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

TO THE HOUSE COMMITTEE ON
HEALTH

TWENTY-FOURTH STATE LEGISLATURE
REGULAR SESSION, 2008

WEDNESDAY, MARCH 12, 2008
10:30 A.M.

TESTIMONY ON SENATE BILL NO. 3031 S.D.1 — RELATING TO DISPENSING
OPTICIANS

TO THE HONORABLE JOSH GREEN, M.D., CHAIR,
AND TO THE HONORABLE JOHN MIZUNO, VICE-CHAIR,
AND MEMBERS OF THE COMMITTEE:

The Department of Commerce and Consumer Affairs ("Department") appreciates the opportunity to testify regarding Senate Bill No. 3031 S.D.1, Relating To Dispensing Opticians. The Department is in strong support of this Administration bill, with one requested amendment. My name is Jo Ann Uchida of the Department's Regulated Industries Complaints Office ("RICO").

RICO notes that this Committee heard the House companion bill, House Bill No. 3109, on February 13, 2008, and passed that bill out unamended. House Bill No. 3109 is identical to Senate Bill No. 3031 S.D.1, except that the Senate Draft 1 has 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 and requests that the Senate version be revised accordingly. All testimony in the House and Senate relating to this bill and to the House companion have been in support.

Under the federal Food, Drug, and Cosmetic 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. Senate Bill No. 3031 S.D.1 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 Senate Bill No. 3031 S.D.1. I will be happy to answer any questions that the members of the Committee may have.

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

TO THE HOUSE COMMITTEE ON HEALTH

TWENTY-FOURTH LEGISLATURE
Regular Session of 2008

Wednesday, March 12, 2008
10:30 a.m.

WRITTEN TESTIMONY ONLY

**TESTIMONY ON SENATE BILL NO. 3031, S.D. 1, RELATING TO
DISPENSING OPTICIANS.**

TO THE HONORABLE JOSH GREEN, M.D., 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 Senate Bill No. 3031, S.D. 1, Relating to Dispensing Opticians. The Board could support Senate Bill No. 3031, S.D. 1, provided that the effective date be restored to its original date of July 1, 2008.

The purpose of this Department of Commerce and Consumer Affairs ("Department") administration bill is to clarify the Department'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 Senate Bill No. 3031, S.D. 1

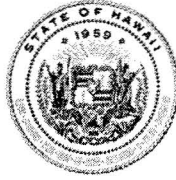
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will allow RICO to take appropriate action against anyone not licensed as a dispensing optician who sells such lenses without a valid prescription.

To delay the implementation of this measure would prevent RICO from taking appropriate action against those individuals who sell these contact lenses without a valid prescription, which could be detrimental to the health and welfare of the consumers of this State.

The Board requests the Committee's approval and passage of this measure. Thank you for the opportunity to testify on Senate Bill No. 3031, S.D. 1.



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

TO THE HOUSE COMMITTEE ON HEALTH
TWENTY-FOURTH STATE LEGISLATURE
Regular Session of 2008

Wednesday, March 12, 2008
10:30 a.m.

WRITTEN TESTIMONY ONLY

**TESTIMONY ON SENATE BILL NO. 3031, S.D.1, RELATING TO DISPENSING
OPTICIANS.**

TO THE HONORABLE JOSH GREEN, M.D., 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** on Senate Bill No. 3031, S.D. 1, which is an administration bill, relating to Dispensing Opticians. The Department could support this bill provided that the effective date is July 1, 2008.

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

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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.

The substance of Senate Bill No. 3031, S.D. 1 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.

Thank you for this opportunity to testify on Senate Bill No. 3031, S.D. 1. We ask for your consideration to pass this bill out with an effective date of July 1, 2008.