

1 ROB BONTA
Attorney General of California
2 NANCY A. KAISER
Supervising Deputy Attorney General
3 SHAWN P. COOK
Supervising Deputy Attorney General
4 State Bar No. 117851
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 269-6291
6 Facsimile: (916) 731-2126
Attorneys for Complainant
7

8 **BEFORE THE**
9 **CALIFORNIA STATE BOARD OF OPTOMETRY**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Statement of Issues
Against:

13 **ADRIANNA GUISELLA ZEGARRA**
14 **Spectacle Lens Dispenser Registration**
15 **Applicant**

16 Respondent.

Case No. 420 2023 000108

STATEMENT OF ISSUES

17 **PARTIES**

18 1. Gregory Pruden (Complainant) brings this Statement of Issues solely in his official
19 capacity as the Executive Officer of the California State Board of Optometry, Department of
20 Consumer Affairs.

21 2. On or about September 16, 2022, the California State Board of Optometry (Board)
22 received an application for a Spectacle Lens Dispenser Registration from Adrianna Guisella
23 Zegarra (Respondent). On or about September 16, 2022, Adrianna Guisella Zegarra certified
24 under penalty of perjury to the truthfulness of all statements, answers, and representations in the
25 application. The Board denied the application on October 24, 2023.

26 ///

27 ///

28

1 **JURISDICTIONAL AND STATUTORY PROVISIONS**

2 3. This Statement of Issues is brought before the Board under the authority of the
3 following laws. All section references are to the Business and Professions Code (Code) unless
4 otherwise indicated.

5 4. Section 2559.2 of the Code states:

6 (a) An individual shall apply for registration as a registered spectacle lens
7 dispenser on forms prescribed by the board. The board shall register an individual as a
8 registered spectacle lens dispenser upon satisfactory proof that the individual has passed
9 the registry examination of the American Board of Opticianry or any successor agency to
10 that board. In the event the board should determine, after hearing, that the registry
11 examination is not appropriate to determine entry level competence as a spectacle lens
12 dispenser or is not designed to measure specific job performance requirements, the board
13 may thereafter prescribe or administer a written examination that meets those
14 specifications. If an applicant for renewal has not engaged in the full-time or substantial
15 part-time practice of fitting and adjusting spectacle lenses but has maintained their
16 American Board of Opticianry and National Contact Lens Examiners registration or
17 practiced within another state within the last three years then the board may require the
18 applicant to take and pass the examination referred to in this section as a condition of
19 registration. Any examination prescribed or administered by the board shall be given at
20 least twice each year on dates publicly announced at least 90 days before the examination
21 dates. The board is authorized to contract for administration of an examination.

22 (b) The board may deny registration where there are grounds for denial under the
23 provisions of Division 1.5 (commencing with Section 475).

24 (c) The board shall issue a certificate to each qualified individual stating that the
25 individual is a registered spectacle lens dispenser.

26 (d) A registered spectacle lens dispenser is authorized to fit and adjust spectacle
27 lenses at any place of business holding a certificate of registration under Section 2564.93
28 or at any location where the practice of ophthalmology or optometry is practiced. The
certificate of the registered spectacle lens dispenser shall be displayed in a conspicuous
place at the place of business where the registered dispenser is fitting and adjusting.

5. Section 475 of the Code states, in pertinent part:

(a) Notwithstanding any other provisions of this code, the provisions of
this division shall govern the denial of licenses on the grounds of:

.....

(2) Conviction of a crime.

.....

1 (4) Commission of any act which, if done by a licentiate of the
2 business or profession in question, would be grounds for suspension or revocation
3 of license.

4

5 6. Section 477 of the Code states:

6 As used in this division:

7 (a) "Board" includes "bureau," "commission," "committee,"
8 "department," "division," "examining committee," "program," and "agency."

9 (b) "License" includes certificate, registration or other means to engage in
10 a business or profession regulated by this code.

11 7. Section 480 of the Code states, in pertinent part:

12 (a) Notwithstanding any other provision of this code, a board may deny a
13 license regulated by this code on the grounds that the applicant has been convicted of
14 a crime or has been subject to formal discipline only if either of the following
15 conditions are met:

16 (1) The applicant has been convicted of a crime within the preceding seven
17 years from the date of application that is substantially related to the qualifications,
18 functions, or duties of the business or profession for which the application is made,
19 regardless of whether the applicant was incarcerated for that crime, or the applicant
20 has been convicted of a crime that is substantially related to the qualifications,
21 functions, or duties of the business or profession for which the application is made
22 and for which the applicant is presently incarcerated or for which the applicant was
23 released from incarceration within the preceding seven years from the date of
24 application.

25

26 8. Code section 493, subdivision (a) states:

27 Notwithstanding any other law, in a proceeding conducted by a board within the
28 department pursuant to law to deny an application for a license or to suspend or revoke a
license or otherwise take disciplinary action against a person who holds a license, upon
the ground that the applicant or the licensee has been convicted of a crime substantially
related to the qualifications, functions, and duties of the licensee in question, the record of
conviction of the crime shall be conclusive evidence of the fact that the conviction
occurred, but only of that fact.

REGULATORY PROVISIONS

9 9. California Code of Regulations, title 16, section 1399.270, subdivision (a) states:

10 For the purpose of denial, suspension, or revocation of the registration of a
11 dispensing optician pursuant to Section 141, Division 1.5 (commencing with Section 475),
12 or Section 2555.1 of the code, a crime, professional misconduct, or act shall be considered
13 substantially related to the qualifications, functions, and duties of a dispensing optician if,

1 to a substantial degree, it evidences present or potential unfitness of a dispensing optician
2 to perform the functions authorized by the registration in a manner consistent with the
public health, safety, or welfare.

3 **FIRST CAUSE FOR DENIAL OF APPLICATION**

4 **(August 29, 2022 Criminal Conviction - DUI on November 2, 2021)**

5 10. Respondent's application for a Registered Spectacle Lens Dispenser registration= is
6 subject to denial under Code sections 2559.2, subdivision (b), 480, subdivision (a)(1), and 475,
7 subdivision (a)(2), in conjunction with California Code of Regulations, title 16, section
8 1399.270, subdivision (a), in that Respondent was convicted of crime substantially related to the
9 qualifications, duties, and functions of a registered spectacle lens dispenser. Specifically, on
10 August 29, 2022, in a criminal proceeding entitled *People of the State of California v. Adrianna*
11 *Zegarra*, in Los Angeles County Superior Court, Case Number 2SV01524, Respondent was
12 convicted of violating one count of Vehicle Code section 23152, subdivision (b) [DUI alcohol
13 0.08%], a misdemeanor. The court sentenced Respondent to serve 30 days in jail and placed her
14 on 36 months of probation with terms and conditions.

15 11. The circumstances surrounding the conviction are that on November 3, 2021,
16 during an ambulance traffic collision investigation involving 4 vehicles with injuries, an officer
17 noticed objective symptoms of intoxication emitting from Respondent's breath and person.
18 Respondent was observed to have red watery eyes, an odor of unknown alcoholic beverage
19 emitting from her person, unsteady balance, and slurred and repetitive speech. While speaking to
20 Respondent, she became uncooperative and attempted to throw herself on the ground.
21 Respondent was taken to Valley Presbyterian Hospital for medical attention due to her vomiting
22 in the backseat of the police car. Respondent continued her erratic behavior and admitted that she
23 wanted someone to kill her and that she was suicidal. Respondent submitted to a blood test that
24 revealed a blood alcohol content level of 0.24%.

25 ///

26 ///

27 ///

28 ///

1 **SECOND CAUSE FOR DENIAL OF APPLICATION**

2 **(Acts Warranting Denial of Licensure)**

3 12. Respondent’s application for a Registered Spectacle Lens Dispenser registration
4 is subject to denial under Code sections 2559.2, subdivision (b), 480, subdivision (a), and 475,
5 subdivision (a)(4), in that Respondent committed acts, which if done by a licentiate of the
6 business or profession in question, would be grounds for suspension or revocation of her license.

7 **PRAYER**

8 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
9 and that following the hearing, the California State Board of Optometry issue a decision:

10 1. Denying the application of Adrianna Guisella Zegarra for a Spectacle Lens Dispenser
11 Registration; and

12 2. Taking such other and further action as deemed necessary and proper.

13
14 DATED: 4-2-2024

Gregory Pruden

15 GREGORY PRUDEN
16 Executive Officer
17 California State Board of Optometry
18 Department of Consumer Affairs
19 State of California
20 *Complainant*

21
22
23
24
25
26 LA2023605190
27 Jz(3/26/24)
28