

Opening Remarks of Diane E. Watson, M.C.
Human Rights and Wellness Hearing on May 8th, 2003
“Consumer Choice and Implementing
Full Disclosure in Dentistry”

Thank you Mr. Chairman.

I would like to commend you for your leadership and hard work on this important issue. Last Congress your ability to reach across the aisle and co-author H.R. 4163, “Mercury in Dental Filling Disclosure and Prohibition Act “, was a testament to your dedication and concern for the public well being. In the 108th Congress we have not only reintroduced our bill, recently numbered H.R. 1680, but now serve as the Chairman and Ranking Member, respectively, on a Subcommittee that addresses Human Rights and Health issues. Mr. Chairman you have set the tone for this Subcommittee garnering not bi-partisan support, but tri-partisan support in the first Human Rights and Wellness hearing regarding “Drug Re-importation” I look forward to serving on this Subcommittee under your leadership.

I would also like to thank the panelists for taking the time to share important information with us today. I appreciate that each one of you has traveled to Washington from many different areas of the United States, but I must give a special “Thank You” to Dr. Berlin for your journey from Sweden.

As the former Chair of the California Senate Health and Human Services Committee for 17 years, I received constant testimony as to the status of the health of Californian’s, especially the lower socio-economic section of our population. One issue that stood above others was the use of mercury in dental fillings. Dentists have stood behind a long history of utilizing mercury. However, a long history of use is no excuse. Mercury in any form is as much of a health risk as lead paint and asbestos. Mercury is being taken out of other health care products including disinfectants, thermometers, childhood vaccines, and even horse medicine. Mercury is a highly neuro-toxic substance that has dramatic effects on biological organisms. Mercury must be

removed from the last known use in the human body.

This hearing will focus primarily upon new information relating to possible health implications of mercury in the human body, and upon disclosing adequate information to patients to enable them to make informed choices about the type of dental restorative material that is used in their treatment.

The science presented by Dr. Lorscheider, Dr. Haley and Dr. Berlin, is important information that should be highlighted in the public domain. Dr. Berlin will present a conclusion from his research that states: “With reference to the fact that mercury is a multi-potent toxin with effects on several levels of the biochemical dynamics of the cell, **amalgam must be considered to be an unsuitable material for dental restoration. This is especially true since fully adequate and less toxic alternatives are available.**” The American Public has the right to know.

Consumers are given disinformation instead of information. To hide the fact that mercury is the major component of amalgam, the ADA promotes the fillings as “silver.” I find that most consumers do not know amalgam contains mercury. States are trying to address this problem with statutes, but dental boards and other regulators are not implementing these laws. Prop 65 in California, adopted in 1986, took 17 years to apply to dental offices. Finally, in December 2002, dentists received a mandate from the court instructing them to post signs that warn that mercury fillings may cause birth defects and other reproductive harm.

In 1992 I wrote a law, Section 1648.10 of the California State Business and Professions code, that mandated a fact sheet be produced by the California State Dental Board stating the risks and efficacies of dental materials. Over the next 9 years the Board did not comply, and I am pleased to report that Governor Davis has installed a new California Dental Board. The new board held hearings on the safety of mercury fillings in 2002, but has again bogged down as the California Dental Association argues against effective disclosure of risks. I applaud the efforts of Representative Mike Michaud in Maine, to produce a fact sheet, and appreciate the testimony of Dr. Chet Yokoyama, a mercury free dentist and member of the California Dental Board. The public has a right to be informed and to choose.

Regrettably, the American Dental Association has a provision in its code of ethics to stop dentists from initiating communications with patients about the risks of mercury dental fillings. This gag rule has unfortunately been enforced by many dentist-dominated state dental boards. I am happy to report that the Attorneys General of Iowa, Oregon, and Minnesota have directed that the ADA gag rule may not be enforced in their states. The dental board in my home state of California repealed its gag rule in 1999. It is time for the ADA to stop preventing dentists from disclosing to patients the risks about amalgam, and it is time for every state dental board to stop enforcing this gag rule. Oregon Attorney, Sandra Duffy, will provide insight into the ramifications of the gag rule.

Increased attention to mercury risk is apparent around the nation. I am pleased to inform you, that the national convention of the NAACP endorsed H.R. 4163. Also, the National Black Caucus of State Legislators has called for legislation to protect children and pregnant women from mercury dental fillings. At the low or moderate end of the economic spectrum, no choice exists. Upper-income consumers are increasingly choosing non-toxic alternatives, and low-income families are generally forced to choose mercury fillings or no fillings at all. Alternatives to mercury based dental fillings exist -- porcelain and resin fillings for example --but many publicly and privately financed health plans do not allow consumers to choose alternatives to mercury amalgam fillings. Medicaid should pay for the alternatives, and not pay for a substance that contains mercury.

At the moment, two states are trying to change the Medicaid system through legislation: California Assemblyman Jerome Horton, a Democrat, and Arizona Representative Karen Johnson, a republican. Both Bills have strong community support. Emmitt Carlton, the immediate past President of the NAACP Alexandria, VA. Chapter, is here to provide a perspective on choice.

Mr Chairman, I look forward to the testimony of the ADA and everyone on the panel today. I am pleased to have the opportunity to hear scientific and regulatory testimony on this issue. Again, I thank you for your leadership and hard work.

I Yield back my time.