



California State Board of Optometry

Committee Meeting

Friday, February 18, 2022

Enforcement Presentation – Citations



Enforcement Program

A Presentation to the Committee about Administrative Citations

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What is an Administrative Citation?

- An Administrative Citation is an enforcement action that is not discipline, does not seek to suspend or revoke a license; merely imposes a monetary fine and/or an order of abatement.
- They are public and posted to website



Authority to Issue Administrative Citations

Business and Professions Code section 125.9 authorizes agencies within the Department of Consumer Affairs to issue citations for violations of their respective licensing laws or regulations.

These citations may include an administrative fine up to \$5,000.



CA State Board of Optometry Authority

Optometry Program:

- B&P section 2556.2 (h)(1)
- B&P section 3095
- CCR section 1576 – licensed optometrist
- CCR section 1577 - unlicensed practice of optometry



CA State Board of Optometry Authority

Opticianry Program:

- B&P section 2556.2 (h)(1)
- CCR section 1399.275 – registered opticians
- CCR section 1399.278 – unlicensed practice of opticianry



Issue an Administrative Citation When:

Citations bridge the gap between education letters and the initiation of formal disciplinary action when:

- There is no real potential for client/patient harm
- The act does not demonstrate potential unfitness to practice
- Violation may not be an ongoing
- Minor or technical violations



Minor or Technical Violations

- Failed to register fictitious name
- Failed to apply for a Statement of Licensure
- Failed to notify Board of address of record change w/in 30 days
- Failed to cooperate with board investigation
- Failed to post license in public view
- Practicing with an expired license/registration
- Failed to provide prescription
- Failed to provide a receipt for services rendered
- Advertising
- Misrepresentation – using “Dr.” without using “OD”
- Failing a continuing education audit



Burden of Proof

The burden of proof to issue a citation is the preponderance of evidence.

- Preponderance of evidence is the standard required in most civil cases. The standard is met if the assertion of fact is more likely to be true than not. (more than 50%)
- Enforcement staff, as a rule, try to meet the burden of proof at the level of clear and convincing evidence which is substantially more likely to be true than not. (more than 70%)



Fine Amounts

Optometry Program:

Range from \$250 - \$5000

Opticianry Program:

Range from \$100 - \$5000



What is the Process

- Draft Citation for the Executive Officer's (EO) review/signature
 - Citations identify the codes that allegedly were violated
 - Contain a summary of the events and circumstances surrounding the alleged violation
 - Include a fine only, an abatement order only , or both a fine and abatement order

- Service of the Citation
 - Sent via First Class (Regular) and Certified Mail to Address of Record
 - Track Citation for compliance or appeal
 - Cited individual has 30 days to:
 1. Pay fine imposed
 2. Comply with any abatement order
 3. Appeal the citation



Compliance/Non-Compliance

➤ Compliance:

- Fine paid – case closed
- Abatement order - compliance is met – case closed
- Both fine paid and abatement order complete – case closed

➤ Noncompliance:

- Fine not paid
 1. A hold is placed on the subject's license renewal
 2. Series of Demand for Payment letters is initiated
 3. Referred to the Franchise Tax Board for intercept of outstanding fine
- Abatement order not completed
 1. Transmit to the Attorney General's office for failure to comply with the Abatement Order. (then follows disciplinary process)



Appeal Options

➤ Three options to appeal a citation:

1. Request an informal conference with the EO
2. Request an administrative hearing before an Administrative Law Judge
3. Request both an informal conference and an administrative hearing



Conclusion of Citation Overview

- Thank you for your time.
- Feedback to improve these trainings is helpful and encouraged.

