

SB2188



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

TO THE SENATE COMMITTEE ON
HEALTH

TWENTY-FIFTH STATE LEGISLATURE
REGULAR SESSION, 2010

WEDNESDAY, FEBRUARY 3, 2010
3:00 P.M.

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

TO THE HONORABLE DAVID Y. IGE, CHAIR,
AND TO THE HONORABLE JOSH GREEN, M.D., 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.

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February 3, 2010
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Senate Bill No. 2188 expands the definition of dentistry to include "teeth whitening" services. Last session, this Committee heard Senate Bill No. 51 and this Committee's Senate Draft 1 version is nearly identical to this bill.

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 HEALTH

TWENTY-FIFTH LEGISLATURE
Regular Session of 2010

Wednesday, February 3, 2010
3:00 p.m.

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

TO THE HONORABLE DAVID Y. IGE, 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 Health

State Senator David Y. Ige, Chair
State Senator Josh Green, M.D., Vice Chair
Committee on Health

Wednesday, February 3, 2010, 8:30 a.m. Room 016
Senate Bill 2188 Relating to Dentistry

Honorable Chair David Y. Ige, Vice Chair Josh Green, M.D. and
members of the Senate 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.

Public safety has been jeopardized with the advent of teeth whitening kiosks. 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 in a concentration 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 by swallowed hydrogen peroxide.

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 ruling 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 Keeaumoku Street. Only when the woman was choking did the employees of the kiosk take any action.

In addition, in a dental office, extreme care is taken with even the dental trays and other devices and instruments due the issue of liability and the transmission of H1N1, 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 will not protect the next client.

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.

From: Darrell [teruyadt@worldnet.att.net]
Sent: Friday, January 29, 2010 12:52 PM
To: HTHTestimony
Cc: teruyadt@att.net
Subject: SB 2188 RELATING TO DENTISTRY Wednesday, February 3, 2010; 3:00 pm; Conference Room 016

Senate Committee on Health

Wednesday, February 3, 2010; 3:00 pm; Conference Room 016

SB 2188 RELATING TO DENTISTRY.

Redefines the practice of dentistry to include teeth whitening.

Honorable Senators David Y. Ige, Chair; Senator Josh Green, M.D., Vice Chair; and Members of the Senate Committee on Health thank you for the opportunity to testify in favor of this bill which qualifies the definition of teeth whitening in 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 carbanyl 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