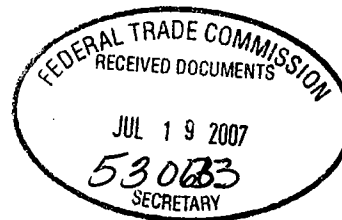




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July 18, 2007

By Electronic Mail to  
[consentagreement@ftc.gov](mailto:consentagreement@ftc.gov)

Honorable Deborah Platt Majoras  
Chairman  
U.S. Federal Trade Commission  
600 Pennsylvania Avenue, NW, Room 135-H  
Washington, DC 20580

RE: Support for Proposed Consent Order in the Matter of South  
Carolina State Board of Dentistry, Docket No. 9311

Dear Chairman Majoras:

I write on behalf of the American Dental Hygienists' Association (ADHA). ADHA is the largest organization representing the nation's more than 120,000 dental hygienists. Dental hygienists are preventive oral health professionals who are licensed in each of the fifty states.

ADHA strongly and enthusiastically supports the proposed Federal Trade Commission's (FTC) consent order with the South Carolina State Board of Dentistry. The FTC rightly recognized that the South Carolina State Board of Dentistry unlawfully restrained competition by re-imposing through emergency regulation a requirement that a dentist examine every child before a dental hygienist could provide preventive care to children in schools. The South Carolina State Board of Dentistry adopted this emergency regulation despite the fact that the South Carolina legislature had just eliminated a statutory requirement that a dentist examine each child before a hygienist could provide dental care in schools.

The Dental Board's actions hindered competition and deprived thousands of South Carolina's school children, particularly economically disadvantaged children, of the benefits of on-site preventive dental services, including cleanings, sealants, and fluoride treatments. This audacious restriction of competition clearly contravened the will of state lawmakers and effectively impeded access to oral health services for school children.

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Because of the FTC's appropriate and justified intervention, dental hygienists working with Health Promotion Specialists now provide preventive oral health services directly to school children in more than 300 schools in 36 school districts across South Carolina. Approximately 20,000 school children are served annually. Many of these children had never before received any oral health care services. School principals and school nurses applaud the delivery of oral health services in the schools, citing the quantifiable benefits of this on-site care, including far fewer dental emergencies. As the National Rural Education Association has recognized: "For a child to be ready to learn in school, a child must be healthy and free from pain. One proven strategy for reaching children at high-risk for dental disease is providing oral health services in school-based health centers."

ADHA fully supports the proposed consent order, which would require the South Carolina Dental Board to (1) "affirm and publicize its support for the state legislative policy that prevents the Board from requiring a dentist examination as a condition of dental hygienists providing dental care, including cleanings, sealants, and fluoride treatments, in public health settings" and (2) "provide written notice to the FTC prior to any action relating to the provision of preventive dental services by dental hygienists in public health settings."

In order to more effectively disseminate the terms of the consent order, ADHA urges that the Board be required not only to send the announcement to all school district superintendents but to all school principals and school nurses. Further, the Board should be required to urge in its transmittal letter that school principals and school nurses place the FTC settlement -- and what it means for the delivery of oral health services in the schools -- on the agenda of the meeting that district principals and district school nurses each hold monthly. ADHA also urges that the Board's announcements and other communications surrounding this consent order be written in "plain language" that is readily understandable to the average reader. This is necessary to remedy the "potentially chilling effects from the Board's past conduct on market participants who might otherwise be interested in participating in public health preventive dental care programs involving dental hygienists."

ADHA also urges that the Board be directed to publicize on its website the Centers for Disease Control recommendation that "school-based or school-linked pit and fissure sealant delivery programs be part of a comprehensive population-based strategy to prevent or control dental caries in communities because such

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programs are effective in reducing tooth decay in children and adolescents.

ADHA applauds the FTC for taking action to promote competition in the oral health care marketplace. Competition is an important tool for promoting innovative strategies to improve access, control cost, and provide consumer choice in the delivery of health care services. New and potentially more efficient ways of delivering health care services must not be unlawfully thwarted. This is particularly true in the current oral health care arena.

For every American who lacks medical insurance, there are three who lack dental insurance. Even those with dental coverage, including Medicaid-eligible and SCHIP-eligible children, are not always able to access needed services. Indeed, in a given year, only about 20% of Medicaid-eligible children actually received an oral health service. The challenge of improving access to oral health services requires innovative change to the current oral health care delivery system. The FTC's assistance in eliminating undue barriers to competition that prevent markets from functioning as effectively as possible is to be applauded.

In May 2000, the U.S. Surgeon General issued *Oral Health in America: A Report of the Surgeon General*. This landmark report confirms that oral health is an integral part of total health and that good oral health can be achieved. The Surgeon General's Report on Oral Health challenges all of us -- in both the public and private sectors -- to address the compelling evidence that not all Americans have achieved the same level of oral health and well-being. The Report describes a "silent epidemic" of oral diseases, which affect our most vulnerable citizens -- poor children, the elderly and many members of racial and ethnic minority groups.

This epidemic of untreated dental decay requires new ways of providing care. Approximately 90% of all practicing dentists are in the private sector, providing services in settings that vulnerable populations find very difficult to access. Further, the National Advisory Committee on Rural Health and Human Services noted in its 2004 Report to the Secretary that "the acute shortage of dentists is expected to worsen in the coming years." The Report found that in 1983, there were 5,756 dental school graduates compared to only 4,000 in 1990 (increasing to 4,443 in 2003). The Report also cautioned that "this problem is compounded by the large number of dentists slated to retire in the next several years." By contrast, the number of dental hygienists is expected to grow by more than 40%



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between 2004 – 2014, this growth makes dental hygiene one of the fastest growing health care occupations.

Workforce experts have recognized that dental hygienists can and must play an increasing role if the nation's oral health care needs are to be met. An article in *Health Affairs* explored the oral health workforce and found:

"abundant evidence that a sizable segment of the population does not have access to private [dental] care, while the dental safety net is poorly defined and underdeveloped." "Dentists' participation in Medicaid is not robust, community health centers and public health facilities have scant dental capabilities, and Medicare offers no dental coverage." "Radical steps will be needed to correct 'a growing disconnect between the dominant pattern of practice, and the oral health needs of the nation,'" including new practice settings for dental care, integration of oral and primary health care, and expanded scope of practice for hygienists and other allied professions.

In response to the call of workforce experts and the Surgeon General to enhance the oral health workforce capacity, ADHA is working to establish a new oral health care provider, the Advanced Dental Hygiene Practitioner. This new provider would provide preventive, therapeutic and minimally invasive restorative services directly to underserved Americans. The Advanced Dental Hygiene Practitioner would be a member of a comprehensive health care team, and would refer to dentists those patients in need of more advanced oral health care services. This new provider would be state-licensed and would complete not only an accredited dental hygiene program but a masters level program.

ADHA is working in a transparent and inclusive fashion to shape this advanced practitioner concept. An ADHP Advisory Committee includes representatives of major oral health care organizations, the federal government, health advocacy groups and others interested in oral health access issues. The ADHA website at [www.adha.org](http://www.adha.org) sets forth the latest information on the draft curriculum and provides a feedback form for input from any interested party. The final draft curriculum and competencies were recently released and ADHA is actively seeking funding to pilot test the program.

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Dental hygienists are committed to working as part of a comprehensive health care team in order to improve access to oral health services. One of ADHA's enunciated priorities is to "work in partnership with dentists to advance the oral health of patients," and ADHA is committed to achieving this objective.

In closing, ADHA also wishes to highlight the importance of self-regulation, which means that members of a profession comprise a majority on whatever state regulatory board makes decisions about that profession. Presently, the profession of dental hygiene is often regulated not by boards of dental hygiene but by dental boards, comprised in large part of practicing dentists. This means that dentists - who often are the employers of dental hygienists - are regulating their employees. This inherent conflict of interest is increasingly being recognized by states. As a result, some states now have separate dental hygiene boards or committees, which typically include a majority of dental hygienists as well as dentist and consumer members.

ADHA applauds the FTC for actively promoting competition in the oral health arena, which will improve access to care. ADHA strongly supports the proposed consent order, which is both necessary and appropriate. Please do not hesitate to contact me or our Washington Counsel Karen S. Sealander of McDermott Will & Emery at 202.756.8024 or ksealander@mwe.com with questions or for further information.

Sincerely,



Ann Battrell, RDH, MSDH  
Executive Director

cc: ADHA President Jean Connor, RDH  
ADHA Board of Trustees  
ADHA Past President Tammi Byrd, RDH  
ADHA Director of Governmental Affairs Tim Lynch  
ADHA Washington Counsel Karen Sealander

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