



May 3, 2022

## NOTICE OF CITATION

Anthony Rivera  
A Vision R  
9773 Sierra Ave., Unit C-12  
Fontana, CA 92335

Re: Case No. 420 2019 000371

Dear Mr. Rivera:

You are hereby served with a Citation pursuant to Title 16, California Code of Regulations (CCR) Section 1399.278. Operating a spectacle and contact dispensary without a current and valid Registered Dispensing Optician registration with the California State Board of Optometry constitutes violations of Business and Professions Code (B&P) Sections 2564.91(a), and 2556.5.

Section 1399.276 of the California Code (Code) of Regulations authorizes the Board's Executive Officer of the California State Board of Optometry (Board) to issue citations containing orders of abatement and/or administrative fines pursuant to Business and Professions Code (BPC) section 125.9 against an optician who has committed any acts or omissions which are in violation of the provisions of law. Where appropriate, the citation may contain an order of abatement fixing a reasonable time for abatement of the violation. The sanctions authorized under this section shall be separate from and in addition to any civil or criminal remedies.

Enclosed is a copy of a Citation issued by the Executive Officer of the Board, which is hereby served upon you. All orders of abatement and assessments of administrative fines are to be complied with in accordance with the time specified in the Citation.

You have a right, by law, to request either an informal conference before the Executive Officer or a formal administrative hearing before an administrative law judge or both, to contest the findings of a violation. A request for an informal conference must be made within 10 days of service of this Citation. A request for a formal administrative hearing must be made within 30 days of the issuance of the Citation. You may be, but do not need not be, represented by legal counsel. If you wish to be represented by legal counsel, you are advised to contact your attorney immediately so that you may be properly represented in all proceedings. The Citation will be deemed a final order 30 days after the date of issuance unless appealed.

If you request a formal administrative hearing, your request will be referred to the Office of the Attorney General and a Deputy Attorney General will be assigned to the case. You will then be scheduled for a hearing, which may take up to six months to one year depending on the hearing calendar. The hearing will be held pursuant to Chapter 5 (commencing with section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. The Board may, by majority vote, adopt, reduce or revise the administrative law judge's proposed decision.

If you request an informal conference, a conference will be held by phone to review the acts charged in the Citation and your efforts toward full compliance. The informal conference is a more expeditious process and will be scheduled within 30 days from receipt of your request. At the conclusion of the conference, the Executive Officer may affirm, modify or dismiss the Citation, including any fine levied or order of abatement. A copy of the Executive Officer's findings and decision will be sent to you. Unless an administrative hearing was requested in a timely manner, an informal conference decision, which affirms the Citation, will be final.

Enclosed are the forms for your use to request an informal conference and/or a formal administrative hearing. If you do not return the enclosed form(s) within the times specified above, you waive the right to contest this Citation. If you do not appeal the Citation within the specified time, the Citation shall be deemed a final order of the Board and shall not be subject to further administrative review. If you have any questions or need further clarification, please submit all inquiries in writing.

Sincerely,



Shara Murphy  
Executive Officer

Enclosures



Name: A Vision R - Fontana  
Date Issued: May 3, 2022  
Complaint #: 420 2019 000371

## **CITATION**

### **Findings of Fact**

I

Sections 1399.275 and 1399.277 of Title 16, California Code of Regulations authorizes the executive officer of the California State Board of Optometry (Board) to issue citations containing orders of abatement and/or administrative fines pursuant to Business and Professions Code (B&P) section 125.9 for opticians who have committed any acts or omissions which are in violation of the Opticianry Practice Act or any regulation adopted thereto.

II

B&P Section 2555.5 defines the action the Board may take against or impose upon the license of an optician who is guilty of unprofessional conduct.

III

The Board's records reflect that A Vision R has not been issue nor holds a valid Registered Dispensing Optician certicate to practice in California.

IV

During an investigation conducted by the Board, it was determined that, on June 15, 2018 and December 1, 2019, A Vision R in Fontana applied for registration as a Registered Dispensing Optician. Each application has expired without meeting the requirements of registration. Further, it has been determined that A Vision R in Fontana remains in the business of filling prescriptions of physician and surgeons or optometrists without having a registration, as required by law.

## **Determination of Issues**

### **Cause of Action**

I

Violations exist pursuant to Business and Professions Code Sections:

- 2564.91(a) - Individuals, corporations, and firms shall make application for registration and shall not engage in that business defined in Section 2564.90 before being issued a certificate of registration.
- 2556.5 - Any person who holds himself out as a “dispensing optician” or “registered dispensing optician” or who uses any other term or letters indicating or implying that he is registered and holds a certificate under the terms of this law without having at the time of so doing a valid, unrevoked certificate, as provided in this chapter, is guilty of a misdemeanor.

A cause for action thereby exists.

## **Penalty**

In compliance with Business and Professions Code section 125.9 and California Code of Regulations section 1579, it is determined that:

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Unless submitting a timely request for a conference (10 day) or hearing (30 days), within the specified timeframe from of the issuance of this citation, you are required to pay an administrative fine in the amount of **\$2,500.00** for violation of Business and Professions Code Section 2564.91(a) and **\$2,500.00** for violation of Business and Professions Code section 2556.5. The total payment of **\$5,000.00** is due **June 1, 2022.**

## **Order of Abatement**

The Board hereby orders you to comply with all statutes and regulations governing the practice of Opticianry.

Further, you are ordered to cease and desist from violating Business and Professions Code sections 2564.91(a) and 2556.5. You must apply for registration as a Registered Dispensing Optician. Until such time that a valid registration is obtained, you must cease and desist from operating the opticianry in Fontana. Proof of compliance must be submitted to the Enforcement Unit by **June 30, 2022.**

Additionally, pursuant to Business and Professions Code section 2552.2(a) “A citation issued for an order of abatement in accordance with Sections 1399.275 and 1399.277 of Title 16 of the California Code of Regulations shall be posted on the front of the place of business of the dispensing optician. The citation shall remain posted until the violation has been corrected. The dispensing optician must also prominently post and make available its notice on any internet website it maintains that provides information about its services.”

Please post a copy of the Notice of Citation and the Findings of Fact in a conspicuous location in the Fontana store location and post to your website: <https://avroptical.com/>. Provide the Board with a picture of the posted notice by **May 13, 2022.**