

FEDERAL TRADE COMMISSION
San Francisco Regional Office

Box 36005
450 Golden Gate Avenue
San Francisco, California 94102
Area Code (415) 556-1270

TO STATE AND LOCAL GOVERNMENTS

NOTICE OF INTENT TO RECOMMEND RULEMAKING
AND INVITATION TO COMMENT

The San Francisco Regional Office of the Federal Trade Commission intends to recommend that the Commission propose a trade regulation rule which may have a significant effect on existing state laws.

In making this recommendation, staff must inform the commission of the potential effect of such a trade regulation rule on state and local law. We seek your assistance in ascertaining how this proposed rule may affect the laws of your state and how we may resolve or minimize potential conflicts between the rule and state law. This process is in keeping with the commission's policy of seeking involvement of representatives from state and local governments at the earliest possible stage in our rulemaking efforts.

The trade regulation rule which the staff of this office intends to recommend to the commission concerns the sale of complete dentures to consumers who are edentulous in one or both arches. Our initial examination of applicable state laws and regulations reveals that virtually all states prohibit non-dentists from selling complete dentures directly to consumers. Virtually all states further require that impressions be taken from delegating these tasks to other persons acting under their supervision. Non-dentists may fabricate dentures only upon the written authorization of a dentist.

The current method of denture care delivery in the United States is apparently failing to meet the needs of our edentulous population. Approximately 40 percent of edentulous Americans have ill-fitting or incomplete dentures. Twenty-five percent of all Americans over age 65 need to have a complete upper or lower denture (or both) constructed, either because they have so ill-fitting as to be beyond repair. The vast majority have not obtained any care within a five-year period. These persons suffer the physical and mental discomforts of sores, reduced ability to chew food, and poor appearance; risk a great disability to wear dentures in the future; and forego the protection which might be provided by a screening for oral disease. There is no doubt that one of the major reasons for the failure to obtain denture care is the high cost of such care as it is now provided. Denture care prices are likely to be prohibitive, particularly for elderly and low-income persons who comprise the predominant portion of our edentulous population.

Non-dentists currently fabricate and evaluate the technical quality of complete dentures. The staff of this office believes that many non-dentists could also competently take impressions and fit dentures, and so could provide dentures of a quality equal to that required of dental licensees. We further believe that such persons are likely to provide denture care at prices substantially below the prices at which most such care is currently offered in this country. By substantially reducing prices to consumers, denture care would become accessible to a great number of consumers who cannot now afford it. As denture care becomes more accessible, the incidence of ill-fitting and incomplete dentures is likely to decline. We have identified no risks in the denture care process or in the failure to obtain related dentists' care that would tend to outweigh this health benefit.

Accordingly, the rule contemplated by the staff of this office would prevent the enforcement of current dental laws against non-dentists who provide, directly to consumers, complete dentures of a quality acceptable under prevailing standards of dental practice, provided that such persons advise consumers of the desirability of obtaining an examination for oral disease from a physician or dentist and other pertinent information. It would further permit such persons to sell dentures to dentists and to purchase dentures for resale from dental laboratories.

In addition to the above recommendation, the staff intends to recommend that the Commission propose a trade regulation rule which we do not believe is inconsistent with current state laws. This rule would require that dentists disclose to consumers the amount of any commercial dental laboratory charges included in the dentist's fee for any prosthetic dental service. Most consumers are unaware of the prices commercial laboratories charge for dental prosthetic appliances. In the absence of this information, consumers are unable to determine how much they are paying for the dentist's time and skills; they cannot make comparison among dentists nor among the different quality appliances the dentist may offer. Disclosure would provide consumers with basic information necessary to make rational purchasing decisions. Consumers may further receive the economic benefits of health and unrestrained price competition.

We welcome written comments concerning the rulemaking proposals outline above. However, to be certain that your response receives due consideration, please submit it no later than November 22, 1978. Address your response to:

Federal Trade Commission
San Francisco Regional Office
Attention: Ms. Ann Grover
450 Golden Gate Avenue, Box 36005
San Francisco, California 94102

If you wish to discuss the proposed rule prior to submitting written comments, feel free to telephone Ms. Ann Grover of this office at (415) 556-1270.

Should the Commission decide to propose the rule we recommend, you will be given further opportunity to comment. Indeed, the Commission encourages the participation of state and local governments in every phase of the rulemaking process. If the recommended rule is proposed by the Commission, you will have the opportunity, in formal rulemaking proceedings, to provide written comments, oral testimony, rebuttal submission, post-hearing submissions and comments with respect to the final reports of the presiding officer and the Commission's staff. The Commission's staff will continue to keep representatives of state and local governments informed of the progress of the rulemaking proceedings and the opportunities for comment as they arise.