

MAINE STATE LEGISLATURE

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RICHARD S. COHEN
ATTORNEY GENERAL



79106
STEPHEN L. DIAMOND
JOHN S. GLEASON
JOHN M. R. PATERSON
ROBERT J. STOLT
DEPUTY ATTORNEYS GENERAL

STATE OF MAINE
DEPARTMENT OF THE ATTORNEY GENERAL
AUGUSTA, MAINE 04333

May 24, 1979

George S. Bournakel, O.D.,
Maine Board of Optometry
168 East Avenue
Lewiston, Maine 04240

Dear George:

I have been asked to respond to your opinion request, a copy of which is attached hereto, regarding whether there is a conflict between 32 M.R.S.A. §2417(4) and 16 Code of Federal Regulations Part 456.

You have stated that it appears to the Maine Board of Optometry that the above Federal Trade Commission Trade Regulation Rule requires an optometrist to issue a prescription immediately following an eye examination, which prescription may only include the dioptric power of spheres, cylinders and prisms, axis of cylinders and position of base of prisms. You further note that under 32 M.R.S.A. §2417(4), an optometrist is required to include in a prescription far more than only the above items, and you have requested our opinion as to whether the Maine statute conflicts with the Federal Trade Commission Rule. It is our opinion that there is no conflict on this issue.

32 M.R.S.A. §2417(4) imposes upon optometrists in the State the following minimum requirements for optometric prescriptions:

"A. For ophthalmic lenses, other than contact lenses:

- (1) Dioptric power of spheres, cylinders and prisms, axis of cylinders and position of base of prisms;
- (2) Designation of pupillary distance;
- (3) Type and form of lenses;
- (4) Description of type and placements of reading segments in multifocal lenses;
- (5) Placement of optical centers for distance-seeing and near-point seeing;
- (6) Name of patient, date of prescription and name and office location of prescriber.

B. For contact lenses:

- (1) Base curve, peripheral curve, immediate curve;
- (2) Power;
- (3) Size of lens; ,
- (4) Size of optical zone;
- (5) Thickness;
- (6) Edge shape;
- (7) Color;
- (8) Form."

There is nothing, however, in 16 Code of Federal Regulations Part 456^{1/} that limits optometric prescriptions to inclusion of only dioptic power of spheres, cylinders and prisms, axis of cylinders and position of base of prisms. In fact, 16 CFR §456.1 specifically states in applicable part that, "[a]ll prescriptions shall include all the information specified by state law, if any."

Thus, there is no conflict, and optometrists in this State must continue to follow the minimum requirements for optometric prescriptions imposed by the Maine Legislature, as set forth in 32 M.R.S.A. §2417(4).

Very truly yours,



DAVID ROSEMAN
Assistant Attorney General

DR:jg

cc: Thomas Joyce, Jr., O.D., President of the Board
Norman Varnum, O.D., Secretary of the Board

1/ 16 CFR §456.1 - §456.9 deals with both advertising (defined in the regulations as "dissemination of information") and with providing ophthalmic prescriptions. The advertising sections of the Trade Regulation Rule are not involved in this opinion.