2 Definitions.

For purposes of this part, the following definitions shall apply:

Business hour means an hour between 9 a.m. and 5 p.m., during a weekday (Monday through Friday), excluding Federal holidays. "Business hour" also may include, at the seller's option, a prescriber's regular business hours on Saturdays, provided that the seller has actual knowledge of these hours. "Business hour" shall be determined based on the time zone of the prescriber.

"Eight (8) business hours" shall be calculated from the time the prescriber receives the prescription verification information from the seller, and shall conclude when eight (8) business hours have elapsed. For verification requests received by a prescriber during non-business hours, the calculation of "eight (8) business hours" shall begin at 9 a.m. on the next weekday that is not a Federal holiday or, if applicable, on Saturday at the beginning of the prescriber's actual business hours.

Commission means the Federal Trade Commission.

Contact lens means any contact lens for which State or Federal law requires a prescription.

Contact lens fitting means the process that begins after an initial eye examination for contact lenses and ends when a successful fit has been achieved or, in the case of a renewal prescription, ends when the prescriber determines that no change in the existing prescription is required, and such term may include:

(1) An examination to determine lens specifications;

(2) Except in the case of a renewal of a contact lens prescription, an initial evaluation of the fit of the contact lens on the eye; and

(3) Medically necessary follow-up examinations.

Contact lens prescription means a prescription, issued in accordance with State and Federal law, that contains sufficient information for the complete and accurate filling of a prescription for contact lenses, including the following:

(1) The name of the patient;

(2) The date of examination;

(3) The issue date and expiration date of prescription;

(4) The name, postal address, telephone number, and facsimile telephone number of prescriber;

(5) The power, material or manufacturer or both of the prescribed contact lens;

(6) The base curve or appropriate designation of the prescribed contact lens;

(7) The diameter, when appropriate, of the prescribed contact lens; and

(8) In the case of a private label contact lens, the name of the manufacturer, trade name of the private label brand, and, if applicable, trade name of equivalent brand name.

Direct communication means completed communication by telephone, facsimile, or electronic mail.

Issue date means the date on which the patient receives a copy of the prescription at the completion of a contact lens fitting.

Ophthalmic goods are contact lenses, eyeglasses, or any component of eyeglasses.

Ophthalmic services are the measuring, fitting, and adjusting of ophthalmic goods subsequent to an eye examination.

Prescriber means, with respect to contact lens prescriptions, an ophthalmologist, optometrist, or other person permitted under State law to issue prescriptions for contact lenses in compliance with any applicable requirements established by the Food and Drug Administration. "Other person," for purposes of this definition, includes a dispensing optician who is permitted under State law to issue prescriptions and who is authorized or permitted under State law to perform contact lens fitting services.

Private label contact lenses mean contact lenses that are sold under the label of a seller where the contact lenses are identical to lenses made by the same manufacturer but sold under the labels of other sellers.

§ 315.3 Availability of contact lens prescriptions to patients.

(a) *In general.* When a prescriber completes a contact lens fitting, the prescriber:

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(1) Whether or not requested by the patient, shall provide to the patient a copy of the contact lens prescription; and

(2) Shall, as directed by any person designated to act on behalf of the patient, provide or verify the contact lens prescription by electronic or other means.

(b) *Limitations.* A prescriber may not:

(1) Require the purchase of contact lenses from the prescriber or from another person as a condition of providing a copy of a prescription under paragraph (a)(1) or (a)(2) of this section or as a condition of verification of a prescription under paragraph (a)(2) of this section;

(2) Require payment in addition to, or as part of, the fee for an eye examination, fitting, and evaluation as a condition of providing a copy of a prescription under paragraph (a)(1) or (a)(2) of this section or as a condition of verification of a prescription under paragraph (a)(2) of this section; or

(3) Require the patient to sign a waiver or release as a condition of releasing or verifying a prescription under paragraph (a)(1) or (a)(2) of this section.

§ 315.4 Limits on requiring immediate payment.

A prescriber may require payment of fees for an eye examination, fitting, and evaluation before the release of a contact lens prescription, but only if the prescriber requires immediate payment in the case of an examination that reveals no requirement for ophthalmic goods. For purposes of the preceding sentence, presentation of proof of insurance coverage for that service shall be deemed to be a payment.

§ 315.5 Prescriber verification.

(a) *Prescription requirement.* A seller may sell contact lenses only in accordance with a contact lens prescription for the patient that is:

(1) Presented to the seller by the patient or prescriber directly or by facsimile; or

(2) Verified by direct communication.

(b) *Information for verification.* When seeking verification of a contact lens prescription, a seller shall provide the

prescriber with the following information through direct communication:

(1) The patient's full name and address;

(2) The contact lens power, manufacturer, base curve or appropriate designation, and diameter when appropriate;

(3) The quantity of lenses ordered;

(4) The date of patient request;

(5) The date and time of verification request;

(6) The name of a contact person at the seller's company, including facsimile and telephone numbers; and

(7) If the seller opts to include the prescriber's regular business hours on Saturdays as "business hours" for purposes of paragraph (c)(3) of this section, a clear statement of the prescriber's regular Saturday business hours.

(c) *Verification events.* A prescription is verified under paragraph (a)(2) of this section only if one of the following occurs:

(1) The prescriber confirms the prescription is accurate by direct communication with the seller;

(2) The prescriber informs the seller through direct communication that the prescription is inaccurate and provides the accurate prescription; or

(3) The prescriber fails to communicate with the seller within eight (8) business hours after receiving from the seller the information described in paragraph (b) of this section. During these eight (8) business hours, the seller shall provide a reasonable opportunity for the prescriber to communicate with the seller concerning the verification request.

(d) *Invalid prescription.* If a prescriber informs a seller before the deadline under paragraph (c)(3) of this section that the contact lens prescription is inaccurate, expired, or otherwise invalid, the seller shall not fill the prescription. The prescriber shall specify the basis for the inaccuracy or invalidity of the prescription. If the prescription communicated by the seller to the prescriber is inaccurate, the prescriber shall correct it, and the prescription shall then be deemed verified under paragraph (c)(2) of this section.