
A BILL FOR AN ACT

RELATING TO DENTISTRY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Chapter 448, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§448- Powers and duties of the director. (a) In
5 addition to any other powers and duties authorized by law, the
6 director of commerce and consumer affairs shall have the power
7 and duty to issue an order to cease and desist from the
8 unlicensed practice of dentistry or any other act or practice in
9 violation of this chapter upon a specific determination that the
10 failure to take such an action may result in an immediate and
11 unreasonable threat to personal safety or of fraud that
12 jeopardizes or endangers the health or safety of the public or
13 of a patient.

14 (b) Any cease and desist order issued shall include a
15 brief statement of findings of fact and conclusions of law and
16 shall be served upon the subject as required by chapter 91. The
17 cease and desist order shall be effective upon service.



1 (c) Upon the service of a cease and desist order, the
2 continued practice of dentistry without a license or the
3 continuation of any other act or practice in violation of this
4 chapter shall be a class C felony.

5 (d) Upon the service of a cease and desist order, the
6 recipient of the cease and desist order shall have the right to
7 request a hearing to show cause why the cease and desist order
8 should be terminated. Any request for a hearing shall be made
9 in writing and filed with the board within five business days of
10 service of the order. The board shall hold a hearing within
11 seven business days of receipt of a written request for a
12 hearing to show cause.

13 (e) Notwithstanding any law to the contrary, a cease and
14 desist order shall remain in effect until the effective date of
15 a final decision and order issued by the board in a disciplinary
16 action or the effective date of an order issued by the board
17 terminating the cease and desist order following a hearing to
18 show cause, whichever occurs first, but in either case shall not
19 exceed thirty business days."

20 SECTION 2. Section 448-1, Hawaii Revised Statutes, is
21 amended to read as follows:



1 **"§448-1 Dentistry defined; exempted practices.** A person
2 practices dentistry, within the meaning of this chapter, who
3 represents oneself as being able to diagnose, treat, operate or
4 prescribe for any disease, pain, injury, deficiency, deformity,
5 or physical condition of the human teeth, alveolar process,
6 gums, or jaw, or who offers or undertakes by any means or
7 methods to diagnose, treat, operate or prescribe for any
8 disease, pain, injury, deficiency, deformity, or physical
9 condition of the same, or to take impressions of the teeth or
10 jaws; or who owns, maintains, or operates an office for the
11 practice of dentistry; or who engages in any of the practices
12 included in the curricula of recognized and approved dental
13 schools or colleges[-]; or who dispenses tooth whitening agents
14 or undertakes to whiten or bleach teeth by any means or method.
15 Dentistry includes that part of health care concerned with the
16 diagnosis, prevention, and treatment of diseases of the teeth,
17 oral cavity, and associated structures including the restoration
18 of defective or missing teeth. The fact that a person uses any
19 dental degree, or designation, or any card, device, directory,
20 poster, sign, or other media whereby one represents oneself to



1 be a dentist, shall be prima facie evidence that the person is
2 engaged in the practice of dentistry.

3 The following practices, acts, and operations, however, are
4 exempt from the operation of this chapter:

- 5 (1) The rendering of dental relief in emergency cases in
6 the practice of one's profession by a physician or
7 surgeon, licensed as such and registered under the
8 laws of this State, unless one undertakes to reproduce
9 or reproduces lost parts of the human teeth in the
10 mouth or to restore or replace in the human mouth lost
11 or missing teeth;
- 12 (2) The practice of dentistry in the discharge of their
13 official duties by dentists in the United States Army,
14 the United States Navy, the United States Air Force,
15 the United States Public Health Service, or the United
16 States Veterans Administration;
- 17 (3) The practice of dentistry by licensed dentists of
18 other states or countries at meetings of the Hawaii
19 Dental Association or component parts thereof, alumni
20 meetings of dental colleges, or any other like dental
21 organizations, while appearing as clinicians;



- 1 (4) The use of roentgen and other rays for making
2 radiograms or similar records of dental or oral
3 tissues;
- 4 (5) The making of artificial restorations, substitutes,
5 appliances, or materials for the correction of
6 disease, loss, deformity, malposition, dislocation,
7 fracture, injury to the jaws, teeth, lips, gums,
8 cheeks, palate, or associated tissues, or parts, upon
9 orders, prescription, casts, models, or from
10 impressions furnished by a Hawaii licensed dentist;
11 [and]
- 12 (6) The ownership and management of a dental practice by
13 the executor or administrator of a dentist's estate or
14 the legal guardian or authorized representative of a
15 dentist, where the licensed dentist has died or is
16 incapacitated, for the purpose of winding down,
17 transferring, or selling the practice, for a period
18 not to exceed one year from the time of death or from
19 the date the dentist is declared incapacitated;
20 provided that all other aspects of the practice of



1 dentistry are performed by one or more licensed
2 dentists[-];
3 (7) The dispensing or use of tooth whitening agents that
4 may be purchased over the counter for a person's own
5 use or the dispensing or use of tooth whitening
6 products by a person who is authorized by the Board to
7 engage in such activities without being a licensed
8 dentist."

9 SECTION 3. This Act does not affect rights and duties that
10 matured, penalties that were incurred, and proceedings that were
11 begun, before its effective date.

12 SECTION 4. Statutory material to be repealed is bracketed
13 and stricken. New statutory material is underscored.

14 SECTION 5. This Act shall take effect on January 7, 2112.



Report Title:

Dentistry; Order to Cease and Desist

Description:

Grants the Director of Commerce and Consumer Affairs the power to issue cease and desist orders for the unlicensed practice of dentistry and for any other act or practice in violation of the dental licensing laws upon a specific determination that the failure to take such action may result in an immediate and unreasonable threat to personal safety or of fraud that jeopardizes or endangers the health or safety of patients or the public. (SB725 HD1)

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