

Wright, Dean

From: Robert Boyd-Boland [Robert.Boyd-Boland@ada.org.au]
Sent: Friday, 2 December 2011 11:46 AM
To: Wallner, Peter
Subject: Tooth Whitening
Attachments: DoHA CORRESPONDENCE TEETH WHITENING.PDF; HALTON TEETH WHITENING.PDF; 20111019 DOHA ROXON CORRESPONDENCE.PDF

Dear Peter,

Thanks for the chat this morning.

I attach copies of an exchange of correspondence with Minister Roxon and Jane Halton. A similar letter was sent to the Dental Board but no response has been received.

As I mentioned I shall be seeking the assistance of someone from within the ADA to assist with a possible submission to Warren Hough-if you could supply his contact details and anything else that you think may be of assistance, please send it through. I shall keep in touch.

In the meantime I shall place onto the website and into an email newsletter a call for members to send info relating to cases of injury relating to tooth whitening by persons other than dental practitioners.

Regards,

Robert Boyd-Boland
Chief Executive Officer



AUSTRALIAN DENTAL
ASSOCIATION INC.

Australian Dental Association Inc.

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27/02/2012



**THE HON NICOLA ROXON MP
MINISTER FOR HEALTH AND AGEING**

Mr Robert Boyd-Boland
Chief Executive Officer
Australian Dental Association Inc
PO Box 520
ST LEONARDS NSW 1590

Dear Mr Boyd-Boland, Robert,

Thank you for your letter of 1 September 2011 regarding the practice of teeth whitening by non-dentists. I note that you have also written to the Secretary of the Department of Health and Ageing regarding this issue.

As you are aware, the National Registration and Accreditation Scheme (NRAS) for health professions commenced on 1 July 2010. The NRAS is a national scheme, and operates independently of the Commonwealth under the *Health Practitioner Regulation National Law Act 2009*, known as the National Law.

Under the NRAS the state and territory registration boards for dental practitioners have been replaced by a national board, the Dental Board of Australia (DBA). The DBA's responsibilities include developing standards, codes, guidelines and accreditation of training for the dental profession and handling notifications and complaints and investigations in respect of individual dental practitioners.

As you have noted, the DBA issued an interim policy on 12 November 2010 on teeth whitening/bleaching. This policy has been developed by the DBA under section 39 of the National Law as an interim measure whilst it continues to examine the issues within the context of public protection.

The DBA is only responsible for regulating the practice of registered dental practitioners and cannot legally direct practices of unregulated or unqualified service providers outside the dental profession.

Similarly, I understand that the restricted dental acts provisions of the National Law do not prevent members of the general public or other health professionals from advertising, promoting and selling teeth whitening and bleaching agents (of any concentration) or advising members of the public how to apply the agents of any concentration. The DBA therefore only has a limited scope of regulatory influence regarding the regulation of teeth whitening and bleaching agents in the general public domain.

However, you may be interested in the work that is currently being undertaken on behalf of the Australian Health Ministers' Advisory Council (AHMAC) regarding the unregulated provision of health care services by unregistered or unqualified practitioners. In November 2010, Australian Health Ministers agreed to a national consultation exercise seeking stakeholders' views on whether there is a need for strengthened regulatory protection for consumers in relation to unregistered health professions.

Public consultation commenced on 28 February 2011 with the release of a consultation paper. Written submissions to the paper closed on 15 April 2011. I understand the Western Australian Branch of the ADA provided a submission. The consultation paper is available under the 'Related Links' menu on the home page of the AHMAC website at www.ahmac.gov.au/site/home.aspx Further information will be available in due course.

You may also be interested to know that under the *Therapeutic Goods Act 1989* (the Act), scheduling decisions in relation to the circumstances under which medicines and chemicals are accessible to consumers are now made by delegated officers in my Department, independent of Ministerial involvement. These decisions act as recommendations to state and territory governments for implementation through specific jurisdictional legislation. As such, implementation of controls on scheduled substances is done at a state or territory level.

Prior to July 2010, scheduling decisions were made by the National Drugs and Poisons Scheduling Committee (NDPSC), an independent expert committee. The most recent consideration of access restrictions on hydrogen peroxide or carbamide peroxide (which are generally contained in teeth whitening products) occurred at the February and June 2005 NDPSC meetings.

The NDPSC Members agreed that tooth whiteners containing more than 6% hydrogen peroxide (18% carbamide peroxide) had sufficient potential for causing harm to justify capture in Schedule 6 of the Standard for the Uniform Scheduling of Medicines and Poisons and should be restricted through scheduling packaging and labelling requirements. Mandatory labelling requirements arising from listing in Schedule 6 including a 'POISON' signal word, strong warnings and safety directions on the label.

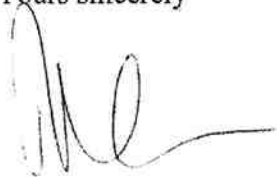
The NDPSC members generally considered that these requirements, in combination with general trade practices requirements for supply of safe products, would limit the legitimate availability of such high strength tooth whiteners to dental professionals. The Record-of-Reasons for these considerations are publicly available at www.tga.gov.au/archive/committees-ndpsc-record.htm

However, should you consider the current scheduling approach is not sufficiently mitigating the risks from tooth whitening products a rescheduling application can be submitted to my Department. The decision-maker is required to consider legislatively stipulated matters (set out under Section 52(E) of the Act) in making any scheduling decision. The ability to reach a decision regarding an application will therefore be dependent upon the data provided for each of these matters, as outlined in the application form. Information on the pathways to scheduling decisions, including the electronic application template, is available at www.tga.gov.au/industry/scheduling-basics.htm

Please contact the Medicines and Poisons Scheduling Secretariat via email to smp@health.gov.au or by contacting (02) 6289 1359 if you have any further queries regarding scheduling.

I trust that the above information is of assistance.

Yours sincerely



NICOLA ROXON

13 OCT 2011



AUSTRALIAN DENTAL
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Incorporated in the ACT ABN 141 755 989

14-16 Chandos Street St Leonards NSW 2065

All Correspondence to:
PO Box 520 St Leonards NSW 1590

1 September 2011

Ms Jane Halton
Secretary
Department of Health and Ageing
GPO Box 9848
CANBERRA ACT 2601

Dear Ms Halton

The Australian Dental Association (ADA) wishes to express its concern over the widespread practice of teeth whitening by non-Dentists including hairdressers, beauticians and "bleaching booths" in shopping centres. These individuals are placing the public at risk of serious damage due to inappropriate application of peroxide bleaching agents. There are numerous side effects associated with using chemicals to whiten teeth, and some can be irreversible. Damage can include alteration to the enamel surface of teeth, reduced strength of resin fillings, damaged and inflamed gums, chemical burns, blistering of mouth and gum tissues and severe tooth sensitivity and pain. Inappropriate teeth whitening and failure of proper diagnosis can also result in the appearance of multi-coloured teeth. The ADA maintains that only dentists are qualified to diagnose whether individual patients are suitable candidates for teeth whitening. In order to help educate the public about the risks of injury from tooth whitening, the ADA has established a website www.teethwhiteningfacts.com.au

The ADA's concerns for public safety are supported by the case which occurred in Victoria in 2009, where a beauty therapist was found guilty of illegally practicing dentistry, as a result of a complaint from a member of the public. This was the first time that the legality of teeth whitening was considered by an Australian Court. The state legislation under which this prosecution occurred has been made redundant by National Law which created the Dental Board of Australia (DBA) in July 2010.

The DBA interim policy on Tooth Whitening/Bleaching states that "Tooth whitening/bleaching is an **irreversible** procedure on human teeth and any tooth whitening/bleaching products containing more than 6% concentration of the active whitening/bleaching agent, should only be used by a registered dental practitioner with education, training and competence in teeth whitening/bleaching." The ADA believes the appropriate practitioner is a Dentist. The Health Practitioners Regulation National Law Act 2009 clearly states under S.121: Restricted dental acts (2)(a) that a "restricted dental act" means performing any irreversible procedure on the human teeth or jaw or associated structures" In light of this, the ADA calls upon Health Ministers, Departments of Health and the Dental Board of Australia to focus upon public safety and enforce a ban on tooth whitening by non-dentists.

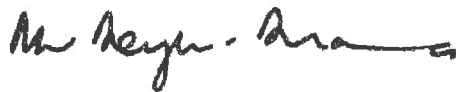
Worksafe Australia's current guidelines list hydrogen peroxide at concentrations above 5% as a hazardous substance. Inappropriate exposure can lead to permanent damage. Direct exposure to skin and eyes can cause severe irritation or burns, while ingestion may cause irritation to the esophagus and stomach, resulting in bleeding.

Notwithstanding these recommendations, the ADA believes that concentrations far greater than 6% are being used by non-dentists to whiten the teeth of unsuspecting members of the public. The ADA maintains that no concentration of peroxide can be safely used for tooth whitening by unqualified personnel.

It appears that the ADA is not the only body concerned about public safety from inappropriate tooth whitening by non-registered persons. The ADA is encouraged by recent warnings from the CHOICE consumer group about tooth whitening in their media release dated 31 May 2011 and an article in the Choice magazine, June 2011.

The ADA requests that you consider this issue as a matter of urgency and take the appropriate steps to protect the public.

Yours sincerely



Robert Boyd-Boland
Chief Executive Officer



Australian Government
Department of Health and Ageing

SECRETARY

Mr Robert Boyd-Boland
Chief Executive Officer
Australian Dental Association Inc
PO Box 520
St Leonards NSW 1590



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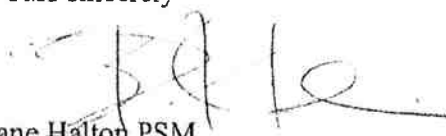
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Please contact the Medicines and Poisons Scheduling Secretariat (email: smp@health.gov.au or phone: 02 6289 1359) if you have any further queries regarding scheduling.

Yours sincerely



Jane Halton PSM
Secretary

September 2011