

SB2061

Measure Title:
RELATING TO DENTISTRY.

Report Title:
Dentistry

Description:
Prohibits interference by an unlicensed person or entity in the practice of dentistry.
Prohibits the practice of dentistry in a commercial or mercantile establishment

Introducer(s):
TANIGUCHI

Current Referral:
HTH, CPH

**PRESENTATION OF THE
BOARD OF DENTAL EXAMINERS**

TO THE SENATE COMMITTEE ON HEALTH

TWENTY-FOURTH LEGISLATURE
Regular Session of 2008

Monday, February 11, 2008
1:15 p.m.

TESTIMONY ON SENATE BILL NO. 2061, 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 opposition to S.B. No. 2061, Relating to Dentistry.

The purpose of S.B. No. 2061 is to prohibit interference by an unlicensed person or entity in the practice of dentistry and prohibit the practice of dentistry in a commercial or mercantile establishment.

As this bill was introduced prior to any discussion with the Board, the Board is unaware of any problems that may have motivated its introduction. If there are concerns that a licensed dentist's judgment may be adversely affected by the influence of others (i.e. someone without a license), the Board feels the current law already addresses this issue. Specifically HRS 448-17(a)(9) provides for sanctioning "professional connection or association with, or lending one's name to another for, the illegal practice of dentistry by another, or professional connection or association with any person, firm, or corporation holding oneself, themselves, or itself out in any manner contrary to this chapter". Also, HRS 448-17(a)(12) provides for sanctioning "any other improper, unprofessional, or dishonorable conduct in the practice of dentistry". Moreover, the American Dental Association addresses this issue in its Principles of

Ethics which the Board uses as a guide for the ethical practice of dentistry and may be used for enforcement purposes to sanction dentists. For example, the Principle of Ethics states that "the dentist has a duty to promote the patient's welfare". Also, "...Under this principle, the dentist's primary obligation is service to the patient and the public-at-large. The most important aspect of this obligation is the competent and timely delivery of dental care within the bounds of clinical circumstances presented by the patient, with due consideration being given to the needs, desires and values of the patient. The same ethical considerations apply whether the dentist engages in fee-for-service, managed care or some other practice arrangement. Dentists may choose to enter into contracts governing the provision of care to a group of patients; however, contract obligations do not excuse dentists from their ethical duty to put the patient's welfare first." Based on these Principles, a breach by a licensed dentist would be used as a basis for a violation of HRS §448-17(a)(9) and (12).

With regard to this bill's intent to control or regulate the conduct of others who would allegedly interfere with a dentist's judgment and practice, chapter 448, HRS, is not the means to do this. The Board has no powers or jurisdiction over such persons and adding such a provision to the law would not change that.

Regarding the proposed prohibition of the practice of dentistry in a commercial or mercantile establishment, the Board is concerned that this may be unduly restrictive. The Board notes that optometrists and pharmacists have practiced their professions in such establishments for many years and is unaware of any problems or cases that have come before the respective boards for sanctioning of the respective licensees. Moreover, should there be a question of a dentist being employed by a commercial or

mercantile establishment, the statute specifies that a dentist must own, maintain or operate an office for the practice of dentistry.

In conclusion, the Board believes the provisions in S.B. No. 2061, while perhaps attempting to address some foreseen concerns, are restrictive and attempt to control and regulate parties outside of the realm of chapter 448, HRS. The Board opposes this bill and asks that the Committee hold this measure.

Thank you for the opportunity to provide testimony on S.B. No. 2061.

testimony

From: Darrell T. Teruya [teruyadt@worldnet.att.net]
Sent: Friday, February 08, 2008 4:56 PM
To: testimony
Subject: Testimony SB 2061 Health Committee Monday 02/11/08 1:15 PM

COMMITTEE ON HEALTH

Senator David Y. Ige, Chair

Senator Carol Fukunaga, Vice Chair

SB 2061 Relating to Dental Practice Ownership

Thank you for the opportunity to submit testimony in support of Senate Bill 2061. This legislation prohibits the interference by an unlicensed person or entity in the practice of dentistry. This would also prohibit the practice of dentistry in a commercial or mercantile setting. This measure would not apply to the employment of dentists in Federally Qualified Health Centers or in any non-profit hospital or eleemosynary settings.

Dentistry has been a profession which relies on trust. If that trust were compromised it would bode poorly for both dentist and patient.

What SB 2061 seeks to address is that the dentist act in the best interest of the patient. To this end an actively practicing dentist should be the owner of a dental practice and not subject to any outside pressure. The dentist is there for the mutual benefit of the practice and the patient. The dentist must be able to rely on the best of his (or her) training and intuition. The dentist can't be beholden to an arrangement where financial interest dictates the promotion of a treatment which would profit the practice owner but would be to the detriment of the patient.

A dentist is liable for his (or her) actions as reflected in the ethics of the profession. If another person renders the decision on which dental laboratory is used or when, whether and where to refer to a specialist then this is asking the dentist to be accountable for not only the dentist's own professional decisions but also the business decisions of the, possibly, non-dentist employer.

There is also the matter of the practice location setting. A dental office is a self contained unit. The dentist is responsible for the welfare of his patients and should be able to treat outside of regular practice hours. Should an emergency arise that has to be seen there is an imperative for the office to be available for that patient to be seen. This might not be possible for an office within the confines of an existing, non-dental business.

As dentists we are compelled to act in an ethic which allows us to be able to practice to the best of our abilities. To additionally impose external strictures needlessly compromises an atmosphere of trust and dedication to our patients and profession.

Thank you for your consideration of this measure.

Darrell Teruya, DDS

President, Hawaii Dental Association

2/8/2008

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**TESTIMONY TO THE
COMMITTEE ON HEALTH
Senator David Ige, Chair
Senator Carol Fukunaga, Vice Chair**

Date: Monday, February 11, 2008

Time: 1:15 pm

Place: Conference Room 016

State Capitol

415 South Beretania Street

Re: SB 2061

Senator Ige and members of the Senate Committee on Health:

As a practicing dentist for over 31 years, former president of the Hawaii Dental Association, and a lifelong citizen of the state of Hawaii, I wish to testify IN FAVOR of SB 2061, Relating to Dentistry.

The practice of dentistry demands a commitment between a patient and the treating dentist that cannot be achieved in a commercial setting. A patient's dental health care must be comprehensive and ongoing and is best achieved by a single caring practitioner. It is imperative that clinical decisions are made by a trained, licensed professional with the patient's optimal health in mind. A corporate or mercantile establishment would not be capable of achieving this goal.

Further, a corporate clinic would do nothing to alleviate the access to care problem for the uninsured or underinsured in our state. Quest and Medicaid patients will not be served and clinics will be established in high income urban areas to maximize profits.

In the interest of the welfare of the people of the state of Hawaii, I urge you to PASS SB 2061.

Sincerely,

**Neil C. Nunokawa, D.D.S.
1885 Main Street #204
Wailuku, Hawaii 96793**

Senate Committee on Health

Senator David Ige, Chair

Senator Carol Fukunaga, Vice-chair

Dear Senators,

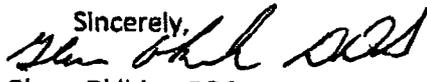
My name is Glenn Okihiro, DDS and I am strongly in support of SB 2061 in its' attempt to eliminate corporate interference with dental practice and patient treatment plans.

Dentists in Hilo have had numerous emergencies due to lack of continuity of care from large clinics. The patient complaints have been that they aren't given timely appointments for emergencies or the clinic tells them the treating dentist is no longer working there.

The mainland had a television expose on Small Smile Centers. A clinic manager stated that the corporate office set bonuses based on goals. ie The more chrome crowns in a month the bigger the incentive bonus.

I understand the rebuttal will be that individual dentists are responsible for the treatment. However, if they have no financial ownership in the facility or corporate decisions, they become employees without a vested interest in their patients or community. Clinics experience turnover of dentists looking for better jobs and patients are left behind. Patient treatment plans that are based on corporate goals neglect the individual patient's needs. I truly believe we need dentists who live and work in their communities and have financial stakes in long term commitments to their community.

Thank you for your time and concern for the patients of Hawaii.

Sincerely,

Glenn Okihiro, DDS

Ph 455-4173

Please deliver copies to Senate Committee on Health

Senator David Ige, Chair

Monday February 11th, 2008

1:15 PM