

ODA UPDATE

LEGAL & REGULATORY COMPLIANCE

Corydon Palmer Dental Society
April 25, 2018

Dr. Steve Moore
President

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Who is the ODA?

- Formed in 1866
 - Need for collective statewide voice for the dental profession
- Today: 5,300 member dentists
 - 70% of practicing dentists in Ohio



Member Benefits

- Legislative and regulatory advocacy
- Answers to legal and regulatory compliance questions
- Third-party payer assistance
- Information on current dental issues
- Public service programs
- CE
- Insurance products and discounts
- Leadership development
- ODA Foundation



QDA

Dental Specialty Advertising

- Kiser vs. Kamder – Ohio Case
- Ohio Dentist – endodontist
- Advertise as endodontist – but not limit practice
- Ohio State Dental Board rules – advertise as specialist – must limit practice to specialty services
- Kiser filed suit challenging OSDB rules – 1st and 14th Amendments
- District Court dismissed Kiser's claims.
- 6th Circuit Court of Appeals reversed the District Court – August 5, 2016



Dental Specialty Advertising

- Sixth Circuit:
 - Reversed District Court and Remanded
 - Truthful non-misleading information – Kiser is a general dentist and endodontist
 - Not false, misleading, or deceptive
 - Kiser properly alleged a violation of his commercial speech rights
- Ohio State Dental Board
 - November 2016 – filed amended rules allowing a specialist who advertises specialty status to practice outside scope of specialty
- ADA
 - October 2016 – HOD amended Principles of Ethics and Code of Professional Conduct
- Bottom-line: specialists no longer must limit their practice



Dental Specialty Advertising

- Texas Case
- US Court of Appeals for Fifth Circuit
- Plaintiffs – AAID, American Society of Dentists Anesthesiologists, American Academy of Oral Medicine, American Academy of Orofacial Pain and 5 Texas licensed dentists
- Defendants – Texas State Board of Dental Examiners (Texas Society of Oral and Maxillofacial Surgeons as intervenor-defendant)



Dental Specialty Advertising

- Texas law prohibits "false, misleading, or deceptive advertising in connection with the practice of dentistry"
- Texas State Dental Board enacted Rule 108.54:
 - A "dentist may advertise as a specialist or use the terms 'specialty' or 'specialist' to describe professional services in recognized specialty areas that are:
 - (1) recognized by a board that certifies specialists in the area of specialty; and
 - (2) accredited by the CODA
- The Rule then lists the nine specialty areas recognized by the State Dental Board, which track those specialty areas recognized by the ADA.



Dental Specialty Advertising

- Trial court invalidated Texas rules
- US Court of Appeals for the Fifth Circuit – June 2017
- Upheld trial court's decision
- 5th Circuit said Texas Dental Board failed to show that consumers would be harmed by Plaintiffs advertising as specialists



Dental Specialty Advertising

- What does it all mean?
- Bottom-line
 - Specialists who hold themselves out as specialists – no longer must limit practice – OSDB rules & ADA
 - Concerns – referrals Marketplace
 - Specialists may still advertise “practice limited to”
 - For now, OSDB rules still recognize only the nine ADA specialties
 - dental public health; endodontics; oral and maxillofacial pathology; oral and maxillofacial radiology; oral and maxillofacial surgery; orthodontics and dentofacial orthopedics; pediatric dentistry; periodontics; and prosthodontics.
 - Board now considering alternatives



Dental Specialty Advertising

- Future of Specialty advertising and recognition?
 - Ohio State Dental Board is considering alternatives:
 1. 9 ADA recognized specialties only
 - ADA – gold standard – reformed specialty process – 2017-18
 2. American Board of Dental Specialties – 2014 - American Board of Oral Implantology, American Board of Oral Medicine, American Board of Orofacial Pain, and American Dental Board of Anesthesiology.
 3. Completion of CODA-accredited post-doctoral education program (CODA-accredited dental residency)
 4. No regulation of dental specialties or advertising (Wild West)



Dental Specialty Advertising

- Fifth Circuit

- “We do not suggest that the [Texas Dental] Board may not impose appropriate restrictions in the area of dental specialist advertising. The plaintiffs agree that advertising as a specialist is potentially misleading and that reasonable regulation is appropriate. We hold only that the Board has not met its burden on the record before us.”
- “The Board may satisfy its burden with empirical data, studies, anecdotal evidence, or history, consensus, and simply common sense.”



Advocacy

- No Increased Taxes
 - ODA stopped proposals to impose additional taxes onto dentists
 - Stopped proposed provider tax
 - Stopped proposal to extend sales tax to certain dental services
 - Clear Tray Aligners
 - State budget bill – FY 2018-19



Non-Covered Services

- Dental insurers setting fees for non-covered services
- NCOIL Model Legislation
 - Senate Bill 87 – Introduced March 2017
 - House Bill 367 – Introduced in October 2017

Dental Therapists

- Access to Care
 - Kellogg Foundation – \$16 million
 - Universal Health Care Action Network – Ohio (UHCAN-Ohio)
 - Ohio Legislation – Senate Bill 98 (Sen. Peggy Lehner)
 - ODA Response:
 - Inadequate training for irreversible, surgical procedures
 - Diversion of resources
 - Stopped – continued vigilance



Dental Therapists

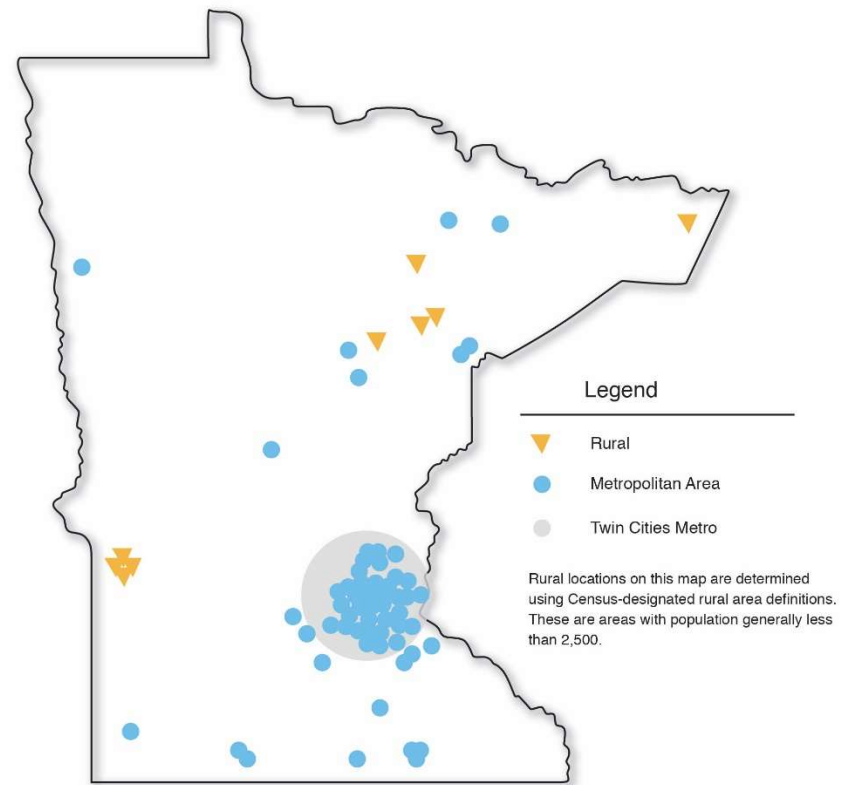
- UHCAN-Ohio
 - Dental Therapists
 - CODA accredited dental therapy program (3 years post high school)
 - Diagnosis
 - Treatment planning
 - Restorative procedures
 - Local anesthesia
 - Simple extractions
 - Supervise RDHs and DAs



Dental Therapists

- Experience in Minnesota
 - Therapists practice in metropolitan areas

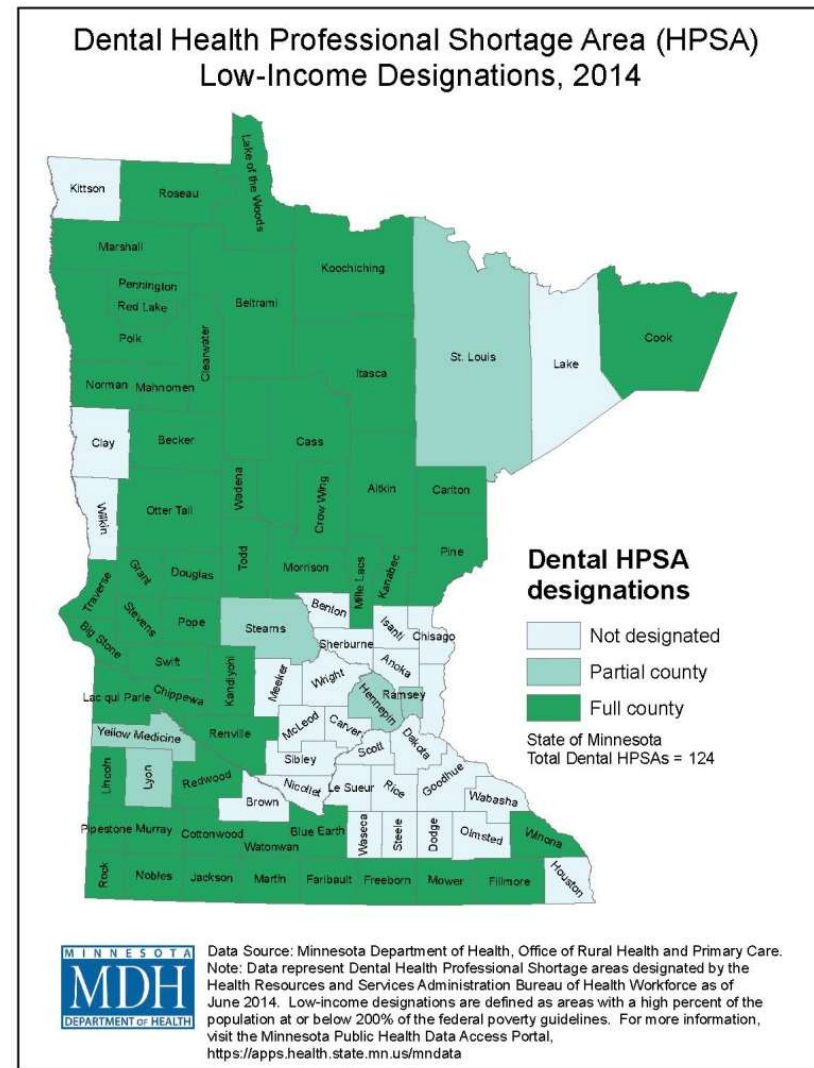
2017 Practice Locations of Licensed Dental Therapists in Minnesota



Source: Active licensees as of 8/1/2017, from the Minnesota Board of Dentistry

Dental Therapists

- Experience in Minnesota
 - Dental health professional shortage areas



Access to Care

- Ohio Department of Health
 - Oral health as the number one unmet health care need in Ohio
- ODA and Dentistry
 - Long history of addressing access to care issues
 - Medicaid
 - OPTIONS, GKAS & Volunteerism
 - Use of auxiliary personnel – EFDAs
 - Prevention
 - Education and awareness
- ODA Task Force on Access to Care and Auxiliary Utilization



Access to Care

- House Bill 184

- Introduced by Reps. Theresa Gavarone (R-Bowling Green) and Tony DeVitis (R-Green)
- Passed the House of Representatives with overwhelming bipartisan support in October
 - Allows use of technology to extend care into underserved areas of Ohio
 - Creates the Primary Care Dental Student Scholarship component of the Choose Ohio First Program
 - Enhances the ability of dental auxiliaries to provide preventive dental services
 - Promotes licensure portability
- ODA Supports



Access to Care

- Adult Dental Medicaid Program
 - Ohio is one of 12 states with dental coverage for adults
- Medicaid Dental Reimbursements
 - Ohio 41st out of 50 states
- Medicaid Dental Reforms
 - \$16.5 million – increased reimbursements – denture repairs, extractions statewide, 5% increase across the board in rural counties – 2016-2017
 - Received the 5% increase: Columbiana County



Access to Care

- Ohio Dentist Loan Repayment Program – Expansion 2017
- Medicaid Reform
- Delegable Duties – Existing Dental Team
- Tele-dentistry
- Volunteer Programs – GKAS, OPTIONS, etc.
- OSU College of Dentistry
 - OHIO Project
 - Expansion of class size



Upcoming ODA Events

- ODA Annual Session
 - September 13-16, 2018
 - CE discounted pricing *only* available to ODA members



ODPAC

- ODPAC (Ohio Dental Political Action Committee)
 - Dentistry's voice at the Statehouse
 - Protecting dentistry from unnecessary government intervention and bureaucratic control
 - Helps dentists gain political leverage against the big dollar contributors, such as insurance companies and trial lawyers
 - Give today! If you won't, who will?



ODA Foundation

- ODA Foundation

- ODA's philanthropic body committed to dental education
- Provides scholarships to highest caliber of Ohio dental students
- Awards grants to Ohio programs that help address access to dental care
- Since 1995, more than \$1 million in scholarships and grants have been awarded
- Give today! Contributions are tax deductible



ODA Mission

- The ODA mission is to improve oral health and strengthen dentistry in Ohio
- Recent successes show ODA's organizational health and vitality and commitment to achieving its mission
- Success depends on dedicated volunteers like you
- With your help, dentistry's tomorrow is being shaped today



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