



July 6, 2022

NOTICE OF CITATION

Christian Bustamante
Priscilla Bustamante
Eye Vision Optical, Inc., formerly Nueva Vision Optical, Inc.
3100 E. Imperial Hwy #1109
Lynwood, CA 90262

Re: Case No. 420 2019 000034

Dear Christian Bustamante and Priscilla Bustamante:

You are hereby served with a Citation pursuant to Title 16, California Code of Regulations (CCR) Section 1399.278. The commission of fraud, misrepresentation, or any act involving dishonesty or corruption that is substantially related to the qualifications, functions, or duties of a registered optician constitutes violations of Business and Professions Code (B&P) Section 2555.5(a) and (e), performing, or holding yourself out as being able to perform optometry services that are beyond the scope of the license authorized by this chapter constitutes violations of B&P Section 2555.5(o), and operating a spectacle and contact lens dispensary without a current and valid Registered Dispensing Optician registration with the California State Board of Optometry constitutes violations of B&P Section 2555.5(p).

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: Nueva Vision Optical, Inc.
Date Issued: July 6, 2022
Complaint #: 420 2019 000034

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 or an applicant who is guilty of unprofessional conduct.

III

During an investigation conducted by the Board in 2017, it was determined that you fraudulently up billed for products and services sold to the public.

IV

During the investigation, it was determined that you billed patients for optometry services where none were provided.

V

The Board's records reflect that Nueva Vision Optical, Inc. did not have a current and valid Registered Dispensing Optician certificate to practice opticianry in California from November 1, 2013 through October 2, 2019.

Determination of Issues

Cause of Action

I

Violations exist pursuant to Business and Professions Code Sections:

- 2555.5(a) - Violating, attempting to violate, conspiring to violate, or directly or indirectly assisting in or abetting the violation of any provision of this chapter or any of the rules and regulations adopted by the board pursuant to this chapter.
- 2555.5(e) - The commission of fraud, misrepresentation, or any act involving dishonesty or corruption that is substantially related to the qualifications, functions, or duties of a registered optician.
- 2555.5(o) – Performing, or holding oneself out as being able to perform, or offering to perform, any professional services beyond the scope of the license authorized by this chapter.
- 2555.5(p) - The practice of functions defined in this chapter without a valid, unrevoked, unexpired registration.

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:

I

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 **\$2000.00** for each violation of Business and Professions Code Section 2555.5(e) and (o) and **\$500.00** for each violation of Business and Professions Code section 2555.5(a) and (p). The total payment of **\$5,000.00** is due **August 6, 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 2555.5(a) and (p). You must renew your registration as a Registered Dispensing Optician. Until such time that a valid registration is obtained, you must cease and desist from operating as an optician. Proof of compliance must be submitted to the Enforcement Unit by **August 6, 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.”

Show proof of payment for full restitution of \$41,010.00 to Vision Service Plan, owed for fraudulent billing.

As required by law, post a copy of the Notice of Citation and the Findings of Fact in a conspicuous location at 3100 E. Imperial Hwy #1109, Lynwood, CA. Provide the Board with a picture of the posted notice by **August 6, 2022**.