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

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

TWENTY-FOURTH STATE LEGISLATURE
Regular Session of 2008

Tuesday, March 25, 2008
9:00 a.m.

WRITTEN TESTIMONY ONLY

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

TO THE HONORABLE RUSSELL S. KOKUBUN, 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 companion measure, Senate Bill No. 3031 was heard by your Committee on February 26, 2008, and passed with amendments. We prefer House Bill No. 3109

because the effective date is July 1, 2008, whereas the Senate Bill asks for a delayed effective date.

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 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.



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

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

TWENTY-FOURTH STATE LEGISLATURE
REGULAR SESSION, 2008

TUESDAY, MARCH 25, 2008
9:00 A.M.

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

TO THE HONORABLE RUSSELL S. KOKUBUN, CHAIR,
AND TO THE HONORABLE DAVID Y. IGE, 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").

RICO notes that this Committee heard the Senate companion bill, Senate Bill No. 3031 S.D.1, on February 26, 2008. Senate Bill No. 3031 S.D.1 is identical to House Bill No. 3109, except that the Senate Draft 1 contains a delayed effective date and the House version contains an effective date of July 1, 2008. RICO prefers the July 1,

2008, effective date contained in House Bill No. 3109. All testimony in the House and Senate relating to this bill and to the Senate companion have been in support.

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 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 members of the Committee may have.

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

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

TWENTY-FOURTH LEGISLATURE
Regular Session of 2008

Tuesday, March 25, 2008
9:00 a.m.

WRITTEN TESTIMONY ONLY

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

TO THE HONORABLE RUSSELL S. KOKUBUN, 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.

Your Committee held a hearing on the companion measure, Senate Bill No. 3031, which passed out with amendments. We prefer the House Bill No. 3019 because the effective date is July 1, 2008.

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

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Tuesday, March 25, 2008
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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.

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