



August 1, 2023

NOTICE OF CITATION

Arzen Menia
29042 Tradewinds Lane
Hayward, California 94545

Re: Case No. 420 2017 000218

Dear Arzen Menia:

You are hereby served with a Citation pursuant to Title 16, California Code of Regulations (CCR) Section 1576. The unlicensed practice of optometry constitutes violations of Business and Professions Code Sections 2540, 3040, and 3110(s). Performing duties and functions outside the scope of legal duties and functions of an optometric assistant constitutes violation of Business and Professions Code Section 2544(a)(9)(b).

Section 1576 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 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.

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 30 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 a 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: Arzen Menia
Date Issued: August 1, 2023
Complaint #: 420 2017 000218

CITATION

Findings of Fact

I

Section 1576 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 optometrists who have committed any acts or omissions which are in violation of 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, and for those engaged in the unlicensed practice of optometry.

III

The Board's records reflect that Arzen Menia has not been issued, nor holds, a valid Optometry License to practice optometry in California.

IV

During an investigation conducted by the Board, it was determined that you performed an eye exam, including a subjective refraction. You performed this service as a certified ophthalmic technician in service of a licensed optometrist. On March 1, 2017, at 1695 Arden Way, Sacramento, California 95815, you provided an eye exam for one patient, including the subjective refraction. Following that exam, the licensed optometrist signed the prescription based on your exam.

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.
- 2544(a) – Notwithstanding any other provision of law, an assistant in any setting where optometry or ophthalmology is practiced who is acting under the direct responsibility and supervision of an optometrist or a physician and surgeon may fit prescription lenses. Under the direct responsibility and supervision of an optometrist or ophthalmologist, an assistant in any setting where optometry or ophthalmology is practiced may also do the following:
 - (9)(B) - Any preliminary subjective refraction procedures shall be performed as follows:
 - (i) When the supervising physician and surgeon or optometrist is physically present at the location where the procedures are being performed, and not involving telehealth services.
 - (ii) In conjunction with an in-person examination being performed by the supervising physician and surgeon or optometrist.
- 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.
- BPC 3110(s) – The practice of optometry without a valid, unrevoked, unexpired license.

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 **\$1,250.00** for each violation of Business and Professions Code section 2540, 2544(a)(9)(B), 3040(a), and 3110(s). The total payment of **\$5,000.00** is due **September 1, 2023.**

Order of Abatement

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