

**PRESENTATION OF THE  
BOARD OF DENTAL EXAMINERS**

TO THE SENATE COMMITTEE ON COMMERCE,  
CONSUMER PROTECTION, AND AFFORDABLE HOUSING

TWENTY-FOURTH LEGISLATURE  
Regular Session of 2008

Friday, March 28, 2008  
9:00 a.m.

**TESTIMONY ON HOUSE BILL NO. 2301, H.D.1, S. D.1, RELATING TO DENTISTRY.**

TO THE HONORABLE RUSSELL S. KOKUBUN, CHAIR,  
AND MEMBERS OF THE COMMITTEE:

My name is Jeffrey Miyazawa, D.D.S., Chair of the Board of Dental Examiners ("Board"). The Board appreciates the opportunity to testify in support of H.B. 2301, H.D.1, S.D.1.

The purpose of H.B. No. 2301, H.D.1, S.D.1 is to prohibit interference by an unlicensed person or entity in the practice of dentistry.

Since the introduction of the bill, the Board has had an opportunity to work with the Hawaii Dental Association and has come to an agreement on the S.D.1, which clarifies that only a licensed dentist can own, direct, and control the practice of dentistry, and prohibits interference in the practice of dentistry from non-dentists.

Thank you for the opportunity to testify in support of H.B. No. 2301, H.D.1, S.D.1.

## testimony

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**From:** Darrell [teruyadt@worldnet.att.net]  
**Sent:** Tuesday, March 25, 2008 8:41 AM  
**To:** testimony  
**Cc:** Darrell T Teruya  
**Subject:** Testimony HB 2301, HD1, SD1 Senate CPH Committee Hearing 03-28-08, 9:00 AM

Senator Russell S. Kokubun, Chair  
Senator David Y. Ige, Vice Chair

COMMITTEE ON COMMERCE, CONSUMER PROTECTION, AND AFFORDABLE HOUSING

Friday, March 28, 2008 9:00 am

Thank you for the opportunity to resubmit this testimony in support of House Bill 2301, HD1, SD1. This measure seeks to prohibit the interference by an unlicensed person or entity in the practice of dentistry. This measure would not apply to the employment of dentists in Federally Qualified Health Centers or in any non-profit hospital or eleemosynary setting. We are priveleged to have had the direction, input, and support of Dr. Jeffrey Miyazawa, Mr. Jimmy Kobashigawa and the Hawaii State Board of Dental Examiners in the crafting of the revised bill which you see before you.

Dentistry has been a profession which relies on trust. If that trust were compromised it would bode poorly for both dentist and patient.

What HB 2301 seeks to address is that the dentist act in the best interest of the patient. To this end an actively practicing dentist should not be subject to any outside pressure. The dentist is there for the mutual benefit of the practice and the patient. The dentist must be able to rely on the best of his (or her) training and intuition. The dentist can't be beholden to an arrangement where financial interest dictates the promotion of a treatment which would profit the practice owner but would be to the detriment of the patient.

A dentist is liable for his (or her) actions as reflected in the ethics of the profession. If another person renders the decision on which dental laboratory is used or when, whether and where to refer to a specialist then this is asking the dentist to be accountable for not only the dentist's own professional decisions but also the business decisions of the, possibly, non-dentist employer.

There is also the matter of the practice location setting. A dental office is a self contained unit. The dentist is responsible for the welfare of his patients and should be able to treat outside of regular practice hours. Should an emergency arise that has to be seen there is an imperative for the office to be available for that patient to be seen. As dentists we are compelled to act in an ethic which allows us to be able to practice to the best of our abilities. To additionally impose external strictures needlessly compromises an atmosphere of trust and dedication to our patients and profession.

Thank you for your consideration of this measure.

Darrell Teruya  
President, Hawaii Dental Asssocation

The following is a recent news release concerning a mainland dental franchise. It points out the presssure that a corporation can place on a dentist to increase profitability at the expense of the patients' welfare.

Former Dentist Confesses Criminal Behavior at Kids Clinic Reported by: Jane Flasch

(February 15, 2008, Rochester, N.Y.) - Last December, 13WHAM showed a disturbing video tape of children strapped in restraints undergoing multiple root canals while their parents were kept out of the room.

Now, the man who once ran the Irondequoit Small Smiles Branch is speaking out for the first time. He was jailed for fraud. In a follow-up to our 13 WHAM News investigation, he told Jane Flasch that some of the procedures that so traumatized children weren't even necessary.

Rochester's Small Smiles dental office opened with a promise to serve children who don't get regular dental care. Clinic director, Dr. David Gardner, was hauled into a Monroe County court 14 months later. Gardner pleaded guilty to grand larceny and left Rochester for prison. Now, he wants to come clean about what he says was going on behind closed doors on Ridge Road in Irondequoit. "Taxpayer dollars are being wasted because they're paying for treatment that's not getting done, treatment that doesn't need to be done, and children aren't being treated like children," Gardner said.

Ashley Sones was a patient during that time. Nine of her teeth were extracted. Another dentist reviewed Ashley's x-rays.

He confirmed that at least two of her teeth could have been saved. But, her file did not contain enough information about the rest.

She never did get partial she was promised; it was denied.

Some very young Small Smiles patients had metal caps, crowns, and root canals. Dentists dispute whether root canals and crowns are the best treatment option for young patients. However, Gardner said he was under pressure from the corporation to make \$1 million every year.

"The biggest thing you can do is those baby root canals and crowns because it's \$220 that Medicaid does not question. It's just \$220, \$220, \$220," Gardner said.

The Rochester office would not allow cameras inside.

Gardner said they routinely used another controversial technique to restrain children. On an attached video taken at a Small Smiles in Maryland, you can see a small child strapped to a papoose board which holds his body and arms immobile. Gardner said papoose boards were encouraged in order to complete four or more root canals at a time.

Even though it made kids frightened and stressed. "Stressed out enough to wet their pants, sweat completely through their clothes, be all wet,"

Gardner said. He said he was told, "Clean them up as best you can before you give them to mom and dad."

Ashley Sones said both she and her younger brother Wesley were physically held down. "My heart was racing," she said. "It felt like blood was rushing through my body." Their mother never even knew. It was Small Smiles policy not to allow parents to be with their children.

"I trusted them," said Ashley's mother Wendy. "That's their job."

Since our reports first aired in December, Small Smiles changed its policies. It now allows parents to be present with their children for procedures. While it still uses papoose boards, the policy is clearly posted and parents can refuse. As for Gardner, the company characterized him as someone with an ax to grind.

Gardner confessed to billing Medicaid for work he did not do.

Investigators say Small Smiles cooperated in the investigation against Gardner and repaid nearly half a million dollars. Gardner has surrendered his medical license and now sells RVs in Indianapolis.

He says he was pressured into the Small Smiles way of doing business with the understanding that if he were caught, he would be taken care of.

"I've lost my career, I've lost my livelihood," he said.

A member of the Pediatric Dentistry Program at SUNY Buffalo conducted an independent review of the Small Smiles Rochester office last month.

He concluded that restraints, crowns, and other procedures are being used in the proper manner. Nevertheless, we were not allowed to see a copy of the review documents.

The reviewer spent only half a day at the clinic and did not interview parents. Criminal investigations are underway in several states including New York.

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# FORM LETTER

## testimony

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**From:** .  
**Sent:** Tuesday, March 25, 2008 3:28 PM  
**To:** testimony  
**Subject:** House Bill 2301, HD 1, SD 1 is important for Dentistry in Hawaii

March 25, 2008

Senate e-mail (not testifying in person)

Dear Senate e-mail (not testifying in person):

I feel that House Bill 2301, HD 1, SD 1 is important for Dentistry in Hawaii.

Senator Russell S. Kokubun, Chair  
Senator David K. Ige, Vice-Chair

Members of the COMMITTEE ON COMMERCE, CONSUMER PROTECTION, AND AFFORDABLE HOUSING Hearing: Friday, March 28, 2008; 9:00 AM

I am submitting testimony in support of HB 2301, HD1, SD1. As a practicing dentist in the State of Hawaii I am responsible for the welfare of my patients. Please see to it that I, and others like me, can continue the use of my own judgement in the practice of dentistry. This measure also includes a provision enabling me to properly care for an after hours emergency patient in my office at my discretion.

Thank you for the opportunity to submit this testimony.

Mahalo for your support.

With aloha,

This message has been verified by CapwizXC as authentic and sent by this individual. Authentication ID: [49rznde3]