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

**TO THE SENATE COMMITTEE ON
JUDICIARY AND LABOR**

**TWENTY-EIGHTH STATE LEGISLATURE
REGULAR SESSION, 2015**

**FRIDAY, MARCH 27, 2015
9:00 A.M.**

**TESTIMONY ON
TESTIMONY ON HOUSE BILL NO. 268 H.D.2 S.D.1
RELATING TO DENTISTRY**

**TO THE HONORABLE GILBERT S.C. KEITH-AGARAN, CHAIR,
AND TO THE HONORABLE MAILE S.L. SHIMABUKURO, VICE CHAIR,
AND MEMBERS OF THE COMMITTEE:**

The Department of Commerce and Consumer Affairs ("Department") appreciates the opportunity to testify on House Bill No. 268 H.D.2 S.D.1, Relating to Dentistry. My name is Daria Loy-Goto, Complaints and Enforcement Officer for the Department's Regulated Industries Complaints Office ("RICO"). RICO offers the following comments on the bill.

House Bill No. 268 H.D.2 S.D.1 authorizes the Board of Dental Examiners ("Board") to summarily suspend a license upon a specific determination that failure

to take action may result in an immediate and unreasonable threat to personal safety or fraud or misrepresentation upon consumers. The bill specifies the contents for an order of summary suspension, the means of service of an order for summary suspension, and the length of time a summary suspension order remains in effect.

House Bill No. 268 H.D.2 S.D.1 also affords the licensee an opportunity for a hearing if a summary suspension order is issued. In addition, the bill mandates that any attempt to practice or continuation of the practice of dentistry while the license is summarily suspended shall constitute grounds for revocation of the license.

RICO notes that while current law under Chapter 436B, Hawaii Revised Statutes, also allows for the summary suspension of a professional or vocational license when a licensee is determined to have engaged in conduct that is serious and harmful to the safety and welfare of the consumer public, RICO prefers the proposed language in House Bill No. 268 H.D.2 S.D.1 that will enable the Board to respond more swiftly and appropriately for the protection of consumers by summarily suspending a license.

This Committee heard the companion measure, Senate Bill No. 725, and passed out a Senate Draft 2 version that is identical to House Bill No. 268 H.D.2 S.D.1, except that the Senate Draft 2 version has a defective effective date and House Bill No. 268 H.D.2 S.D.1 has an effective date of July 1, 2015. RICO prefers House Bill No. 268 H.D.2 S.D.1 because it has a valid effective date.

Testimony on House Bill No. 268 H.D.2 S.D.1

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Thank you for the opportunity to testify on House Bill No. 268 H.D.2 S.D.1.

I will be happy to answer any questions the members of the Committee may have.

Hawaii State Legislature
State Senate
Committee on Judiciary and Labor

State Senator Gilbert S. C. Keith-Agaran, Chair
State Senator Maile S. L. Shimabukuro, Vice Chair
Committee on Judiciary and Labor

Friday, March 27, 2015, 9:00 a.m. Room 016
House Bill 268 SD 1 Relating to Dentistry

Honorable Chair Gilbert S. C. Keith-Agaran, Vice Chair Maile S. L. Shimabukuro, and members of the Senate Committee on Judiciary and Labor,

My name is Russel Yamashita and I am the legislative representative for the Hawaii Dental Association (HDA) and its 960 member dentists. The Hawaii Dental Association is a statewide professional membership organization representing dentists practicing in Hawaii and licensed by the State of Hawaii Board of Dental Examiners. Hawaii Dental Association members are committed to protecting the oral health and well being of people of all ages. I appreciate the opportunity to testify in support of House Bill 268 SD 1 Relating to Dentistry.

This bill is similar to legislation that the HDA sought to have enacted in 2009, which would have empowered the Hawaii Board of Dental Examiners (BODE) to issue cease and desist orders to stop those persons who were practicing without proper licensure in Hawaii or whose conduct was in violation of the Hawaii statutes and rules governing the practice of dentistry. This bill addresses a problem that has arisen in which the BODE or the Department of Commerce and Consumers Affairs (DCCA) is unable to quickly address those situations where there is a clear violation of the Hawaii dental laws. Currently, the BODE or the DCCA cannot take immediate action necessary to stop those whose continued violation of the law constitutes a clear and present danger to the health and welfare of the public.

In this Senate Draft 1, this bill only remedies violations of the dental laws by licensed individuals. This draft overlooks those who are unlicensed and violate these statutes, which the original legislation covered. The HDA would like to have the BODE or the Director of DCCA granted the authority over unlicensed activity in a manner which allows the DCCA a much swifter response to violations, so that the public can be given the same level of protection against unlicensed individuals as with licensed ones. Therefore, the HDA would appreciate amending this measure to extend the protections of this legislation for the public's benefit by authorizing the Board of Dental Examiners or the Director to have the authority to take similar action against unlicensed individuals in addition to licensees.

Additionally, by giving the authority to the Director of the DCCA to issue cease and desist orders against both licensed and unlicensed individuals, this procedure will address the recent US Supreme Court case which held the North Carolina Board of Dental Examiners were in violation of antitrust laws when it took action against unlicensed individuals. Here there is no question that the State of Hawaii is exercising its proper role in protecting the public from unlicensed individuals.

The Hawaii Dental Association does prefer the version of HB 268 HD 2 which addressed the intent of the original legislation.

We commend the legislature for addressing this gap in our current law and look forward to working with you for the benefit of the public.

**PRESENTATION OF THE
BOARD OF DENTAL EXAMINERS**

TO THE SENATE COMMITTEE ON
JUDICIARY AND LABOR

TWENTY-EIGHTH LEGISLATURE
Regular Session of 2015

Friday, March 27, 2015
9:00 a.m.

TESTIMONY ON HOUSE BILL NO. 268, H.D. 2, S.D. 1, RELATING TO DENTISTRY.

TO THE HONORABLE GILBERT S.C. KEITH-AGARAN, CHAIR,
AND MEMBERS OF THE COMMITTEE:

My name is Mark Baird, D.D.S., Chair of the Board of Dental Examiners ("Board"). The Board appreciates the opportunity to submit comments on House Bill No. 268, H.D. 2, S.D. 1, Relating to Dentistry.

The purpose of House Bill No. 268, H.D. 2, S.D. 1, is to authorize the Board to summarily suspend a license, establish procedures for the summary suspension of a license, and specify that continuing to practice dentistry, or attempting to do so while the summary suspension is in effect, is grounds for revocation of the license.

The Board supports the intent of this bill but notes that provisions are already in place in Chapter 436B, Hawaii Revised Statutes, Professional and Vocational Licensing Act, which fulfill the purpose of this measure.

Thank you for the opportunity to submit comments on House Bill No. 268, H.D. 2, S.D. 1.

From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc:
Subject: *Submitted testimony for HB268 on Mar 27, 2015 09:00AM*
Date: Monday, March 23, 2015 6:14:49 PM

HB268

Submitted on: 3/23/2015

Testimony for JDL on Mar 27, 2015 09:00AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Javier Mendez-Alvarez	Individual	Support	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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