

**PRESENTATION OF THE  
BOARD OF DENTAL EXAMINERS**

TO THE HOUSE COMMITTEE ON HEALTH

TWENTY-FOURTH LEGISLATURE  
Regular Session of 2008

Friday, February 8, 2008  
8:00 a.m.

**TESTIMONY ON HOUSE BILL NO. 2301, RELATING TO DENTISTRY.**

TO THE HONORABLE JOSH GREEN, M.D., 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 opposition to H.B. No. 2301, Relating to Dentistry.

The purpose of H.B. No. 2301 is to prohibit interference by an unlicensed person or entity in the practice of dentistry and prohibit the practice of dentistry in a commercial or mercantile establishment.

As this bill was introduced prior to any discussion with the Board, the Board is unaware of any problems that may have motivated its introduction. If there are concerns that a licensed dentist's judgment may be adversely affected by the influence of others (i.e., someone without a license), the Board feels the current law already addresses this issue. Specifically HRS 448-17(a)(9) provides for sanctioning "professional connection or association with, or lending one's name to another for, the illegal practice of dentistry by another, or professional connection or association with any person, firm, or corporation holding oneself, themselves, or itself out in any manner contrary to this chapter". Also, HRS 448-17(a)(12) provides for sanctioning "any other improper, unprofessional, or dishonorable conduct in the practice of dentistry".

Moreover, the American Dental Association addresses this issue in its Principles of

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Ethics which the Board uses as a guide for the ethical practice of dentistry and may be used for enforcement purposes to sanction dentists. For example, the Principle of Ethics states that "the dentist has a duty to promote the patient's welfare". Also, "...Under this principle, the dentist's primary obligation is service to the patient and the public-at-large. The most important aspect of this obligation is the competent and timely delivery of dental care within the bounds of clinical circumstances presented by the patient, with due consideration being given to the needs, desires and values of the patient. The same ethical considerations apply whether the dentist engages in fee-for-service, managed care or some other practice arrangement. Dentists may choose to enter into contracts governing the provision of care to a group of patients; however, contract obligations do not excuse dentists from their ethical duty to put the patient's welfare first." Based on these Principles, a breach by a licensed dentist would be used as a basis for a violation of HRS §448-17(a)(9) and (12).

With regard to this bill's intent to control or regulate the conduct of others who would allegedly interfere with a dentist's judgment and practice, chapter 448, HRS, is not the means to do this. The Board has no powers or jurisdiction over such persons and adding such a provision to the law would not change that.

Regarding the proposed prohibition of the practice of dentistry in a commercial or mercantile establishment, the Board is concerned that this may be unduly restrictive. The Board notes that optometrists and pharmacists have practiced their professions in such establishments for many years and is unaware of any problems or cases that have come before the respective boards for sanctioning of the respective licensees. Moreover, should there be a question of a dentist being employed by a commercial or

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mercantile establishment, the statute specifies that a dentist must own, maintain or operate an office for the practice of dentistry.

In conclusion, the Board believes the provisions in H.B. No. 2301, while perhaps attempting to address some foreseen concerns, are restrictive and attempt to control and regulate parties outside of the realm of chapter 448, HRS. The Board opposes this bill and asks that the Committee hold this measure.

Thank you for the opportunity to provide testimony on H.B. No. 2301.

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**From:** Darrell [teruyadt@worldnet.att.net]  
**Sent:** Wednesday, February 06, 2008 4:21 PM  
**To:** HLTtestimony  
**Cc:** Darrell T Teruya  
**Subject:** Testimony HB 2301 Hearing Friday Feb 8, 2008 8:00 am HLT Committee

Testimony HB 2301 House of Representatives Hearing Friday Feb 8, 2008 8:00 am

COMMITTEE ON HEALTH  
Representative Josh Green, M.D., Chair  
Representative John Mizuno, Vice Chair

Thank you for allowing us to present this testimony.

I would like to take this opportunity to submit testimony in support of House Bill 2301 which prohibits the interference by an unlicensed person or entity in the practice of dentistry. This would also prohibit the practice of dentistry in a commercial or mercantile setting. This measure would not apply to the employment of dentists in Federally Qualified Health Centers or in any non-profit hospital or eleemosynary settings.

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 be the owner of a dental practice and not 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. This might not be possible for an office within the confines of an existing, non-dental business.

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 you consideration of this measure.

Darrell Teruya, DDS

President, Hawaii Dental Association