

Testimony before Senate Public Health & Welfare Committee
SB 103 – Relating to the Regulation of Dentists
Mike O’Neal on behalf of ADSO (Assoc. of Dental Support Organizations)
mike@onealconsultingks.com

In-person testimony in support

Feb. 8, 2023

Madam Chairman and members of the Committee

Thank you for the opportunity to appear today in support of SB 103. I represent the Association of Dental Support Organizations (ADSO). What is a DSO? Dental practices contract with DSOs to provide business management and support, including non-clinical operations. The creation of DSOs has allowed dentists to maximize their actual clinical practice time with the support of professional office management.

The DSO model benefits both dentists and patients. DSOs offer the dentist the ability to access state-of-the-art equipment through the bulk buying power of the DSO. Facility maintenance, supply procurement, accounting and marketing are handled by the DSO. Patients benefit by having more face time with the dentist, access to state-of-the-art technologies, and flexible hours to name a few advantages. Dentists who are supported by a DSO accept most insurance plans and provide care at a competitive cost to patients.

SB 103 is the product of a collaborative effort with the Kansas Dental Association. Under current Kansas law, dentists are severely limited in the number of offices they can own. Known as the 20% rule, Kansas is the only state that requires a dentist owner to spend at least 20% of his or her clinical time in any office he or she has an ownership interest in. This is notwithstanding the fact that any such office must have at least one licensed resident dentist. In other words, even in cases where the dentist owner has hired qualified dentists to provide clinical services at each location, Kansas requires the owner to spend at least 20% of his or her personal time in each office.

Contrast this law with a provision in the Optometric Act (K.S.A. 65-1522(d) that states: “A licensee shall not be limited in the number of locations from which the licensee may engage in the practice of optometry...” K.S.A. 65-1522(e)(1) only requires that there be a licensed optometrist present when optometric services are being performed.

The 20% rule limiting dental practices is subject to an exception if a dentist's secondary office is located within a 125 mile radius of the primary office and located in a county of less than 10,000 according to the 2000 Census. The exception was intended to take into account the fact that the western part of the state, in particular, is seriously underserved. Yet, according to the Kansas Dental Association, this exception has not succeeded in increasing the availability of and access to dental care in those areas of the state.

Elimination of the 20% rule would, without question, increase the availability of not only primary dental care but also specialty care. The DSO model has been strikingly successful in other states in improving the quality of and access to dental care. Kansas would benefit greatly by passage of SB 103. Over the interim, we conducted a number of site visits at DSO supported dental office locations where local legislators had the opportunity to hear first-hand from the dentists as to why they like the DSO model and what elimination of the 20% rule would mean to them.

We wish to thank Kevin Robertson and the Kansas Dental Association for their willingness to collaborate with us on this legislation in an effort to improve access to dental care. The KDA recommended, and we approved, additional language the KDA requested and which Kevin Robertson will explain in more detail.

We presented to the Kansas Dental Board before the start of the session. We wish to thank Lane Hemsley and members of the Board for allowing us to brief them on our bill. As the regulatory body for dentists, they are neutral but we received no opposition from any of the members.

The 20% rule has caused confusion with a number of dentists and some have unwittingly run afoul of the rule's interpretation. In at least one case, in order to avoid a potential violation, a dentist divested ownership of a Kansas office to open additional offices on the Missouri side where there is no such barrier to the practice of dentistry.

We appreciate the fact that the Kansas Legislature has an interest in eliminating unnecessary laws and regulations that have nothing to do with the quality of or access to patient care. The provisions SB 103 repeals actually have a chilling effect on efforts to expand access to care and whether there was ever a reason for the rule, it has long since outlived its usefulness.

I would be happy to answer any questions Committee members may have.