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Petition To Stop the ADA from Using the Deceptive Term “Silver”  
To Describe Mercury Amalgam Fillings

*Presented to*

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Federal Trade Commission

I. *The public is deceived by the word “silver” to describe dental fillings that are primarily mercury.*

One of the most common dental fillings, and the easiest one for dentists to implant, is composed approximately 50% of mercury, the most toxic nonradioactive element and the most volatile heavy metal. Among lower-income consumers, including children, it is the prevalent filling material. The filling is known as amalgam to scientists. But the nation’s leading dentistry trade group has given it a deceptive name with insidious consequences.

The American Dental Association (ADA) characterizes such filling material as “silver” fillings, and actively promotes their use.<sup>1</sup> In fact, such fillings have substantially more mercury (43 to 54%) than silver (under 30%).<sup>2</sup>

To characterize an amalgam (mixture) by its second-most common rather than most common material is unscientific – the most common ingredient, not the second most common, must lead the description in the scientific nomenclature.

Alternative fillings to mercury fillings are available: the two major alternatives are composite (also known as resin) and porcelain. Fully 27% of dentists now practice “mercury-free” dentistry, meaning they always implant alternative filling material. That figure tripled from 9% to 27% between 1995 and 2001.<sup>3</sup>

II. *A controversy exists about the safety of mercury fillings, but it is hidden from consumers when organized dentistry uses the term “silver.”*

The use of mercury fillings is increasingly controversial. A court ordered the California Dental Association, by March 9, 2003, to send warnings for posting in dental offices that amalgam causes “exposure to mercury, a substance known ... to cause birth defects and other reproductive harm.” The NAACP supports a ban for children, pregnant women, and nursing mothers. Federal and state lawmakers have introduced bills, and the FDA has agreed to begin a comprehensive study.

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<sup>1</sup> See attached brochure.

<sup>2</sup> Dental Board of California “fact sheet” on dental materials.

<sup>3</sup> Christianson Research Institute, Orem, Utah. Another survey puts the number of mercury-free dentists at 21%.

While the ADA remains an unabashed supporter, three national dental societies support an outright ban on mercury in dental fillings.<sup>4</sup> The Academy of General Dentistry falls in-between, supporting its safety but warning members to “prepare for the possibility of life without amalgam.”

### III. *It is important for consumers for know that the material is mainly mercury.*

Consumers have every right to know the fillings are mainly mercury. It is important consumers not be misled into assuming such fillings are silver, when in fact they are predominantly mercury, for several reasons.

- 1) Mercury is toxic -- indeed, mercury the most toxic nonradioactive element -- while silver generally is not.
- 2) Mercury is volatile -- the most volatile heavy metal -- whereas silver is not volatile. Mercury's toxic vapors are constantly emitting poisonous gases -- a fact conceded by the ADA with regard to amalgam fillings.<sup>5</sup> A child gets sick from ingesting lead (e.g., licking lead paint). But if mercury spills in, say, a high school chemistry class, the mercury vapors alone are so toxic the school is generally evacuated.
- 3) Mercury has been banned or phased out of most health care products and devices. The disinfectant Mercurochrome is now a banned product. The Center for Disease Control ordered mercury preservatives removed from childhood vaccines. Twelve states have banned mercury thermometers. The American Public Health Association, the California Medical Association, and Health Care Without Harm have all called for a phaseout of mercury in all health care products.
- 4) According to four national environmental organizations, dental offices are the nation's largest polluter of mercury in the wastewater.<sup>6</sup> Because of the mercury, federal and state EPAs recognize amalgam, when removed, as hazardous waste.<sup>7</sup>
  - Many consumers make their buying decisions to avoid polluting the earth and its water, a fact recognized in the *Green Marketing Guidelines*, a joint FTC - state Attorneys General project in 1992-93. Deceptive environmental claims are thus important to the Commission.
- 5) Mercury is generally known to the public to be toxic. When the FDA issues warnings about mercury in fish, it need not be accompanied by an explanation.

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<sup>4</sup> The International Academy of Oral Medicine and Toxicology (Orlando, Fla.), the American Academy of Biological Dentistry (Carmel, Calif.), and the Holistic Dental Association (Denver).

<sup>5</sup> See the attached brochure by the ADA, inside page: “minute amounts of mercury vapor may be released under the pressure of chewing or grinding ... .”

<sup>6</sup> *Dentist The Menace? The Uncontrolled Release Of Mercury*, authored by the Mercury Policy Project, Health Care Without Harm, Sierra Club, and Toxics Action Center (June 2002). See [www.mercurypolicy.org/new/documents/DentistTheMenace.pdf](http://www.mercurypolicy.org/new/documents/DentistTheMenace.pdf).

<sup>7</sup> The California Department of Toxic Substances Control, for example. See [www.dtsc.ca.gov/LawsRegulationsPolicies/Mercury/Mercury\\_prop\\_regs.html](http://www.dtsc.ca.gov/LawsRegulationsPolicies/Mercury/Mercury_prop_regs.html).

- 6) U.S. FDA has incorporated the Health Canada warnings into a Consumer Update (Dec. 31, 2002). Since 1996, the government of Canada recommends that mercury fillings not be given to children, pregnant women, or people with kidney problems, braces, or mercury hypersensitivity. A major manufacturer, Dentsply, issued contraindications for those subpopulations in 1997.

The controversy, however, remains relatively unknown to the public: the ADA concedes – or rather trumpets – in a recent poll that the safety-of-amalgam debate is still unknown to 60% of the public.

*IV. The American Dental Association promotes the mercury as “silver,” has a vested economic reason for doing so, and fails to disclose its royalties from amalgam manufacturers.*

The American Dental Association receives royalty payments from amalgam manufacturers (and from toothbrush makers, mouthwash companies, etc.) through its “seal of acceptance” program.<sup>8</sup> The ADA does not disclose its economic ties to these manufacturers in its promotional brochures. (The ADA’s economic hucksterism is in sharp contrast to the policies of the American *Medical* Association, who condemns payments for product endorsements as an unethical practice for a health professional society.) The ADA thus has a financial incentive to promote such fillings, and in so doing hide the presence of mercury.

The ADA claims through its “seal of acceptance” that it has researched the safety of mercury amalgam and found the product to be safe. That is false. The ADA has never done a peer-reviewed study showing that mercury fillings are safe, instead relying on the anecdotal approach that the product must be safe because it has been used for 150 years.

The brochure calls the materials silver. One must turn to the inside to discover there is mercury. Then, its presence is downplayed by such scientifically preposterous statements about its inertness and its safety equivalence to pollen or dust. ADA records tell how many such brochures are distributed, and where.<sup>9</sup>

*V. While the safety issue a matter of continued debate and Congressional and regulatory overview, the Commission should act immediately within ITS jurisdiction to stop the ADA from promoting the fillings as “silver.”*

Whether amalgam is safe, of course, is a decision of Congress and FDA, not the FTC. But the Commission has frequently acted to stop misleading claims of drugs and devices marketed with FDA approval, and even has a working agreement with FDA. Indeed, if the FTC did *not* act on deceptive marketing of products regulated by FDA – which include drugs, foods, device, and cosmetics – the Commission would be giving carte blanche to 25% of the economy to act as it wishes.

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<sup>8</sup> While receiving funding from manufacturers, the ADA in turn agrees to promote the product to both its members and the public.

<sup>9</sup> The ADA has admitted in a court filing in California to the thousands of such brochures it distributes in that state alone. (We can find that admission and submit it to the Commission.)

When mercury warnings are issued by FDA to pregnant women for eating certain fish, it is unaccompanied by information about mercury, due to its well-known toxicity. If the fact that these fillings are mainly mercury were made known to pregnant women or parents of young children, it is likely that many would choose alternative materials.

The Commission should act so consumers are not deceived by the word silver. The Commission should act to require an organization who promotes mercury fillings to disclose its receipt of revenue so it cannot masquerade as a neutral arbiter. Consumers are entitled to know that the fillings are mainly mercury.

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