



November 30, 2023

## NOTICE OF CITATION

Maria A. Choi Inoue  
11752 Carriage Lane  
Whittier, CA 90601

Re: Case No. 420 2022 000237

Dear Ms. Inoue:

You are hereby served with a Citation pursuant to Title 16, California Code of Regulations (CCR) Section 1576 and 1577. Using a Phoropter to check/change clientele prescriptions is considered unlicensed practice of optometry and is a violation of Business and Professions Code sections 2540, 3040(a), 3110(a), and 3110(s).

Section 1576 of the California Code (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 (BPC) section 125.9 against an optometrist 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.

Section 1577 of the California Code (Code) of Regulations indicates the Executive Officer of the Board is authorized to determine when and against whom a citation will be issued and to issue citations containing orders of abatement and fines against persons, as defined in Section 125.9 of the Code, who are performing or who have performed services for which a license is required under the statutes and regulations enforced by the Board of Optometry. Each citation issued for unlicensed activity shall be issued in accordance with Section 1578 of these regulations. The provisions of section 1578 shall apply to the issuance of citations for unlicensed activity under this section. The sanction authorized under this section shall be separate from and in addition to any other 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 30 days of service of this Citation. A request for a formal administrative hearing must be made within 30 days of the issuance of this 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 a decision will be sent to you. If a cited person wishes to contest an affirmed or modified citation, the person shall, within thirty (30) days of his or her notification, file, in writing, a request for an administrative hearing to the executive officer regarding the acts charged in the affirmed or modified citation.

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,



Gregory Pruden  
Executive Officer

Enclosures



Name: Maria A. Choi Inoue  
Date Issued: November 30, 2023  
Complaint #: 420 2022 000237

## CITATION

### Findings of Fact

I

Section 1577 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 against persons who are performing or who have performed services for which a license is required under the statutes and regulations enforced by the Optometry Licensure Act or any regulation adopted thereto.

II

B&P Section 3110 defines the action the Board may take against or impose upon the license of an optometrist who is guilty of unprofessional conduct.

III

The Board's records reflect that Maria A. Choi Inoue has not been issued nor holds a valid Registered Spectacle Lens Dispenser certificate or a valid Optometrist License to practice in California.

IV

During an investigation conducted by the Board, it was determined, based on your admission, that "upon request" you would check the prescriptions of some clients who would come in to the establishment stating their prescription didn't seem clear or made them dizzy. You indicated you would take the clients' prescriptions and then provide "trial frames" with different prescriptions to try. Further, you admitted that you would use a Phoropter to measure the subjective refractive error, on occasion, to review and adjust the clients' prescriptions.

A phoropter is an instrument comprised of cylinders, prisms, and lenses that measures the eye's subjective refractive error to help determine and eye prescription. Phoropters can also be used to measure the eye's natural resting position, near-distance focal ability, binocular vision and eye movements. This function is performed by licensed optometrists.

### Determination of Issues

## Cause of Action

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Violations exist pursuant to Business and Professions Code Sections:

- 2540 – No person other than a physician and surgeon or optometrist may measure the powers or range of human vision or determine the accommodative and refractive status of the human eye or the scope of its functions in general or prescribe ophthalmic devices.
- 3040 (a) - It is unlawful for a person to engage in the practice of optometry or to advertise or hold himself or herself out as an optometrist without a valid, unrevoked California optometrist license. The practice of optometry includes the performing or controlling of any acts set forth in Section 3041.
- 3110 (a) - Violating or attempting to violate, directly or indirectly assisting in or abetting the violation of, or conspiring to violate any provision of this chapter or any of the rules and regulations adopted by the board pursuant to this chapter.
- 3110 (s) - The practice of optometry without a valid, unrevoked, unexpired license.

Pursuant to Business and Professions Code section 3041(a) The practice of optometry includes the diagnosis, prevention, treatment, and management of disorders and dysfunctions of the visual system, as authorized by this chapter, as well as the provision of habilitative or rehabilitative optometric services, and is the doing of any or all of the following:

- (2) The determination of the powers or range of human vision and the accommodative and refractive states of the human eyes, including the scope of their functions and general condition.

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 or hearing, within 30 days of the issuance of this citation, you are required to pay an administrative fine in the amount of **\$500.00** for violation of Business and Professions Code Section 2540; **\$750.00** for violation of Business and Professions Code section 3040(a); **\$500.00** for violation of Business and Professions Code section 3110(a), and **\$750.00** for violation of Business and Professions Code section 3110(s). The total payment of **\$2,500.00** is due **December 30, 2023.**