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PRESENTATION OF
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
REGULATED INDUSTRIES COMPLAINTS OFFICE

TO THE HOUSE COMMITTEE ON
CONSUMER PROTECTION AND COMMERCE

TWENTY-FOURTH STATE LEGISLATURE
REGULAR SESSION, 2008

WEDNESDAY, FEBRUARY 27, 2008, 2:00 P.M.

TESTIMONY ON HOUSE BILL NO. 3109 – RELATING TO DISPENSING OPTICIANS

TO THE HONORABLE ROBERT N. HERKES, CHAIR,
AND TO THE HONORABLE ANGUS L.K. MCKELVEY, VICE-CHAIR,
AND MEMBERS OF THE COMMITTEE:

The Department of Commerce and Consumer Affairs ("Department") appreciates the opportunity to testify regarding House Bill No. 3109, Relating To Dispensing Opticians. The Department is in strong support of this Administration bill. My name is Jo Ann Uchida of the Department's Regulated Industries Complaints Office ("RICO").

House Bill No. 3109 seeks to clarify the Department's ability to investigate and prosecute cases involving the sale of non-corrective contact lenses. Under the federal Food, Drug, and Cosmetic Act ("Act"), the Food and Drug Administration ("FDA") now regulates contact lenses, including decorative, non-corrective lenses, as medical devices instead of as cosmetic devices. The FDA's enforcement efforts focus primarily on the devices themselves and include premarket approval, inspections of distribution

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centers, detention of products that do not comply with premarket device requirements, and warnings to firms selling decorative contact lenses without valid prescriptions or proper labeling.

On the state level, however, RICO continues to receive reports concerning the sale of non-corrective contact lenses at swap meets and other inappropriate venues, particularly at Halloween. House Bill No. 3109 amends the dispensing optician law to complement the federal law and specifically authorizes RICO to take action in the event an unlicensed person tries to sell decorative, non-corrective contact lenses.

Thank you for this opportunity to testify on House Bill No. 3109. I will be happy to answer any questions that the members of the Committee may have.



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**PRESENTATION OF THE
PROFESSIONAL AND VOCATIONAL LICENSING DIVISION**

TO THE HOUSE COMMITTEE ON
CONSUMER PROTECTION AND COMMERCE

TWENTY-FOURTH STATE LEGISLATURE
Regular Session of 2008

Wednesday, February 27, 2008
2:00 p.m.

WRITTEN TESTIMONY ONLY

TESTIMONY ON HOUSE BILL NO. 3109, RELATING TO DISPENSING OPTICIANS.

TO THE HONORABLE ROBERT N. HERKES, CHAIR,
AND MEMBERS OF THE COMMITTEE:

My name is Candace Ito, Executive Officer for the Dispensing Opticians Program in the Professional and Vocational Licensing Division of the Department of Commerce and Consumer Affairs ("Department"). Thank you for the opportunity to present **written testimony** in support of House Bill No. 3109, which is an administration bill, relating to Dispensing Opticians.

The purpose of this bill is to clarify the Regulated Industries Complaints Office's ("RICO") ability to investigate and prosecute cases involving the sale of non-corrective contact lenses. Currently, the Food and Drug Administration ("FDA") regulates all

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contact lenses, including decorative, non-corrective lenses, as medical devices under the federal Food, Drug, and Cosmetic Act ("Act"). The FDA considers the dispensing of decorative contact lenses without a prescription and without a fitting by a qualified eye care professional to be a violation of the Act.

House Bill No. 3109 is consistent with the Act in that it provides protection for consumers by clarifying that decorative, non-corrective contact lenses shall be dispensed and fitted upon a written prescription by licensed dispensing opticians, and authorizes RICO to take action against unlicensed sellers of such contact lenses. We therefore ask for your favorable consideration to pass House Bill No. 3109 out of this committee.

Thank you for this opportunity to testify on House Bill No. 3109.

**PRESENTATION OF THE
BOARD OF EXAMINERS IN OPTOMETRY**

TO THE HOUSE COMMITTEE ON CONSUMER PROTECTION & COMMERCE

TWENTY-FOURTH LEGISLATURE
Regular Session of 2008

Wednesday, February 27, 2008
2:00 p.m.

WRITTEN TESTIMONY ONLY

**TESTIMONY ON HOUSE BILL NO. 3109, RELATING TO DISPENSING
OPTICIANS.**

TO THE HONORABLE ROBERT N. HERKES, CHAIR,
AND MEMBERS OF THE COMMITTEE:

My name is Dr. Jon Ishihara, Chair of the Board of Examiners in Optometry ("Board"). The Board thanks you for the opportunity to present **written testimony** on House Bill No. 3109, Relating to Dispensing Opticians. The Board supports the Department of Commerce and Consumer Affairs' ("DCCA") administration bill.

The purpose of this bill is to clarify the DCCA's Regulated Industries Complaints Office's ("RICO") ability to investigate and prosecute cases involving the sale of non-corrective contact lenses. The federal Food, Drug and Cosmetic Act ("Act") of the Food and Drug Administration ("FDA") has classified all contact lens, including non-correction, colored, and decorative lenses as ophthalmic medical devices which requires a prescription in order to be dispensed or sold. The amendments proposed in H.B. 3109 will allow RICO to take appropriate action against anyone who is not a licensed dispensing optician that sells such lenses without a valid prescription.

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Wednesday, February 27, 2008
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The Board requests the Committee's approval and passage of this measure. Thank you for the opportunity to testify on House Bill No. 3109.