

**PRESENTATION OF THE
BOARD OF DENTAL EXAMINERS**

TO THE HOUSE COMMITTEE ON CONSUMER PROTECTION AND COMMERCE

AND

TO THE HOUSE COMMITTEE ON JUDICIARY

TWENTY-FIFTH LEGISLATURE
Regular Session of 2009

Monday, March 30, 2009
2:00 p.m.

TESTIMONY ON SENATE BILL NO. 113, RELATING TO DENTISTS.

TO THE HONORABLE ROBERT N. HERKES, CHAIR, AND
TO THE HONORABLE JON RIKI KARAMATSU, CHAIR,
AND MEMBERS OF THE COMMITTEES:

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 S.B. No. 113, Relating to Dentists.

The purpose of S.B. No. 113 is to authorize the Board to sanction licensees for false or misleading advertising.

The Board would like to inform your Committee, as it has previously informed the Hawaii Dental Association ("HDA"), that pursuant to section 448-4, HRS, there currently exists language enabling the sanctioning of a licensee for false, fraudulent, or misleading advertising. Further, we have been working with HDA on proposed rules that would further clarify this matter and agreed on language very similar to the contents of this bill. It is the Board's intent to formally proceed with the rulemaking process after its next scheduled meeting on April 3, 2009.

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Please be aware that the joint Committee on Consumer Protection and Commerce and Committee on Judiciary heard the companion bill, H. B. No. 1211 on February 26, 2009. The Committees recommended that the measure be deferred. At that hearing, the Board informed the Committees that the Regulated Industries Complaints Office had no record of any complaints being filed for false or misleading advertising against a dentist.

Therefore, the Board believes this bill is unnecessary as it is redundant to the amendments being proposed to the Board's administrative rules. We therefore request the Committee to hold this measure.

Thank you for the opportunity to testify on S.B. No. 113.

HOUSE OF REPRESENTATIVES
THE TWENTY-FIFTH LEGISLATURE
REGULAR SESSION OF 2009

COMMITTEE ON CONSUMER PROTECTION & COMMERCE

Rep. Robert N. Herkes, Chair
Rep. Glenn Wakai, Vice Chair

COMMITTEE ON JUDICIARY

Rep. Jon Riki Karamatsu, Chair
Rep. Ken Ito, Vice Chair

Testimony on Senate Bill No. 113, Relating to Dentists

**Honorable Rep. Robert N. Herkes, Chair
Honorable Rep. Glenn Wakai, Vice Chair
Honorable Rep. Jon Riki Karamatsu, Chair
Honorable Rep. Ken Ito, Vice Chair:**

My name is Dr. Gary T. Umeda and I am currently President of Hawaii Dental Association. Thank you for the opportunity to testify in support of Senate Bill 113 which provides for the sanctioning of dental licensees for false and misleading advertising.

Hawaii Dental Association has worked many years on this area without resolution. Contrary to what the board may say, Hawaii Dental Association believes that current laws are not clear enough to stop violations from occurring. The HDA continues to receive complaints from its members of continued violations in the Yellow Pages where dentists continue to hold themselves out as specialists without having the proper training.

Past complaints to the State Regulated Industries Complaints Office have languished and finally closed without resolution. The HDA as an organization that follows the ethical guidelines of the American Dental Association's governing body, can do only so much in addressing this problem with its members and it cannot address those dentists who are not members of the HDA.

There is no guarantee that this issue will be addressed in the proposed rules of the Board of Dental Examiners. For the past three years the HDA has waited patiently for the Board to act and the HDA has no confidence that any changes or amendments to the rules governing the dentistry profession will be enacted with in the next year. Meanwhile, the violations continue and the public is put at risk.

Patients have a right to expect that advertisements do in fact represent the truth in their claims and education. The publisher of the Yellow Pages currently places a disclaimer because of this issue and acknowledges the problem by telling the public they don't know if the ads are true or not.

Hawaii Dental Association has received complaints but the only way licensees can be effectively disciplined is to have the Board and RICO take action to hold the sanctions by the State over the licensees who seek to mislead the public and use unfair and deceptive business practices to take advantage of a public. The public relies on the State Legislature to provide some semblance of oversight over the Boards and Commissions who issue licenses to the various professions. The only reason for the State of Hawaii to issue a license is the need to protect the public, otherwise there is no need for any State license or related regulation of a profession.

The passage of SB 113 ensures the law governing the activities of the licensed dentists are clear and precise about advertising and that there will be repercussions if violations occur insuring the safety of the public and adherence to the law.

Thank you for your time and patience in this matter.

**Respectfully submitted,
Dr. Gary T. Umeda
President, Hawaii Dental Association**

Hawaii State Legislature
State House of Representatives
Committee on Consumer Protection and Commerce
Committee on Judiciary

Representative Robert N. Herkes, Chair
Representative Glenn Wakai, Vice Chair
Committee on Consumer Protection and Commerce

Representative Jon Riki Karamatsu, Chair
Representative Ken Ito, Vice Chair
Committee on Judiciary

Monday, March 30, 2009, 2:00 p.m.
Senate Bill 115 Relating to Dentists

Honorable Chair Robert N. Herkes, Honorable Chair Karamatsu, and members of the House Committee on Consumer Protection and Commerce, and Committee on Judiciary

My name is Dr. Craig Mason. I am the President-Elect of the Hawaii Dental Association and I appreciate the opportunity to testify in support of SB 115 Relating to Dentistry which authorizes the Board of Dental Examiners to sanction a licensed dentist for false or misleading advertising.

In every profession there are always a few individuals who stray beyond the boundary of the code of ethics. In Dentistry we have a few who advertise themselves to be specialists in areas that are not recognized as specialties, or in recognized specialties when they have not met the educational requirements for that specialty. This poses a threat to the public as they may seek specialty treatment from these individuals when they are not qualified to offer specialty care.

The Board of Dental Examiners is drafting changes to the Hawaii Administrative Rules which may or may not end up addressing this problem. It has been in process for three years and appears that it will take at least two more years to complete. There is no assurance that appropriate language will remain in the Rules by the time the process is completed. Meanwhile the public remains at risk.

Passage of this bill would provide immediate protection for the consuming public.

Sharon Sagayadoro

From: Darrell [teruyadt@worldnet.att.net]
Sent: Friday, March 27, 2009 6:09 PM
To: CPCtestimony
Subject: Support for SB113 sanctioning dental licensees for false or misleading advertising; Monday, March 30, 2009; 2:00 p.m.; Conference Room 325

COMMITTEE ON CONSUMER PROTECTION & COMMERCE Rep. Robert N. Herkes, Chair; Rep. Glenn Wakai, Vice Chair

Rep. Della Au Belatti, Rep. John M. Mizuno, Rep. Rida Cabanilla, Rep. Hermina M. Morita, Rep. Mele Carroll, Rep. Joseph M. Souki, Rep. Ken Ito, Rep. Clift Tsuji, Rep. Jon Riki Karamatsu, Rep. Barbara C. Marumoto, Rep. Sylvia Luke, Rep. Cynthia Thielen, Rep. Angus L.K. McKelvey

COMMITTEE ON JUDICIARY

Rep. Jon Riki Karamatsu, Chair; Rep. Ken Ito, Vice Chair

Rep. Della Au Belatti, Rep. Hermina M. Morita, Rep. Rida Cabanilla, Rep. Blake K. Oshiro, Rep. Mele Carroll, Rep. Joseph M. Souki, Rep. Robert N. Herkes, Rep. Clift Tsuji, Rep. Sylvia Luke, Rep. Glenn Wakai, Rep. Angus L.K. McKelvey, Rep. Barbara C. Marumoto, Rep. John M. Mizuno, Rep. Cynthia Thielen

Monday, March 30, 2009; 2:00 p.m.; Conference Room 325

SB 113 RELATING TO DENTISTS.

Authorizes the board of dental examiners to sanction licensees for false or misleading advertising

Thank you for the opportunity to testify in support of Senate Bill 113 which allows the sanctioning of dental licensees for false and misleading advertising.

I'm a general dentist and have over 20 years of practice in the State of Hawaii. I do a lot of procedures in my office which can fall into the categories of periodontics, endodontics, pedodontics, prosthodontics and oral surgery. I strive to keep current of developments in dentistry and continue to take courses to improve my knowledge in these areas as well as others.

I cannot in good conscience call myself a specialist in any of these areas. A specialist is a has taken an additional year or more of course work in an institutional, usually academic, environment. A specialist has had exposure to a large number of hallenging cases and is called upon to handle those situations deemed to be outside the expertise of a general dentist.

A specialist works hard to hold the respect and trust of the public and the referring dentist. The public is ill served by anyone who would misrepresent themselves as being a specialist. Guidelines would also help to ensure honest advertising in the dental profession.

The Hawaii Dental Association has, in the past, introduced this measure to the Hawaii Legislature. In the past, a number of complaints have been forwarded to the Regulated Industries Complaint Office and the State Board

of Dental Examiners. With the consent of the Board of Dental Examiners we agreed to have this concern addressed in Rules changes with the proviso that the process would take no longer than a year. This was my understanding since I presented oral and written testimony at the last set of hearings on this measure at last year's Legislative session as well as in the preceding year. Although the Board has made some headway in this matter it remains to be seen how this is being effected in an expeditious manner.

My wish is that our legislators see the value of this bill as valuable to the dental patients of Hawaii and not delay this issue any longer.

Darrell Teruya, DDS
Immediate Past-President, Hawaii Dental Association

Sharon Sagayadoro

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, March 29, 2009 11:20 PM
To: CPCtestimony
Cc: gotadds@yahoo.com
Subject: Testimony for SB113 on 3/30/2009 2:00:00 PM

Testimony for CPC/JUD 3/30/2009 2:00:00 PM SB113

Conference room: 325
Testifier position: support
Testifier will be present: No
Submitted by: Garrett Ota DDS
Organization: Hawaii County Dental Society
Address:
Phone:
E-mail: gotadds@yahoo.com
Submitted on: 3/29/2009

Comments: