

AMERICAN DENTAL EDUCATION ASSOCIATION

# STATEUPDATE

**ADEA** | THE VOICE OF  
DENTAL EDUCATION

Volume 3, No. 4, April 2014



Nevada State Capitol

## IN THIS ISSUE:

- California Adopts Rule to Embed Pediatric Dental Benefits in Health Plans in 2015
- States Move Ahead with Medicaid Expansion
- New Mexico Governor Approves Funding to Increase Number of Dental Students
- Mississippi Looks to Issue Bonds for Higher Education
- Community Colleges to Offer Four-Year Degrees in Colorado
- States Debate Offering Free Tuition
- North Carolina Teeth Whitening Case Goes to the U.S. Supreme Court
- State Policy Updates
- Reports of Interest
- ADEA United States Interactive Legislative Tracking Map
- ADEA AGR Twitter Account
- ADEA/Sunstar Americas, Inc./Harry W. Bruce, Jr. Legislative Fellowship
- ADEA/Sunstar Americas, Inc./Jack Bresch Student Legislative Internship

## California Adopts Rule to Embed Pediatric Dental Benefits in Health Plans in 2015

In a [meeting](#) held January 23, the California Health Benefit Exchange Board voted unanimously to offer embedded pediatric dental benefits beginning in 2015.

Covered California staff told the board members that during the first three months of open enrollment, slightly more than 500,000 people enrolled in Covered California. Of those people, about 85% were subsidy-eligible. According to January 2014 enrollment data, 1.2 million Californians received coverage through Medi-Cal as a result of the Affordable Care Act. However, although approximately 30,000 children had enrolled in Covered California as of the January data, only 27% took dental coverage.

Covered California staff made the following recommendations to the board:

- For the individual market, offer an embedded pediatric dental benefit side by side with a standalone benefit in plan year 2015, understanding that the Exchange must certify an otherwise qualified health plan without a pediatric dental benefit ("9.5") if proposed by an issuer when a standalone pediatric dental plan is available through the Exchange.
- For the Small Business Health Options Program (SHOP) market, allow embedded, 9.5 and standalone pediatric dental options in plan year 2015; and
- For both the individual and SHOP markets, allow the Exchange to offer a supplemental adult dental benefit no later than plan year 2016. (Note: Covered California staff indicated that they would like to implement this particular recommendation in 2015.)

During the meeting, public comment was provided. An insurance agent stated, "The computer system is willfully inadequate. Once you choose a health plan, there is nothing to direct you to a dental plan for children." A health care attorney told the board, "Consumers are already struggling trying to figure out deductibles, so embedding pediatric dental plans will make it easier to explain to consumers what they are getting when they purchase their plans."

Please be aware that open enrollment for 2014 ended on March 31 for most Americans, although in some cases individuals may request an extension of time to enroll. To learn more about the extension, click [here](#). The 2015 open enrollment period will run from November 15, 2014, through February 15, 2015. To purchase marketplace insurance outside open enrollment, an individual must qualify for a special enrollment period, such as marriage, divorce, birth or adoption of a child or loss of a job.

## States Move Ahead with Medicaid Expansion

State legislatures across the country are continuing to debate Medicaid expansion under the Affordable Care Act (ACA). Below is a brief summary of policy updates in Arkansas, New Hampshire, Utah and Virginia.

### Arkansas

With Gov. Mike Beebe's (D-AR) [approval](#) of [S.B. 111](#), Arkansas ensures that the private option will remain and more than 100,000 residents of Arkansas will be able to have health care, at least for another year. Specifically, S.B. 111 extends funding for the private option for one year.

The private option is Arkansas' alternative to the expansion of state Medicaid rolls that was proposed under the ACA. The state obtained permission from the U.S. Department of Health and Human Services to use the federal Medicaid money that would have gone to state Medicaid expansion to subsidize private health insurance for people earning up to 133% of the federal poverty level.

## New Hampshire

On March 27, Gov. Maggie Hassan ([D-NH](#)) signed [S.B. 413](#) into law. The law requires the state to develop the New Hampshire Health Protection Program to provide a coordinated strategy to access private insurance coverage for uninsured, low-income citizens with income up to 133% of the federal poverty level (FPL), using available, cost-effective health care coverage options for Medicaid newly eligible individuals at the earliest practicable date. The strategy must promote the improvement of overall health through access to private insurance coverage options and draw appropriate levels of federal funding available through a Medicaid Section 1115 demonstration waiver.

“The bipartisan health care expansion plan will improve the health and financial well-being of more than 50,000 hard-working people who deserve the security of health insurance. By expanding access to health insurance, we will help reduce uncompensated care and cost-shifting on New Hampshire businesses, encourage cost-saving primary and preventive care and provide substance abuse and mental health treatment to thousands while injecting \$2.5 billion in federal funds into our state’s economy,” said Gov. Hassan.

In New Hampshire, Medicaid covers dental care for children up to age 21, as well as disabled adults and pregnant women. New Hampshire’s Medicaid program pays for preventive care for children; however, for adults it only pays for emergency care, such as extractions. S.B. 413 would do nothing to change that. However, according to senior officials at the New Hampshire Department of Health and Human Services ([DHHS](#)) providing adult dental benefits under Medicaid is a wise way to expend health care dollars. Staff at DHHS are currently exploring ways to redeploy the savings accrued by expanding Medicaid and offer comprehensive adult dental benefits.

## Utah

Gov. Gary R. Herbert (R-UT) wants the federal government to place the money it would give Utah for Medicaid expansion into a block grant, allowing the state to administer its own program.

During this proposed three-year pilot program, the state would use the block grant funds to provide help to Utahns who make under \$15,500 a year. [Healthy Utah](#) would provide assistance to pay for health insurance in private markets. The exact amount of assistance would depend on four factors:

- Ability to work,
- Household income,
- Access to employer or family health insurance, and
- Individual health care needs.

All participants in Healthy Utah would have to make co-payments to help pay for the cost of their care. In addition, parents with children on Medicaid would have the option to put their entire family on private insurance plans.

Although some initial meetings took place in March to begin the negotiations between the state and the U.S. Department of Health and Human Services, nothing formal has been drafted or agreed upon, according to staff in the governor’s office. However, the governor is scheduled to be in Washington, D.C., in mid-April.

## Virginia

Gov. Terry McAuliffe (D-VA) has made expanding Medicaid eligibility to as many as 400,000 Virginians his top legislative priority. As a result of the Virginia General Assembly not reaching an agreement on Medicaid expansion during the regular session, Gov. McAuliffe called a [special session](#). The governor stated that his "intention is for the [special] session to last for three weeks so the House and Senate can resolve outstanding budget issues and reach an agreement on closing the coverage gap." The governor has spent the two weeks since the end of the regular session making appearances at health centers around the state to promote the benefits of Medicaid expansion. The special session began on March 24.

During a press conference held on March 24, Gov. McAuliffe announced his proposal to expand Medicaid under a pilot program that could end after two years without financial penalty to the state. However, there are some legislators in the state who would rather see Medicaid pulled from the budget discussion altogether; while others prefer to accept Medicaid expansion funds under a private option plan.

The Senate Finance Committee heard public testimony regarding Medicaid expansion on April 1, and a meeting of the Medicaid Innovation and Reform Commission ([MIRC](#)) will be held April 7 to further discuss potential ideas for Medicaid expansion in the state.

## **New Mexico Governor Approves Funding to Increase Number of Dental Students**

On March 11, Gov. Susana Martinez (R-NM) approved [S.B. 313](#), the state budget (FY15 appropriations). The approved budget allocates sufficient funding to add six additional New Mexico dental slots to the Western Interstate Commission for Higher Education ([WICHE](#)).

In 2013, New Mexico had 21 WICHE certified applicants with offers, but only 12 received support. The approved FY15 state budget will increase the number of New Mexico dental slots to 18.

Sen. Mark Moores (R-NM), WICHE Commissioner and New Mexico Dental Association Executive Director played an integral role in ensuring that funding for additional dental slots remained on the forefront during budget negotiations.

According to information provided by the Department of Health (DOH), New Mexico is experiencing a dental healthcare professional shortage. All New Mexico counties, except one, are federally designated as Health Professional Shortage Areas and Medically Underserved Areas/Populations. Additionally, New Mexico ranks 49<sup>th</sup> among the 50 states in per-capita income for dentists. Access to dental healthcare and preventive services is challenging in many communities throughout New Mexico, thus increasing the number of dental students will have a significant impact on the state. 92% of dentistry graduates supported by WICHE return to New Mexico and serve.

## **Mississippi Looks to Issue Bonds for Higher Education**

Rep. Jeffrey C. Smith (R-MS), Chair of the House Ways and Means Committee, sponsored [H.B. 787](#). The bill as introduced would have authorized the issuance of bonds, up to \$31 million, to be used for the construction of a new School of Medicine building at the University of Mississippi Medical Center. However, after successfully passing through the House as is, the Senate Finance Committee adopted new bill text similar to S.B. 2975.

[S.B. 2975](#), as introduced, authorized the issuance of bonds for the purpose of making capital improvements for state institutions of higher education. The bill initially included \$62.9 million in bonds

to state universities, and an additional \$1 million in bonds to be used for the construction of a new School of Medicine building at the University of Mississippi Medical Center. However, as S.B. 2975 was making its way through the legislative process in the House, the bill was laden with amendments unrelated to capital improvements for state institutions of higher education.

Both H.B. 787 and S.B. 2975 went to conference committee. The conference report for H.B. 787 was adopted by both chambers on March 31 and currently authorizes \$92.8 million in bonds to its state universities, including \$30.5 million to be used for the construction of a new School of Medicine building at the University of Mississippi Medical Center. To view the conference report for H.B. 787 click [here](#).

The conference report for S.B. 2975 was adopted by both chambers and is unrelated to capital improvements for state institutions of higher education.

### Community Colleges to Offer Four-Year Degrees in Colorado

On February 27, Gov. John Hickenlooper (D-CO) signed [S.B. 4](#). The new law permits the State Board for Community Colleges and Occupational Education ([SBCCOE](#)) to establish technical, career and workforce development bachelor of applied science degree programs at state-supported community colleges. The new law provides that the SBCCOE may not establish bachelor of arts or bachelor of science degree programs. Additionally, all new bachelor of applied science degree programs must be approved by the Colorado Commission on Higher Education ([CCHE](#)).

Prior to approving new degree programs, the CCHE must consider whether:

- The SBCCOE can provide data demonstrating workforce and student demand for the degree;
- The accreditation requirements for the new program can be met by the college;
- The new degree program is cost-effective for the student and the community college system; and
- The new degree program can be provided through an existing statewide transfer agreement with an accredited four-year institution in the community college's geographical service area, or with a four-year institution that has a statewide service area.

In addition, the CCHE must determine if the degree program requested by the SBCCOE is sufficiently distinguishable from:

- An existing degree program at a state four-year institution of higher education, or
- A degree program that has been successfully offered previously in conjunction with a state four-year university and which will be reinstated sooner than the newly proposed degree program can be offered by the community college.

Dental hygiene and culinary arts are the two programs farthest along in the development process, according to a senior official at the Colorado Community College System ([CCCS](#)). CCCS hopes that, within the next two or three years, a four-year dental hygiene program will be established. Under current Colorado law, a dental hygienist licensed to practice in the state may be the proprietor of a dental hygiene practice. CCCS staff believes that S.B. 4 will allow more dental hygienists to practice independently in the state.

Offering bachelor of applied science degrees in high-demand fields is important to meeting local economic development needs and critical to reducing the educational attainment gap between urban and rural areas, according to the legislative declaration linked to the new law. Additionally, the new

degrees will provide an opportunity for underserved and first-generation students to continue their educational pathways in a familiar community college setting, thus making it more likely these students will persist and complete their degrees.

### States Debate Offering Free Tuition

A few states have been considering offering free tuition at community colleges, as the cost of higher education continues to rise across the country. Below are examples of what some states are doing to tackle the high cost of higher education.

#### Mississippi

[H.B. 424](#), called the "2014 Mississippi Promise Community College Tuition Gap Pilot Program," passed the House but failed to pass out of a Senate committee. The bill would have made tuition free at all 15 Mississippi community colleges for students who graduated from high school within 12 months of enrolling in college. According to the bill text, Mississippi would pick up the tuition costs only after all other federal, state, institutional and private aid resources had been exhausted.

#### Tennessee

During his [State of the State](#) address before the Tennessee General Assembly, Gov. Bill Haslam (R-TN) introduced the "[Tennessee Promise](#)." The proposal commits to providing on a continuing basis two years of community college or a college of applied technology (TCAT) free of tuition and fees to graduating high school seniors.

"Through the Tennessee Promise, we are fighting the rising cost of higher education, and we are raising our expectations as a state," Gov. Haslam said during his State of the State address. "We are committed to making a clear statement to families that education beyond high school is a priority in the state of Tennessee."

It is estimated that the cost of the program will be \$34 million annually. In order to make the Tennessee Promise sustainable, the governor hopes to transfer approximately \$300 million in excess lottery reserve funds and join it with a \$47 million endowment created by the General Assembly to fund the program in perpetuity.

[H.B. 2491](#) and [S.B. 2471](#) were filed on behalf of the governor and would enact the Tennessee Promise Scholarship (TPS) Act of 2014. The TPS is for Tennessee residents who are seeking an associate degree, certificate or diploma from an eligible postsecondary program. To be eligible for the TPS, a student must be admitted and enrolled as a full-time student for the fall term following graduation or obtaining a GED. The TPS amount shall be the cost of tuition and mandatory fees at the eligible postsecondary institution attended, once all other gift aid is subtracted from the total cost. The amount of a TPS for students who seek a two-year degree at an eligible four-year public or private postsecondary institution shall be the average cost of tuition and mandatory fees at a public two-year postsecondary institution.

Gov. Haslam is actively advocating for the legislation as a way to fuel his "[Drive to 55](#)," a plan to bring the percentage of Tennesseans with college degrees or certifications to 55% by the year 2025; currently only 32% of Tennesseans have college degrees or certifications. Both H.B. 2491 and S.B. 2471 are pending in committee.

## Oregon

On March 11, Gov. John Kitzhaber (D-OR) signed [S.B. 1524](#). The new law directs the Higher Education Coordinating Commission to examine the viability of allowing students who graduated from high school in the state, or completed grade 12, to attend community college for a specified period without paying tuition and fees.

## North Carolina Teeth Whitening Case Goes to the U.S. Supreme Court

On March 3, the U.S. Supreme Court [agreed](#) to hear [North Carolina Board of Dental Examiners v. FTC](#) during its October 2014 term. In this case, the North Carolina Board of Dental Examiners is challenging a lower court ruling and an order by the Federal Trade Commission (FTC), which said that the board engaged in unfair competition in the market for teeth-whitening services by excluding individuals not licensed to practice dentistry from the market for teeth-whitening services.

According to court documents, beginning in the 1990s, dentists began providing teeth-whitening services in North Carolina. In about 2003, non-dentists also began offering the services, often at a reduced price. The board became aware of the performance of teeth whitening services by persons not licensed to practice dentistry, and also began receiving complaints from dentists. Several consumers suffered from adverse side effects, including bleeding or “chemically burned” gums, after receiving teeth whitening from non-dentists. In addition, consumers complained that the non-licensed individuals performing services were doing so without gloves or masks, thereby increasing the risk of side effects. As a result of the board receiving a number of complaints, an investigation was conducted and more than 40 cease-and-desist letters to non-dentist teeth-whitening providers were issued.

The FTC’s original [complaint](#) against the board was issued on June 17, 2010, alleging that the board was harming competition by preventing non-dentists from providing teeth-whitening services in North Carolina.

The board appealed, arguing that the FTC overstepped its authority. Specifically, the board argued that it is exempt from the federal antitrust laws under the “state action” doctrine. Under this doctrine, the antitrust laws “do not apply to anticompetitive restraints imposed by the states ‘as an act of government.’”

The board has lost several appeals of the FTC’s decision, including a 2013 [ruling](#) by the U.S. Court of Appeals for the Fourth Circuit, which upheld the right of non-dentists to offer teeth-whitening products and services in the state. Click [here](#) to view documents associated with the board’s appeals to the FTC.

Justice Barbara Keenan, of the U.S. Court of Appeals for the Fourth Circuit, stated in her concurring opinion, that “the fact that the board is comprised of private dentists elected by other private dentists, along with North Carolina’s lack of active supervision of the board’s activities, leaves us [the court] with little confidence that the state itself, rather than a private consortium of dentists, chose to regulate dental health in this manner at the expense of robust competition for teeth whitening services. Accordingly, the board’s actions are those of a private actor and are not immune from the antitrust laws under the state action doctrine.”

The question before the U.S. Supreme Court is whether, for purposes of the state-action exemption from federal antitrust law, an official state regulatory board created by state law may properly be treated as a “private” actor simply because, pursuant to state law, a majority of the board’s members are also market participants who are elected to their official positions by other market participants.

According to an April 2013 report by the Institute for Justice, since 2005, at least 14 states have changed their laws or regulations to exclude all but licensed dentists, dental hygienists or dental assistants from offering teeth-whitening services. As a result, the U.S. Supreme Court's decision could have far-reaching implications.

### State Policy Updates

- Louisiana

[S.B. 659](#) was introduced on April 1 by Sens. Sherri Smith Buffington (R-LA) and Robert Adley (R-LA). The bill requires the Louisiana Student Financial Assistance Commission (LSFAC) to provide for and administer a scholarship program for medical and dental students who meet all of the following eligibility criteria:

- Are bona fide citizens and residents of the state of Louisiana;
- Desire to become doctors of medicine or dental surgery; and
- Are acceptable for enrollment at one of the medical or dental schools of Louisiana State University.

- New York

[A02597](#), called the DREAM Act, failed to pass the Senate on March 17. The bill would have allowed undocumented students in the state to be eligible for state student grant aid programs. The bill also included a provision to create a state-administered scholarship program for undocumented students.

### Reports of Interest

- **The U.S. Department of Health and Human Services (HHS)** released a [research brief](#) finding that eight out of 10 (1.6 million) uninsured Asian Americans, Native Hawaiians and Pacific Islanders (AANHPIs) may be eligible for coverage through the Health Insurance Marketplace and could qualify for Medicaid, the Children's Health Insurance Program (CHIP), or tax credits to help with the cost of premiums. If all states took advantage of new opportunities to expand Medicaid coverage under the Affordable Care Act, 89% of uninsured AANHPIs who may be eligible for the Marketplace might qualify for Medicaid, CHIP or tax credits to help with the cost of health insurance premiums.
- **The Medicaid and CHIP Payment and Access Commission's (MACPAC)** issued its [March 2014 Report](#) to the Congress on Medicaid and the Children's Health Insurance Program (CHIP). MACPAC is a nonpartisan Congressional advisory commission that provides analytic support and makes policy recommendations to the Congress, the Secretary of the U.S. Department of Health and Human Services and the states on a wide range of issues in Medicaid and CHIP. Although the March 2014 Report makes several recommendations to the Congress, one is of particular relevance. MACPAC recommends ending CHIP premiums for children with family incomes below 150% of the federal poverty level (FPL). Eliminating CHIP premiums for families with incomes under 150% of the FPL will reduce uninsurance and align CHIP premium policies with Medicaid policies for lower-income children. Compared to higher-income enrollees, children in families below 150% FPL are much more price sensitive and less likely to take up CHIP coverage when a premium is required. According to MACPAC, the CHIP premiums charged in this income range, generally less than \$10 per month, are so small that they would not represent a significant revenue loss to states if they were eliminated—especially as this also removes states' burden in collecting and administering these premiums.

## ADEA United States Interactive Legislative Tracking Map

For additional information on state legislation affecting academic dentistry, please visit the ADEA United States Interactive Legislative Tracking map. Use the map to search for legislation by state or by issue. The map is updated daily and will allow members to view:

- The current status of bills,
- Upcoming hearing dates, and
- Current bill text and bill author/sponsor information.

To use the interactive map, visit [www.adea.org/legislativemap](http://www.adea.org/legislativemap).

## ADEA AGR Twitter Account

For additional information on issues affecting academic dentistry and dental and craniofacial research in Congress, federal agencies and state legislatures, *please follow ADEA Advocacy and Government Relations on Twitter at [ADEAAGR](#)*, there is much to “tweet” about.

## ADEA/Sunstar Americas, Inc./Harry W. Bruce, Jr. Legislative Fellowship

Dental school faculty members or administrators who want to interface with members of Congress on issues of importance to oral health are encouraged to apply for the ADEA/Sunstar Americas, Inc./Harry W. Bruce, Jr. Legislative Fellowship. The fellow selected spends three months in Washington, D.C., working on issues and policies that could make a difference in the life of every American. This public policy fellowship coincides with congressional consideration of the federal budget and other legislative and regulatory activities important to dental education and research. The fellow functions as an ADEA Policy Center staff member who works within the AGR portfolio on ADEA’s specific legislative priorities.

The fellow’s responsibilities may include drafting policy, legislative language, position papers and testimony; educating members of Congress and other decision makers on matters of importance to dental education; and participating in gatherings of various national coalitions. The fellow receives a taxable stipend of \$15,000 to cover travel and expenses for approximately three months (cumulative) in Washington, D.C. (ADEA is flexible in the arrangement of time away from the fellow’s institution.) The fellow’s institution continues to provide salary support for the duration of the experience. Since its inception in 1985, the ADEA/Sunstar Americas, Inc./Harry W. Bruce, Jr. Legislative Fellowship has been generously underwritten by Sunstar Americas, Inc. Interested candidates should apply as soon as possible.

## ADEA/Sunstar Americas, Inc./Jack Bresch Student Legislative Internship

The *ADEA/Sunstar Americas, Inc./Jack Bresch Student Legislative Internship* is a six-week, stipend-supported internship in the Advocacy and Governmental Relations portfolio of the ADEA Policy Center (ADEA AGR) in Washington, D.C. This student legislative internship provides a unique learning experience for **predoctoral, allied and advanced dental student residents and fellows**. It is designed to encourage students to learn about and eventually—as dental professionals—to become involved in, the federal legislative process and the formulation of public policy as it relates to academic dentistry. It is open to any predoctoral, allied or advanced dental student resident or fellow who is interested in learning about and contributing to the formulation of federal public policy with regard to dental education, dental research and the oral health of the nation. Funded through the generous support of Sunstar Americas, Inc., the student intern will be a member of the ADEA AGR staff and will participate in congressional meetings on Capitol Hill, coalition meetings and policy discussions among the ADEA Legislative Advisory Committee (ADEA LAC) and ADEA AGR staff.

An applicant must be a full-time predoctoral, allied or advanced dental student, resident or fellow whose institution is willing to work with the student to identify an appropriate time, consisting of six weeks, during the school year to pursue the internship. **For additional information, please email Yvonne Knight, J.D., ADEA Senior Vice President for Advocacy and Governmental Relations, at [KnightY@ADEA.org](mailto:KnightY@ADEA.org).** Applications are accepted on a year-round basis.

The ADEA Policy Center publishes the *ADEA State Update* monthly. Its purpose is to keep ADEA members abreast of state issues and events of interest to the academic dental and research communities.

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