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REGULATED INDUSTRIES COMPLAINTS OFFICE

TO THE SENATE COMMITTEE ON
COMMERCE AND CONSUMER PROTECTION

TWENTY-FIFTH STATE LEGISLATURE
REGULAR SESSION, 2010

FRIDAY, FEBRUARY 19, 2010
9:15 A.M.

WRITTEN TESTIMONY ONLY
ON
SENATE BILL NO. 2188
RELATING TO DENTISTRY

TO THE HONORABLE ROSALYN H. BAKER, CHAIR,
AND TO THE HONORABLE DAVID Y. IGE, VICE CHAIR,
AND MEMBERS OF THE COMMITTEE:

The Department of Commerce and Consumer Affairs' Regulated Industries Complaints Office ("RICO") appreciates the opportunity to submit written testimony on Senate Bill No. 2188, Relating To Dentistry. My name is Jo Ann Uchida, RICO's Complaints and Enforcement Officer. RICO offers the following written comments on the bill.

Senate Bill No. 2188 expands the definition of dentistry to include "teeth whitening" services. Last session, this Committee heard Senate Bill No. 51 S.D.1,

which is nearly identical to Senate Bill No. 2188, and passed that bill out unamended.

RICO takes no position on whether teeth whitening should be within the scope of practice of dentistry, but offers the following enforcement-related comments.

By way of background, RICO received four (4) complaints in 2007 and 2008 from dentists regarding teeth whitening businesses and no teeth whitening complaints in 2009. Without discussing the details of any particular case, the complaints alleged that teeth whitening businesses are engaged in the practice of dentistry.

If this Committee is inclined to explicitly reference teeth whitening as dentistry in Chapter 448, Hawaii Revised Statutes, the definition in this bill would facilitate enforcement.

Thank you for the opportunity to submit written testimony on Senate Bill No. 2188.

**PRESENTATION OF THE
BOARD OF DENTAL EXAMINERS**

TO THE SENATE COMMITTEE ON
COMMERCE AND CONSUMER PROTECTION

TWENTY-FIFTH LEGISLATURE
Regular Session of 2010

Friday, February 19, 2010
9:15 a.m.

WRITTEN TESTIMONY ONLY

TESTIMONY ON SENATE BILL NO. 2188, RELATING TO DENTISTRY.

TO THE HONORABLE ROSALYN H. BAKER, 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 support of S.B. No. 2188, Relating to Dentistry.

The purpose of S.B. No. 2188 is to amend the definition of the practice of dentistry to include teeth whitening.

The Board believes teeth whitening is within the scope of practice of dentistry and not merely a cosmetic procedure. There is potential harm to the patient's gums and teeth if the procedure is not done correctly and without oversight of a licensed dentist. Currently, there is general language related to treating teeth and this bill will clarify that teeth whitening is included in the practice of dentistry.

Thank you for the opportunity to testify in support of S.B. No. 2188.

Hawaii State Legislature
State Senate
Committee on Commerce
and Consumer Protection

State Senator Rosalyn H. Baker, Chair
State Senator David Y. Ige, Vice Chair
Committee on Commerce and Consumer Protection

Friday, February 19, 2010, 9:15 a.m. Room 229
Senate Bill 2188 Relating to Dentistry

Honorable Chair Rosalyn H. Baker, Vice Chair David Y. Ige and
members of the Senate Committee on Commerce and Consumer Protection,

My name is Russel Yamashita and I am the legislative representative for the Hawaii Dental Association and I appreciate the opportunity to testify in support of Senate Bill 2188 Relating to Dentistry. This bill addresses problems which have arisen in Hawaii and around the country with the advent of teeth whitening kiosks.

There are several problems relating to public safety which have arisen with the advent of the kiosk operators of teeth whitening activities. First, and most importantly, there have been numerous problems here in Hawaii and around the country where the public has been harmed by these operators. The primary ingredient used by the operators is hydrogen peroxide. The concentration used is higher than those used in the over the counter teeth whitening products sold in any drugstore. As a result, the misuse and negligence of these kiosk operations have resulted in the public receiving burned gums and choking on hydrogen peroxide being swallowed.

Local dentists have treated patients who have come in to their office seeking treatment for the damage done by these kiosks operators. Nationally, state dental boards have successfully taken kiosks operators to court determining that these teeth whitening activities are in fact the practice of dentistry. Both the states of Tennessee and West Virginia have recent court cases decided that the kiosk operations are practicing dentistry and banned them from operating.

Other state dental boards have issued opinions that the activities of the teeth whitening kiosk operators constitute the practice of dentistry and require a licensed dental professional to conduct such activity.

The operators of these kiosks hire people who have no medical or dental training and claim that the mere fact that they do not insert the dental trays holding the chemicals do not constitute the practice of dentistry. However, even the fact that the operators determines the size of the dental device to be used is a decision that requires professional judgment and training. The use of an oversized dental tray resulted in a woman swallowing the hydrogen peroxide at a kiosk at the Sam's Club on Keeamoku Street. Only when the woman was choking did the employees of the kiosk take any action.

Additionally, in a dental office, extreme care is taken with even the dental trays and other devices and instruments due the issue of liability when it comes to AIDS, Norovirus, TB, Hepatitis B and C, or any other disease that may be encountered when dealing with patients. Basic hygiene and sterilization of all items used in a dental office goes without saying. No such requirements or standards are applied in these kiosks. Sterilization of the dental trays is not observed and swishing it rubbing alcohol won't necessarily protect the next user.

Finally, since the employees of the kiosk operators have no apparent training in medical or dental procedures, there is a concern that these employees could be exposed to medical waste or disease bearing trays with out proper training or understanding the risks involved in their "simple" tasks. The employees could unwittingly take a serious medical situation home with them to their own families and easily pass it on to the next customer at the kiosk.

Therefore, the HDA and its 960 plus members urge your favorable consideration of this bill in order to protect the public from the real and potential harm that these teeth whitening kiosk operations have and will cause to the public.