PERIODONTICS IMPLANTS

PERIODONTAL SPECIALISTS, P.A.

Kansas Senate Public Health and Welfare Committee
Senate Bill 103

In-Person Testimony:
February 1, 2024
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My name is Dr. Daniel Thomas, a practicing Periodontist and Kansas business owner. My tenure as a member and Vice-President of the Kansas Dental Board, a board member of the University of Kansas Hospital Authority and a Regent at the Kansas Board of Regents has provided me with an intimate understanding of our healthcare system.

The laws regulating the conduct of dental professionals that are necessary to protect patients are welcome by the scrupulous practitioner. However, if a law does nothing to protect patients and serves only to limit patient access to oral healthcare, limit dentists' ability to open practice locations, force patients to travel to be seen by a specialist, force dentists to merge and close offices to protect themselves from sanctions and be used as a tool for retribution or frivolous complaints, it must be repealed. This is the case with the current "20% Rule" of KSA 65-1435(d) and for the following reasons.

First, access to oral health services, especially with increasing the gap especially among the aged, disabled, children, uninsured, low-income individuals and citizens in the rural areas of our state, suffers due to the requirement. The status quo disincentivizes dentists from investing in Kansas; especially in small town offices.

For example, an owner dentist could allow an associate/employee dentist to provide services, with the owner dentist periodically visiting the office to undertake or supervise the services. However, with the current rule, the owner dentist subjects himself or herself to sanctions if he/she falls below the 20% requirement, even if by honest mistake.

Second, there is no compelling public interest justification to continue the requirement. In April 2014, after unanimous support in both the House and Senate, our Governor signed into law an amendment that replaced the requirement that a dentist be present in an office a majority of the time (the so-called "50% Rule") with the current 20% Rule. At the time, the move was lauded by the dental community as a step in the right direction. And now, ten years later, no substantial evidence has been presented supporting the notion that a 20% presence requirement has conferred any benefit to patients or increased access to care.

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Third, it is essential to note that the responsibility for providing quality dental care lies fundamentally with the individual licensed dentists. The provision of skilled, honest and accountable dental care is the sole responsibility of the licensed dentist. The "20% Rule" does not and indeed cannot, guarantee the skill, integrity or knowledge of the provider, and therefore, its value as a regulation is questionable.

Fourth, it impedes investment in communities by specialty providers. For example, in 2012 the only Periodontist in Manhattan, Kansas retired due to medical reasons and requested we buy his practice. Even though we had dental specialists and hygienists who could continue to see his patients, I decided not to because of the requirement that I, as the owner, needed to be physically present in Manhattan for the required 50% time the practice was open. The retiring periodontist could not find another buyer, so finally, we took over his patient records and their care. To this day, Manhattan has no full-time Periodontist and all its citizens with periodontal needs must drive to Salina or Topeka for treatment.

In the end, the rule did not dissuade me from expanding my practice. In fact, over the years I have opened several additional locations; unfortunately for Kansas, all were opened in Missouri, a state with no such minimum presence requirement. Having been a part of the Kansas Dental Association for over three decades, and being long-term residents, my wife and I would have liked to expand our dental specialty practices in Kansas.

Fifth, the rule has forced the closure of several dental practices. In fact, my wife, Dr. Donna Thomas, a Pediatric Dentist, past member and President of the Kansas Dental Board, was forced to close our promising Olathe location because of the onerous requirements of the 20% Rule.

Sixth, the rule has been weaponized by bad faith actors against owner dentists to settle personal scores. In April 2008, I was personally victimized by a colleague who filed a fraudulent claim with the Kansas Dental Board alleging I violated the (at that time) 50% Rule. After several torturous months and tremendous expense, including hiring legal counsel, retrieving records and responding to the claim, I was fully cleared of any wrongdoing in February 2009.

In addition to the direct costs of defending against the baseless accusation, I felt compelled to close my Topeka office upon my appointment to the Kansas Board of Regents. I did this to avoid giving another bad actor the opportunity to make a similar frivolous claim. Closing that office cost my practice a valuable revenue stream. And I am not the only one.

I personally know of other dentists and dental specialists who, like me, have had false accusations made to the Kansas Dental Board that they violated the percent rule. They also felt compelled to close or merge offices to ensure they would not have to waste valuable time and resources responding to these underhanded tactics. Consequently, their patients are now forced to travel great distances and at steep costs to be seen by the provider they have come to trust.

Research shows that no other state imposes this strict requirement on their dentists. Kansas is the only state that mandates a minimum requirement for the presence of an owner dentist. There is no other profession in the entire United States that has this restriction on any of their graduates or professionals.

The time is now for Kansas to join the other forty-nine states and abolish this capricious, arbitrary and antiquated law. Along with the notoriety of being only state in the union to impose this requirement, the law restricts oral health care access, disincentivizes business investment in the state of Kansas and has negligible compelling patient protection or public policy *raison d'etre*.