



Certified and Regular Mail
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June 8, 2023

Devlyn Optical, LLC
2136 E. Florence Ave
Walnut Park, CA 90255

Re: Citation No. 420 2022 000098
Date of Issuance: April 27, 2023

CITATION DECISION AND ORDER

On April 27, 2023, the California State Board of Optometry (Board) issued Citation No. 420 2022 000098 to Devlyn Optical, LLC, pursuant to California Code of Regulations § [1399.275](#) and Business and Professions Code § [125.9](#). The citation was issued for the unlicensed practice of opticianry. Specifically, advertising the illegal filling of prescription lenses.

On May 9, 2023, the Board received a request for an informal citation conference from you to appeal the issuance of Citation No. 420 2022 000098.

On June 6, 2023, an informal citation teleconference was held. After careful consideration the Executive Officer of the California Board of Optometry makes the following decision:

You did not provide any new evidence mitigating the facts of the case. Further, you admitted that you did not obtain the proper registration based on a misunderstanding of the requirements of registration. Based upon the violations not being satisfactorily refuted, the decision is to affirm the Citation.

The ordered fine amount of \$5,000.00 is due no later than **July 8, 2023**. Payment shall be made payable to the California State Board of Optometry, 2450 Del Paso Road, Suite 105, Sacramento, CA 95834. Please include the case number (**420 2022 000098**) on the check. ***If you wish to establish a payment plan, you must contact the Board's Enforcement Unit and submit a plan in writing for approval.*** Payment of the administrative fine does not constitute an admission of the violation charged. Payment of the fine will be represented as satisfactory resolution of the matter for the purposes of public disclosure.

The Board will promptly take all appropriate action to enforce the Citation Decision. Be advised that if the fine is not paid, the full amount of the assessed fine will be forwarded to the Franchise Tax Board Intercept Program for collection. If you have any questions, please contact Brad Garding, Enforcement Analyst, at (279) 895-1474.

Gregory Pruden

Gregory Pruden, Executive Officer

Enclosure
GP:bg



April 27, 2023

NOTICE OF CITATION

Devlyn Optical, LLC
2136 E. Florence Ave
Walnut Park, CA 90255

Re: Case No. 420 2022 000098

To Whom it May Concern:

You are hereby served with a Citation pursuant to Title 16, California Code of Regulations (CCR) Section 1399.275. Operating a spectacle and contact dispensary without a current and valid Registered Dispensing Optician registration with the California State Board of Optometry and advertising the illegal filling of prescription lenses constitutes violations of Business and Professions Code (B&P) sections 651(a), 2555.5(g), 2555.5(p), 2556.5, 2564.91(a), and 17500.

Section 1399.275 of the CCR 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 a registrant 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 appeal 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 to 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 60 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,

A handwritten signature in cursive script that reads "Gregory Pruden".

Gregory Pruden
Executive Officer

Enclosures



Name: Devlyn Optical
Date Issued: April 27, 2023
Complaint #: 420 2022 000098

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, and for those engaged in the unlicensed practice of opticianry.

III

The Board's records reflect that Devlyn Optical located at 8401 Van Nuys Boulevard #78A, Panorama City, CA 91402 was issued Registered Ophthalmic Dispensing Business (RDO) registration number 70559 on July 17, 2014, and that registration was cancelled on February 11, 2020.

IV

On August 10, 2019, the Board received an application for a new RDO registration for Devlyn Optical located at 2136 E. Florence Ave., Walnut Park, CA 90255. On August 23, 2019, Board staff notified the applicant that the application could not be processed as they were still incorporated as an LLC. No further information was provided from the applicant, and the application expired on August 10, 2020.

V

The Board's records reflect that Devlyn Optical located at 2136 E. Florence Ave., Walnut Park, CA 90255 has not been issued nor holds a valid Registered Dispensing Ophthalmic Business certificate to practice opticianry in California.

VI

During an investigation conducted by the Board, it was determined that Devlyn Optical located at 2136 E. Florence Ave., Walnut Park, CA 90255 is in the business of filling the prescriptions of physician and surgeons or optometrists without having a valid and current registration, as required by law.

Further, during the investigation, it was discovered that the location at Devlyn Optical located at 2136 E. Florence Ave., Walnut Park, CA 90255 advertised services that they were not registered to provide. Specifically, they advertised that customers could, "GET THE BEST EYE CARE SERVICES IN WALNUT PARK" and stated that they provide the following products and services:

- Experienced Eye Doctor
- Free Eye Test Services
- Prescription Eyeglasses
- Reading Glasses
- Frames and Contact Lenses

Determination of Issues

Cause of Action

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Violations exist pursuant to Business and Professions Code Sections:

- 651(a) – It is unlawful for any person licensed under this division or under any initiative act referred to in this division to disseminate or cause to be disseminated any form of public communication containing a false, fraudulent, misleading, or deceptive statement, claim, or image for the purpose of or likely to induce, directly or indirectly, the rendering of professional services or furnishing of products in connection with the professional practice or business for which he or she is licensed. A "public communication" as used in this section includes, but is not limited to, communication by means of mail, television, radio, motion picture, newspaper, book, list or directory of healing arts practitioners, Internet, or other electronic communication.
- 2555.5(g) – The use of advertising relating to opticianry that violates Section 651 or 17500.
- 2555.5(p) - The practice of functions defined in this chapter without a valid, unrevoked, unexpired 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.

- 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.

- 17500 – It is unlawful for any person, firm, corporation or association, or any employee thereof with intent directly or indirectly to dispose of real or personal property or to perform services, professional or otherwise, or anything of any nature whatsoever or to induce the public to enter into any obligation relating thereto, to make or disseminate or cause to be made or disseminated before the public in this state, or to make or disseminate or cause to be made or disseminated from this state before the public in any state, in any newspaper or other publication, or any advertising device, or by public outcry or proclamation, or in any other manner or means whatever, including over the Internet, any statement, concerning that real or personal property or those services, professional or otherwise, or concerning any circumstance or matter of fact connected with the proposed performance or disposition thereof, which is untrue or misleading, and which is known, or which by the exercise of reasonable care should be known, to be untrue or misleading, or for any person, firm, or corporation to so make or disseminate or cause to be so made or disseminated any such statement as part of a plan or scheme with the intent not to sell that personal property or those services, professional or otherwise, so advertised at the price stated therein, or as so advertised. Any violation of the provisions of this section is a misdemeanor punishable by imprisonment in the county jail not exceeding six months, or by a fine not exceeding two thousand five hundred dollars (\$2,500), or by both that imprisonment and fine.

A cause for action thereby exists.

Penalty

In compliance with Business and Professions Code section 125.9 and California Code of Regulations section 1399.275, it is determined that:

I

Unless submitting a timely request for a conference (10 days) or hearing (30 days), within the specified timeframe from the issuance of this citation, you are required to pay an administrative fine in the amount of **\$1,000.00** for violation of Business and Professions Code sections 651(a) and 17500; **\$1,000.00** for violation of Business and Professions Code section 2555.5(g); **\$1,000.00** for violation of Business and Professions Code section 2555.5(p), **\$1,000.00** for violation of Business and Professions Code section 2556.5, and **\$1,000.00** for violation of Business and Professions Code section 2564.91(a). The total payment of **\$5,000.00** is due by **May 27, 2023.**

Order of Abatement

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

You are ordered to cease and desist from violating Business and Professions Code sections 2555.5(p), 2556.5, and 2564.91(a). You must apply for registration as a Registered Dispensing Ophthalmic Business (formerly known as a Registered Dispensing Optician) before you open a new opticianry with the intent to fill prescriptions. Until such time that a valid registration is obtained, you must cease and desist from filling any prescription orders from any client.

Further, you are ordered to cease and desist from violating Business and Professions Code sections 651(a), 2555.5(g), and 17500. Please remove all references to prescription lenses of any type from all California based businesses, circular advertisements, building advertisements, and social media sites, including Facebook, Instagram, and Yelp.

Further, these changes need to be made until registrations are obtained:

- <https://devlynoptical.com/store-locations/> (remove any reference to CA locations, until registered)
- <https://devlynoptical.com/optical-store-panorama-city/> (disable page or remove all references to prescriptions, until registered)
- <https://devlynoptical.com/optical-store-walnut-park-ca/> (disable page or remove all references to prescriptions, until registered)
- <https://www.facebook.com/devlynoptical/> (remove any reference to CA locations, until registered)
- <https://www.instagram.com/devlynoptical/?hl=en> (remove any reference to CA locations, until registered)
- <https://www.yelp.com/biz/devlyn-optical-walnut-park> (remove any reference to CA locations, until registered)
- https://www.yelp.com/biz_photos/devlyn-optical-panorama-city (remove any reference to CA locations, until registered)

A written response with copies showing proof of compliance must be submitted to the Board's Enforcement Unit at CSBOEnforcement@dca.ca.gov or the address at the top of this Citation by **May 27, 2023**.

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 Walnut Park store location. Provide the Board with a picture of the posted notice by **May 12, 2023**.