

# State Legislative Report

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## Sound Byte



Emergency rooms throughout the country have seen a dramatic increase in the number of patients seeking treatment for dental pain, from 1.1 million in 2000 to 2.1 million in 2010. The majority of these patients are suffering from dental decay that could easily have been prevented.

Dentists collaborate with hospitals in unique ways to refer these patients to dental offices and clinics, where they can receive appropriate, effective treatment, treatment that is significantly less expensive than that available in a hospital. You can read about [five ER referral models](#).

Action for Dental Health; ADA webpage accessed [here](#)

## State Alternative Provider Wrap-Up

Following a number of hard fought legislative sessions in states across the nation and an expansion of the number of states grappling with the issue of creating a “dental midlevel” position (dental therapists, dental hygiene therapists, DHATs, advanced dental hygiene practitioners [ADHPs], dental practitioners, etc.) the odds

are no state will enact new enabling legislation in 2015. Most state legislative sessions where these bills were introduced have come to a close. The one exception is Massachusetts which remains in session and had 2 bills (HB 249 and SB 1118) introduced to create ADHPs but have not moved since being introduced early this year.

### Editor's Note:

The State Legislative Report is a publication of the ADA's Department of State Government Affairs. It is intended solely for the use of ADA members and constituent and component societies. DSGA encourages you to replenish articles for your Association members. When you do so, in whole or in part we ask that credit is given to State Legislative Report.

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**“Good questions outrank easy answers.”**

– Paul Samuelson

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Otherwise while states had significant attempts to advance this political agenda, in the end none did so.

#### **Alternative Provider Legislative Activity**

While no legislation was introduced in Colorado 2015, there has been significant organizing efforts made by proponents. **Connecticut** for many consecutive years proponents have attempted to advance ADHP. They did so again in 2015 with [HB 6275](#) and [HB 6492](#). While heard by the joint Public Health Committee this year, no vote was taken by the committee deadline, and both bills stalled for this session. A last minute attempt to amend the measure onto an unrelated dental bill also failed to be called before adjournment.

**Florida** became one of three southeastern states (Georgia and Mississippi being the others) who saw organization activity begin because of a new grant made by the Kellogg Foundation to a group at Morehouse University. The goal is to organize support for a bill in those states. While no bill was introduced, those organizational efforts have begun. As mentioned, [Georgia](#) is one of the three southeastern states targeted by Kellogg. Organizing activities have begun, and at the end of the legislative session, SB 248 was introduced. However the bill was introduced after adjournment and will not be considered until 2016.

Two measures were introduced in [Hawaii](#) this year. The first [HCR](#) would have authorized a sunrise review of dental therapy. While posted for a hearing in the House Consumer Protection & Commerce Committee, it was removed from the agenda the day before the hearing and stalled. HB 257 would have created dental therapists and advanced dental therapist but again was not considered in committee prior to adjournment.

**Kansas** is yet another state that has grappled with this issue for many years. Once again, the state saw two bills introduced to authorize midlevels this year ([SB 49](#) and [HB 2079](#)). Hearings were held in the Senate Committee on Public Health and Welfare and the House Health & Human Services Committees, but no vote was taken prior to adjournment, stalling the bills for this year. As previously referenced, [HB 249](#) and [SB 1118](#) have been introduced in **Massachusetts** this year to create ADHPs. However, following introduction, no significant action has been taken to advance the bills and we anticipate that to remain the case.

After enacting a bill to authorize dental hygiene therapy with on-site supervision of a dentist, **Maine** continues to work through the arduous process of rulemaking to implement the measure. While there had been speculation proponents would attempt to loosen the guidelines in the new law that did

**“The roots of education are bitter, but the fruit is sweet.”**

— Aristotle

not materialize in the 2015 legislative session. Dental midlevel proponents have sought to establish support for the model in **Michigan** for several years, but began to organize in a coordinated fashion in 2015. Recently, they published a released on the typical supporting studies they commonly commission. However, to date no legislation has been introduced.

**Mississippi** is one of the southeastern states targeted by Kellogg. There has been significant organizational activity in the state but no legislation was introduced by adjournment. In late July, proponents will convene a conference in Biloxi to support their position. No legislation was considered for the first time in several years in **New Hampshire** as a workgroup created by the legislature in 2014 to consider oral health issues began its work. While the enabling resolution for the workgroup did not reference dental midlevels, naturally proponents have brought the issue to the group. However, nothing moved in 2015.

**New Mexico** has seen pitched battles on the issue over many years, and continued to do so in 2015. While [SB 6](#) stalled in the Senate Public Affairs Committee, [HB 349](#) was considered and passed by the House Health committee and went on to be approved by the full House on March 16. When again considered by the Senate Public Affairs Committee, HB 349 was held in committee on a closely held vote. Late efforts to resurrect the measure were ultimately

unsuccessful. However, at the end of session the Senate did pass [Memorial 136](#) which creates a workgroup with representatives of each legislative caucus, the New Mexico Dental Association and the New Mexico Dental Hygiene Association to consider possibilities for the future.

[North Dakota](#) saw the first significant effort to advance an advanced dental hygiene law. Ultimately, proponents were unsuccessful in getting the Senate to approve the bill. However, they did amend a clause to authorize the practice on tribal lands in the state to an unrelated dental bill and that measure did pass the Senate. However, the amendment was removed by the House Industry, Business & Labor committee and eventually the entire bill died when a conference committee report (without the amendment) was defeated in the House.

A long time target of Kellogg, **Ohio** has not had any legislation introduced in 2015. While some media and organizing activity has occurred, it is sporadic in the state. [South Carolina](#) had legislation introduced for the first time in 2015 to create dental therapists. However, the bill did not move prior to adjournment.

**Texas** is another state seeing legislation for the first time. [HB 1940](#) and [SB 787](#) would have created dental hygiene therapy. While HB 1940 did receive a hearing in the House Public Health Committee, no vote was taken on either bill and they did not move

**“When you can’t make them see the light, make them feel the heat.”**

— Ronald Reagan

prior to adjournment. However, one significant development in Texas built on an action in Kansas in 2014 with the involvement of groups affiliated with Libertarian organizations with ties to the political financiers, the Koch brothers, in support of the measure.

Another state with perpetual legislation on this issue, [Vermont](#) saw SB 20, which would have created the practice of dental therapy. While the bill was passed by the Senate, the process took up most of the legislative session and was ultimately only heard in one committee of the House with no votes or further action taken prior to adjournment for 2015.

**Washington:** Still one more state that has seen this issue year after year with 2015 being no exception. There was a tactical turn by the proponents in 2015 that was indicative of considerations in some other states as well. In addition to [HB 1421](#) and [SB 5465](#) which would have authorized dental hygiene practitioners and dental practitioners across the entire state, another bill, [HB 1441](#) was introduced to authorize DHATs on tribal lands. While the two broad scope bills did not move, HB 1441, did gain some traction. While it was ultimately held in a House committee, the measure garnered some significant interest. However, in the end, nothing advanced prior to adjournment for 2015.

## Auxiliary Dental Personal Legislative Update

The first half of 2015 was a very active time for legislation related to dental hygienists and dental assistants, with the enactment several pending bills and the introduction of several new ones. The legislation spanned several areas, including scope of practice, level of supervision, and the introduction of different provider models (noted in the previous section). We'll provide a summary here of the noteworthy dental hygiene legislative activity seen during January through June of 2015.

### Bills Enacted

A new law in Colorado now allows a dental hygienist to apply to the Colorado dental board for a permit to place interim therapeutic restorations. The new law also establishes an interim therapeutic restorations advisory committee to develop uniform standards for training dental hygienists in the practice.

[Utah](#)'s new law allows a dental hygienist, pursuant to a collaborative agreement with a licensed dentist, to practice dental hygiene without direct supervision in public health settings.

[Oregon](#), under a new law, now allows dental hygienists to prescribe, dispense and administer fluorides and antimicrobial solutions.

**“The only place success comes before work is in the dictionary.”**

— **Vince Lombardi**

The new law in [Arizona](#) expands the scope of practice for dental hygienists to include: inspecting the oral cavity for the purposes of facilitating a diagnosis; periodontal screening or assessment; also allows a dental hygienist to enter into an “affiliated practice relationship” for the provision of dental hygiene services in a public health setting.

#### ***Bills Introduced and Currently Pending***

**Rhode Island’s** SB 683 would introduce the Public Health Dental Hygienist model; hygienists practicing under this model would be authorized to perform dental hygiene services in a public health setting without the immediate or direct supervision of a dentist.

SB 1193 in [Massachusetts](#) would authorize dental hygienists to administer nitrous oxide inhalation analgesia. [North Carolina](#) would allow, under HB 286, properly trained dental hygienists to administer intraoral local anesthesia under the direct supervision of a licensed dentist.

[New York](#) AB 1959 would allow dental hygienists to provide hygiene services without direct supervision pursuant to a collaborative practice agreement with a licensed dentist.

[Illinois](#) SB 1464 would allow a dental hygienist to perform certain dental hygiene services in a public health setting if the dental hygienist has entered into a written collaborative agreement with a licensed dentist.

[Illinois](#) SB 1827 would allow for

expanded functions of dental assistants, including monitoring sedation; the bill is pending before the governor at this writing.

#### ***Bills that Failed***

The Expanded Function Dental Auxiliary provider model would have been established in [Connecticut](#) under HB 6814. [Maine](#) would have allowed dental hygienists to prescribe fluoride dentifrice and antibacterial rinse. In [Georgia](#), a failed bill would have expanded scope of licensed dental hygienists to administer local anesthesia under the direct supervision of a licensed dentist. Also in that state, [HB 684](#) would expand the public health exceptions to the direct supervision requirement for dental hygienists to include the performance of dental hygiene services in approved “safety net” settings, including nonprofit clinics, public health care facilities, long-term care facilities, and school-based programs.

[Hawaii](#) would have permitted a dental hygienist to apply preventative sealants in a school-based dental sealant program in consultation with a licensed dentist. [Missouri](#) would have allowed dental hygienists to enter into “extended access agreements” with a dentist authorizing them to provide dental hygiene services in areas of the state without being under the direct supervision of a licensed dentist. And, dental assistants in [Tennessee](#) would have been allowed to administer nitrous oxide with certain restrictions.

**“I put my heart and my soul into my work, and have lost my mind in the process.”**

— Vincent Van Gogh