



AMERICAN OPTOMETRIC ASSOCIATION

## **Eyeglass Rule Compliance Toolkit**

**This toolkit includes frequently asked questions, template authorizations and information regarding AOA's advocacy regarding the Eyeglass Rule.**

# Frequently Asked Questions

## Summary and Bare Essentials

### What do I need to do and by when?

The new Eyeglass Rule of 2024 goes into effect on September 24, 2024. The new rules require doctors to obtain confirmation or an “acknowledgment” from a patient that the prescription was provided to the patient. In cases where the prescription is provided electronically, doctors need to obtain consent to send the prescription electronically and retain that consent. The Eyeglass Rule of 2024 mirrors the requirements of the Contact Lens Rule of 2020. Please see the following FAQ for more information and details. The FTC indicates that patients must be given their prescription prior to doctors promoting in-office eyeglass and contact lens product sales.

### What are the options for complying with the acknowledgement?

1. **Electronic:** Doctors can provide the prescription electronically, if a patient consents to receive the prescription electronically OR
2. **Paper:** Doctors can have the patient sign a form after the prescription is released, or doctors can have patients sign a carbon copy of the prescription.

Please review the compliance details below.

## Implementation

### What are the new Eyeglass Rule requirements?

Doctors will be required to obtain confirmation from the patient that the eyeglass prescription was provided to the patient prior to soliciting eyeglass sales in-office. Doctors can fulfill this obligation a few different ways described below. The general thought process is that this new Eyeglass Rule of 2024 mimics the Contact Lens Rule of 2020 which requires patients to have access to their prescription before products are offered to the patient.

### Can doctors provide eyeglass prescriptions electronically?

Yes! Doctors can choose to provide the prescription electronically. However, doctors cannot just ask if the patient would like their prescription electronically. The patient **MUST** consent to electronic delivery and the consent must specify the method the prescription will be delivered. (e.g. whether via email, portal, or another option). See the [SAMPLE AOA FORM BELOW](#) for specific recommendations that comply with the new Eyeglass Rule.

### Can doctors use the same form to obtain consent for electronic delivery of the eyeglass prescription and the contact lens prescription?

Yes! The same form can be used. You can use one form to obtain confirmation for how the patient will receive their eyeglass and contact lens prescriptions. This is especially convenient when doctors are providing access to eyeglass and contact lens prescriptions through online portals.

**Do doctors need to obtain consent for electronic delivery at every visit (each yearly exam)?**

No! Consent for electronic delivery does not need to be obtained at every yearly exam. FTC has indicated that allowing patients to sign an authorization just once would satisfy the Rule's requirements for both contact lenses prescriptions and eyeglass prescriptions. However, if the doctor changes their delivery policies (for example, by switching from printed prescriptions to access on a portal), the doctor would need to re-obtain the patient's delivery consent for the new format. Additionally, doctors should allow a patient to revoke consent at any time.

**Do doctors need to obtain consent for paper delivery at every visit (each yearly exam)?**

Yes! If you are providing paper copies of prescriptions and not electronic delivery (like an online portal), then your patient must sign the acknowledgement of receiving a copy of the prescription at every visit, or every time a prescription is provided. This includes glasses and contact lenses.

**Who is exempt from the new prescription acknowledgement requirements of the Eyeglass Rule of 2024 and the Contact Lens Rule of 2020?**

Any doctor that writes eyeglasses or contact lens prescriptions but does not sell glasses or contact lenses direct to patients does not have to obtain and retain a prescription acknowledgement. Example, if you sell contact lenses but do not own an optical that sells glasses, then you only need to comply with the Contact Lens Rule prescription acknowledgement requirements of 2020. As a reminder, all doctors are obligated to provide the prescription at the completion of the exam.

**If a doctor provides the prescription on paper, how should the patient acknowledge receipt of the prescription?**

If the doctor provides the prescription on paper, a separate signed form can be used for the acknowledgement indicating the patient received a paper copy of the prescription before being offered products to purchase with the prescription. A copy of the signed form must be kept for at least three years.

**Do doctors need to keep documentation of the acknowledgement form, or the consent for electronic delivery of the prescription?**

Yes! Doctors must maintain this documentation for at least three years. This includes electronic consent forms, signed on paper acknowledgements or copies of the signed prescription.

**When will the new rules go into effect?**

September 24, 2024

**What do I do if a patient refuses to sign?**

If a patient refuses to sign a confirmation receipt, note it on the receipt, sign it, and keep it for at least three years.

## **How do I determine if I have a direct or indirect financial interest in the sale of eyeglasses, which requires that I ask my patients to confirm they received their prescription?**

The most obvious relationship is that you directly sell glasses and/or contact lenses in your office. By FTC's definition if you have an association, affiliation, or are co-located with an eyeglass seller, you have a financial interest in the sale of eyeglasses. But there may be other ways where you receive a financial benefit due to an interest you have with a seller. If you're not sure if your interest qualifies, err on the side of caution and ask your patients to confirm receipt of their prescriptions.

### **The FTC and Rulemaking**

#### **Did FTC change the term "eye exam" in the rule?**

Yes, FTC amended the term "eye examination" to "refractive eye examination" throughout the Rule. FTC made this change because they believed there was doctor and patient confusion surrounding when a prescription can be withheld due to lack of payment. FTC indicates that this terminology change will help prescribers understand that while they may withhold the prescription pending receipt of payment for the refraction, it is not appropriate to make prescription-release contingent upon the payment for any additional service. In addition, if you regularly bill insurance companies for refractions that are routinely paid for by the insurance company, you are not allowed to wait for the insurance payment to come in before releasing the prescription. Your intent to bill as a regular part of your business practices (even if at a future date) is considered a reason requiring you to release the prescription at the time of service.

#### **Do the new changes to the Eyeglass Rule differ from the Contact Lens Rule changes implemented in 2020?**

The new Eyeglass Rule of 2024 mirrors the Contact Lens Rule update from 2020. FTC indicated they wanted to bring these two rules in line with each other. Both eyeglass prescriptions and contact lens prescriptions require signature acknowledgment from a patient that indicates how the patient will receive a copy of their prescriptions.

#### **What are the rules related to soliciting sales?**

The rule indicates that doctors and their staff must give prescriptions to patients before the doctor or anyone at the office offers to sell the patient glasses.

This rule does not mean that a patient is not permitted to walk through a prescriber's eyeglass dispensary, or browse available eyeglass frames, before receiving a copy of their prescription.

It does mean that if a prescriber (or the prescriber's staff) is ready and willing to sell that patient eyeglasses, the prescriber must release a copy of the prescription to the patient before moving forward with any aspect of the sale.

If the prescription is released electronically (with the patient's consent), it must be uploaded to a patient portal or transmitted before the sale is made.

If the prescriber makes a medical determination to not write and release a prescription to a patient or withholds a prescription pending payment by the patient for the examination, the prescriber may not offer to sell that patient eyeglasses at that time.

The prescriber may only offer to sell the patient eyeglasses after the prescription is released.

## **Penalties**

### **What will happen to a doctor that does not comply?**

Failure to comply will result in warning letters and potentially civil monetary penalties. Upon investigation, FTC may request documentation of prescription release. Doctors would need to be able to provide either the consent for electronic delivery and proof of electronic delivery or the signed acknowledgement form, receipt or signed prescription.

## **AOA Advocacy**

### **What did AOA do to fight new requirements for doctors of optometry?**

Ever since the FTC proposed changes to the Eyeglass Rule in 2015 (or Contact Lens Rule), the AOA has proactively communicated with the FTC that new paperwork requirements would add burdens to optometry practices. AOA consistently requested the FTC to provide data or other information for how patients were being burdened by current practices. The AOA cited specific data from doctors of optometry for how this new rule would negatively impact practices and how doctors were already complying with the current Eyeglass Rule. The AOA sent doctors of optometry to Washington DC several times to advocate against these burdensome regulations. The FTC was steadfast in their fight against our advocacy, citing outdated studies about prescription release.

In total, the AOA's inquiries, official replies, reports, data submissions and official agency communications tallied 133 occurrences in the final rule. This far exceeds those submitted by 1-800 CONTACTS (33), the American Academy of Ophthalmology (22) and the National Association of Retail Optical Companies (55).

- ▶▶ [Read AOA doctors' testimony at the May 2023 FTC Eyeglass Rule workshop.](#)
- ▶▶ [Read AOA's case against FTC rule changes on prescription requirements.](#)
- ▶▶ [Read about AOA's meeting with officials to voice concerns regarding such proposals.](#)

### **When did FTC start the review of this rule?**

FTC began their review of the Eyeglass Rule in 2015.

### **How did the final rule differ from FTC's initial recommendation on changes?**

FTC originally contemplated creating a new requirement for doctors to include pupillary distance on eyeglass prescriptions. FTC also considered developing a verification system such as the one that exists for contact lenses. Doctors would have been required to respond to eyeglass prescription verification requests within 8 working hours, robocalls would have likely increased and we would have likely seen the same abuse of the verification system as we have seen in the contact lens market. Based on AOA advocacy, engagement and information and data shared, FTC ultimately did not finalize any of these additional major changes. The AOA continues to advocate for members about the contact lens robocall abuses and is actively pursuing federal legislation to eliminate robocalls.

### **Will FTC make other changes in the Rule in the future?**

FTC evaluates all rules every 10 years, The Eyeglass Rule would undergo this standard review beginning in 2034.

## Template Forms

**There are a number of ways to comply with the rule. On this page and the following page there are templates based on how a doctor chooses to comply.**

### **Consent form For Electronic Delivery of Prescription**

Answer Yes or No:

I would like my eyeglasses and/or contact lens prescription sent to me electronically via (Doctors—enter method for delivery. Such as, email; patient portal; other electronic method. Please note doctors must specify how the prescription will be delivered on the consent form)

Yes

No

**Template Signed Acknowledgement Form Following Prescription Release**


Sign below to acknowledge that you were provided with a copy of your eyeglasses prescription immediately after completing any refractive eye examination

Patient Signature: \_\_\_\_\_

Date: \_\_\_\_\_


# Additional FTC Resources

[FTC Resource: Complying with the Eyeglass Rule](#)




## Recordkeeping Under the Eyeglass Rule

### Consent to Digital Delivery




Keep records showing you got the patient's affirmative consent for digital delivery.




Keep for three years, or as long as you rely on the patients' consent to continue receiving the prescription electronically plus three years.

### Digital Delivery of Eyeglass Prescriptions




Keep records showing you sent the digital prescription to the patient — and they can access, download, and print it.




Keep for three years.

### Paper Eyeglass Prescriptions



Keep the patient's signed confirmation showing they got their paper prescription.



Keep for three years.

Other state or federal laws may require longer recordkeeping requirements.

