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DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
REGULATED INDUSTRIES COMPLAINTS OFFICE

TO THE HOUSE COMMITTEE ON HEALTH

TWENTY-FIFTH STATE LEGISLATURE
REGULAR SESSION, 2010

TUESDAY, MARCH 16, 2010
9:30 A.M.

TESTIMONY ON SENATE BILL NO. 2188
RELATING TO DENTISTRY

TO THE HONORABLE RYAN I. YAMANE, CHAIR,
AND TO THE HONORABLE SCOTT Y. NISHIMOTO, VICE-CHAIR,
AND MEMBERS OF THE COMMITTEE:

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

Senate Bill No. 2188 expands the definition of dentistry to include "teeth whitening" services. RICO notes that this Committee heard a similar bill, Senate Bill No. 51, last session and passed out a House Draft 1 that is identical to this bill.

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

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 testify on Senate Bill No. 2188. I will be happy to answer any questions the members of the Committee may have.

Hawaii State Legislature
State House of Representatives
Committee on Health

Representative Ryan I Yamane, Chair
Representative Scott Y. Nishimoto, Vice Chair
Committee on Health

Tuesday, March 16, 2010, 9:30 a.m. Room 329
SB 2188 Relating to the Dental Licensure Examination

Honorable Chair Ryan I. Yamane, Vice Chair Scott Y. Nishimoto and
members of the House Committee on Health,

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.

nishimoto2-Ashley

From: Darrell [teruyadt@att.net]
Sent: Saturday, March 13, 2010 8:48 AM
To: HLTtestimony
Cc: Darrell
Subject: Testimony SB 2188 RELATING TO DENTISTRY; Tuesday, March 16, 2010; 9:30 a.m.; Conference Room 329

HOUSE OF REPRESENTATIVES

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Tuesday, March 16, 2010; 9:30 a.m.; Conference Room 329

SB 2188 RELATING TO DENTISTRY.

Redefines the practice of dentistry to include teeth whitening.

Honorable Representatives Chair Ryan I Yamane, Vice Chair Scott Y. Nishimoto, esteemed members of the House Committee on Health thank you for the opportunity to testify in favor of this bill which qualifies the definition of teeth whitening as the practice of Dentistry.

In the State of Hawaii as of late and, indeed nationally, "bleaching kiosks" have been opening and closing apparently at will. None of these have a licensed dentist present and the level of training of the personnel at these booths is in question. The lightening agent is usually a type of carbamyl or other peroxide in a plastic tray delivery system. This may be used in conjunction with a light source which allegedly enhances the process.

Many of these operations have been observed by our dentist members who have noted that the operators often assist the customer in placing the tray in the mouth. This sort of action is defined in Hawaii Statutes as the Practice of Dentistry.

Due to the caustic nature of these solutions, whether commercial or legend (intended for the use of trained personnel), there is a risk of soft tissue damage to the gums and tongue and areas of the face, and tooth sensitivity due to the bleaching process or undiagnosed decay. These have been the findings of more than a few dentists who observed these adverse outcomes after a patient of theirs visited one of these kiosks.

There is an overall concern on the matter cleanliness and guarding against cross-contamination between customers using these booths. It would indeed be difficult to maintain asepsis in a stall at a bridal fair or worse, in the middle of the Stadium Swap Meet as has been witnessed by an impeccable source. And, of course, if the bleaching solution is swallowed or contacts any eye tissue it depends on the operator to react in an immediate and appropriate manner to this type of emergency situation.

This definition would not affect the purchase of over the counter products such as Crest white strips which are intended for the sole use and application by the consumer.

Thank you for your consideration of this measure.

Darrell Teruya, DDS
Past-President (2008), Hawaii Dental Association