



## 95TH GENERAL ASSEMBLY

### State of Illinois

2007 and 2008

HB3599

Introduced 2/28/2007, by Rep. Brandon W. Phelps

#### SYNOPSIS AS INTRODUCED:

225 ILCS 25/18  
305 ILCS 5/5-5

from Ch. 111, par. 2318  
from Ch. 23, par. 5-5

Amends the Dental Practice Act. Provides that dental hygienists may provide, without the supervision of a dentist, fluoride treatments and teeth cleaning and sealant services to children who are eligible participants in the State's Medicaid program. Requires any dental hygienist who provides such services to provide the eligible child's parent or guardian with the name of a licensed dentist who is a provider of medical services under the program. Requires any dental hygienist who provides such services and who practices in a public health clinic to refer for treatment any child with needs outside of the dental hygienist's scope of practice. Effective January 1, 2008.

LRB095 06383 RAS 26480 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Illinois Dental Practice Act is amended by  
5 changing Section 18 as follows:

6 (225 ILCS 25/18) (from Ch. 111, par. 2318)

7 (Section scheduled to be repealed on January 1, 2016)

8 Sec. 18. Acts constituting the practice of dental hygiene;  
9 limitations.

10 (a) A person practices dental hygiene within the meaning of  
11 this Act when he or she performs the following acts under the  
12 supervision of a dentist:

13 (i) the operative procedure of dental hygiene,  
14 consisting of oral prophylactic procedures;

15 (ii) the exposure and processing of X-Ray films of  
16 the teeth and surrounding structures;

17 (iii) the application to the surfaces of the teeth  
18 or gums of chemical compounds designed to be  
19 desensitizing agents or effective agents in the  
20 prevention of dental caries or periodontal disease;

21 (iv) all services which may be performed by a  
22 dental assistant as specified by rule pursuant to  
23 Section 17;

1 (v) administration and monitoring of nitrous oxide  
2 upon successful completion of a training program  
3 approved by the Department;

4 (vi) administration of local anesthetics upon  
5 successful completion of a training program approved  
6 by the Department; and

7 (vii) such other procedures and acts as shall be  
8 prescribed by rule or regulation of the Department.

9 (b) A dental hygienist may be employed or engaged only:

10 (1) by a dentist;

11 (2) by a federal, State, county, or municipal agency or  
12 institution;

13 (3) by a public or private school; or

14 (4) by a public clinic operating under the direction of  
15 a hospital or federal, State, county, municipal, or other  
16 public agency or institution.

17 (c) When employed or engaged in the office of a dentist, a  
18 dental hygienist may perform, under general supervision, those  
19 procedures found in items (i) through (iv) of subsection (a) of  
20 this Section, provided the patient has been examined by the  
21 dentist within one year of the provision of dental hygiene  
22 services, the dentist has approved the dental hygiene services  
23 by a notation in the patient's record and the patient has been  
24 notified that the dentist may be out of the office during the  
25 provision of dental hygiene services.

26 (d) If a patient of record is unable to travel to a dental

1 office because of illness, infirmity, or imprisonment, a dental  
2 hygienist may perform, under the general supervision of a  
3 dentist, those procedures found in items (i) through (iv) of  
4 subsection (a) of this Section, provided the patient is located  
5 in a long-term care facility licensed by the State of Illinois,  
6 a mental health or developmental disability facility, or a  
7 State or federal prison. The dentist shall personally examine  
8 and diagnose the patient and determine which services are  
9 necessary to be performed, which shall be contained in an order  
10 to the hygienist and a notation in the patient's record. Such  
11 order must be implemented within 120 days of its issuance, and  
12 an updated medical history and observation of oral conditions  
13 must be performed by the hygienist immediately prior to  
14 beginning the procedures to ensure that the patient's health  
15 has not changed in any manner to warrant a reexamination by the  
16 dentist.

17 (e) School-based oral health care, consisting of and  
18 limited to oral prophylactic procedures, sealants, and  
19 fluoride treatments, may be provided by a dental hygienist  
20 under the general supervision of a dentist. A dental hygienist  
21 may not provide other dental hygiene treatment in a  
22 school-based setting, including but not limited to  
23 administration or monitoring of nitrous oxide or  
24 administration of local anesthetics. The school-based  
25 procedures may be performed provided the patient is located at  
26 a public or private school and the program is being conducted

1 by a State, county or local public health department initiative  
2 or in conjunction with a dental school or dental hygiene  
3 program. The dentist shall personally examine and diagnose the  
4 patient and determine which services are necessary to be  
5 performed, which shall be contained in an order to the  
6 hygienist and a notation in the patient's record. Any such  
7 order for sealants must be implemented within 120 days after  
8 its issuance. Any such order for oral prophylactic procedures  
9 or fluoride treatments must be implemented within 180 days  
10 after its issuance. An updated medical history and observation  
11 of oral conditions must be performed by the hygienist  
12 immediately prior to beginning the procedures to ensure that  
13 the patient's health has not changed in any manner to warrant a  
14 reexamination by the dentist.

15 (f) Without the supervision of a dentist, a dental  
16 hygienist may (i) perform dental health education functions,  
17 (ii) and may record case histories and oral conditions  
18 observed, and (iii) provide fluoride treatments and teeth  
19 cleaning and sealant services, if appropriate, to children who  
20 are eligible participants in the State's Medicaid program,  
21 pursuant to Section 5-5 of the Illinois Public Aid Code .

22 (f-5) Any dental hygienist who provides services to  
23 eligible children under item (iii) of subsection (f) of this  
24 Section shall attempt to identify and provide to the child's  
25 parent or guardian the name of a licensed dentist who is a  
26 provider of medical services under the State's Medicaid

1 program. Any dental hygienist who provides services to eligible  
2 children under item (iii) of subsection (f) of this Section and  
3 who practices in a public health clinic as set forth in  
4 subdivision (4) of subsection (b) of this Section shall refer  
5 for treatment any child with needs outside of the dental  
6 hygienist's scope of practice.

7 (g) The number of dental hygienists practicing in a dental  
8 office shall not exceed, at any one time, 4 times the number of  
9 dentists practicing in the office at the time.

10 (Source: P.A. 93-113, eff. 1-1-04; 93-821, eff. 7-28-04.)

11 Section 10. The Illinois Public Aid Code is amended by  
12 changing Section 5-5 as follows:

13 (305 ILCS 5/5-5) (from Ch. 23, par. 5-5)

14 Sec. 5-5. Medical services. The Illinois Department, by  
15 rule, shall determine the quantity and quality of and the rate  
16 of reimbursement for the medical assistance for which payment  
17 will be authorized, and the medical services to be provided,  
18 which may include all or part of the following: (1) inpatient  
19 hospital services; (2) outpatient hospital services; (3) other  
20 laboratory and X-ray services; (4) skilled nursing home  
21 services; (5) physicians' services whether furnished in the  
22 office, the patient's home, a hospital, a skilled nursing home,  
23 or elsewhere; (6) medical care, or any other type of remedial  
24 care furnished by licensed practitioners; (7) home health care

1 services; (8) private duty nursing service; (9) clinic  
2 services; (10) dental services, including prevention and  
3 treatment of periodontal disease and dental caries disease for  
4 pregnant women and fluoride treatments and teeth cleaning and  
5 sealant services provided to children by dental hygienists;  
6 (11) physical therapy and related services; (12) prescribed  
7 drugs, dentures, and prosthetic devices; and eyeglasses  
8 prescribed by a physician skilled in the diseases of the eye,  
9 or by an optometrist, whichever the person may select; (13)  
10 other diagnostic, screening, preventive, and rehabilitative  
11 services; (14) transportation and such other expenses as may be  
12 necessary; (15) medical treatment of sexual assault survivors,  
13 as defined in Section 1a of the Sexual Assault Survivors  
14 Emergency Treatment Act, for injuries sustained as a result of  
15 the sexual assault, including examinations and laboratory  
16 tests to discover evidence which may be used in criminal  
17 proceedings arising from the sexual assault; (16) the diagnosis  
18 and treatment of sickle cell anemia; and (17) any other medical  
19 care, and any other type of remedial care recognized under the  
20 laws of this State, but not including abortions, or induced  
21 miscarriages or premature births, unless, in the opinion of a  
22 physician, such procedures are necessary for the preservation  
23 of the life of the woman seeking such treatment, or except an  
24 induced premature birth intended to produce a live viable child  
25 and such procedure is necessary for the health of the mother or  
26 her unborn child. The Illinois Department, by rule, shall

1 prohibit any physician from providing medical assistance to  
2 anyone eligible therefor under this Code where such physician  
3 has been found guilty of performing an abortion procedure in a  
4 wilful and wanton manner upon a woman who was not pregnant at  
5 the time such abortion procedure was performed. The term "any  
6 other type of remedial care" shall include nursing care and  
7 nursing home service for persons who rely on treatment by  
8 spiritual means alone through prayer for healing.

9 Notwithstanding any other provision of this Section, a  
10 comprehensive tobacco use cessation program that includes  
11 purchasing prescription drugs or prescription medical devices  
12 approved by the Food and Drug administration shall be covered  
13 under the medical assistance program under this Article for  
14 persons who are otherwise eligible for assistance under this  
15 Article.

16 Notwithstanding any other provision of this Code, the  
17 Illinois Department may not require, as a condition of payment  
18 for any laboratory test authorized under this Article, that a  
19 physician's handwritten signature appear on the laboratory  
20 test order form. The Illinois Department may, however, impose  
21 other appropriate requirements regarding laboratory test order  
22 documentation.

23 The ~~Illinois~~ Department of Healthcare and Family Services  
24 ~~Public Aid~~ shall provide the following services to persons  
25 eligible for assistance under this Article who are  
26 participating in education, training or employment programs



1 operated by the Department of Human Services as successor to  
2 the Department of Public Aid:

3 (1) dental services, which shall include but not be  
4 limited to prosthodontics; and

5 (2) eyeglasses prescribed by a physician skilled in the  
6 diseases of the eye, or by an optometrist, whichever the  
7 person may select.

8 The Illinois Department, by rule, may distinguish and  
9 classify the medical services to be provided only in accordance  
10 with the classes of persons designated in Section 5-2.

11 The Illinois Department shall authorize the provision of,  
12 and shall authorize payment for, screening by low-dose  
13 mammography for the presence of occult breast cancer for women  
14 35 years of age or older who are eligible for medical  
15 assistance under this Article, as follows: a baseline mammogram  
16 for women 35 to 39 years of age and an annual mammogram for  
17 women 40 years of age or older. All screenings shall include a  
18 physical breast exam, instruction on self-examination and  
19 information regarding the frequency of self-examination and  
20 its value as a preventative tool. As used in this Section,  
21 "low-dose mammography" means the x-ray examination of the  
22 breast using equipment dedicated specifically for mammography,  
23 including the x-ray tube, filter, compression device, image  
24 receptor, and cassettes, with an average radiation exposure  
25 delivery of less than one rad mid-breast, with 2 views for each  
26 breast.

1 Any medical or health care provider shall immediately  
2 recommend, to any pregnant woman who is being provided prenatal  
3 services and is suspected of drug abuse or is addicted as  
4 defined in the Alcoholism and Other Drug Abuse and Dependency  
5 Act, referral to a local substance abuse treatment provider  
6 licensed by the Department of Human Services or to a licensed  
7 hospital which provides substance abuse treatment services.  
8 The Department of Healthcare and Family Services ~~Public Aid~~  
9 shall assure coverage for the cost of treatment of the drug  
10 abuse or addiction for pregnant recipients in accordance with  
11 the Illinois Medicaid Program in conjunction with the  
12 Department of Human Services.

13 All medical providers providing medical assistance to  
14 pregnant women under this Code shall receive information from  
15 the Department on the availability of services under the Drug  
16 Free Families with a Future or any comparable program providing  
17 case management services for addicted women, including  
18 information on appropriate referrals for other social services  
19 that may be needed by addicted women in addition to treatment  
20 for addiction.

21 The Illinois Department, in cooperation with the  
22 Departments of Human Services (as successor to the Department  
23 of Alcoholism and Substance Abuse) and Public Health, through a  
24 public awareness campaign, may provide information concerning  
25 treatment for alcoholism and drug abuse and addiction, prenatal  
26 health care, and other pertinent programs directed at reducing

1 the number of drug-affected infants born to recipients of  
2 medical assistance.

3 Neither the ~~Illinois~~ Department of Healthcare and Family  
4 Services ~~Public Aid~~ nor the Department of Human Services shall  
5 sanction the recipient solely on the basis of her substance  
6 abuse.

7 The Illinois Department shall establish such regulations  
8 governing the dispensing of health services under this Article  
9 as it shall deem appropriate. The Department should seek the  
10 advice of formal professional advisory committees appointed by  
11 the Director of the Illinois Department for the purpose of  
12 providing regular advice on policy and administrative matters,  
13 information dissemination and educational activities for  
14 medical and health care providers, and consistency in  
15 procedures to the Illinois Department.

16 The Illinois Department may develop and contract with  
17 Partnerships of medical providers to arrange medical services  
18 for persons eligible under Section 5-2 of this Code.  
19 Implementation of this Section may be by demonstration projects  
20 in certain geographic areas. The Partnership shall be  
21 represented by a sponsor organization. The Department, by rule,  
22 shall develop qualifications for sponsors of Partnerships.  
23 Nothing in this Section shall be construed to require that the  
24 sponsor organization be a medical organization.

25 The sponsor must negotiate formal written contracts with  
26 medical providers for physician services, inpatient and

1 outpatient hospital care, home health services, treatment for  
2 alcoholism and substance abuse, and other services determined  
3 necessary by the Illinois Department by rule for delivery by  
4 Partnerships. Physician services must include prenatal and  
5 obstetrical care. The Illinois Department shall reimburse  
6 medical services delivered by Partnership providers to clients  
7 in target areas according to provisions of this Article and the  
8 Illinois Health Finance Reform Act, except that:

9 (1) Physicians participating in a Partnership and  
10 providing certain services, which shall be determined by  
11 the Illinois Department, to persons in areas covered by the  
12 Partnership may receive an additional surcharge for such  
13 services.

14 (2) The Department may elect to consider and negotiate  
15 financial incentives to encourage the development of  
16 Partnerships and the efficient delivery of medical care.

17 (3) Persons receiving medical services through  
18 Partnerships may receive medical and case management  
19 services above the level usually offered through the  
20 medical assistance program.

21 Medical providers shall be required to meet certain  
22 qualifications to participate in Partnerships to ensure the  
23 delivery of high quality medical services. These  
24 qualifications shall be determined by rule of the Illinois  
25 Department and may be higher than qualifications for  
26 participation in the medical assistance program. Partnership

1 sponsors may prescribe reasonable additional qualifications  
2 for participation by medical providers, only with the prior  
3 written approval of the Illinois Department.

4 Nothing in this Section shall limit the free choice of  
5 practitioners, hospitals, and other providers of medical  
6 services by clients. In order to ensure patient freedom of  
7 choice, the Illinois Department shall immediately promulgate  
8 all rules and take all other necessary actions so that provided  
9 services may be accessed from therapeutically certified  
10 optometrists to the full extent of the Illinois Optometric  
11 Practice Act of 1987 without discriminating between service  
12 providers.

13 The Department shall apply for a waiver from the United  
14 States Health Care Financing Administration to allow for the  
15 implementation of Partnerships under this Section.

16 The Illinois Department shall require health care  
17 providers to maintain records that document the medical care  
18 and services provided to recipients of Medical Assistance under  
19 this Article. The Illinois Department shall require health care  
20 providers to make available, when authorized by the patient, in  
21 writing, the medical records in a timely fashion to other  
22 health care providers who are treating or serving persons  
23 eligible for Medical Assistance under this Article. All  
24 dispensers of medical services shall be required to maintain  
25 and retain business and professional records sufficient to  
26 fully and accurately document the nature, scope, details and

1 receipt of the health care provided to persons eligible for  
2 medical assistance under this Code, in accordance with  
3 regulations promulgated by the Illinois Department. The rules  
4 and regulations shall require that proof of the receipt of  
5 prescription drugs, dentures, prosthetic devices and  
6 eyeglasses by eligible persons under this Section accompany  
7 each claim for reimbursement submitted by the dispenser of such  
8 medical services. No such claims for reimbursement shall be  
9 approved for payment by the Illinois Department without such  
10 proof of receipt, unless the Illinois Department shall have put  
11 into effect and shall be operating a system of post-payment  
12 audit and review which shall, on a sampling basis, be deemed  
13 adequate by the Illinois Department to assure that such drugs,  
14 dentures, prosthetic devices and eyeglasses for which payment  
15 is being made are actually being received by eligible  
16 recipients. Within 90 days after the effective date of this  
17 amendatory Act of 1984, the Illinois Department shall establish  
18 a current list of acquisition costs for all prosthetic devices  
19 and any other items recognized as medical equipment and  
20 supplies reimbursable under this Article and shall update such  
21 list on a quarterly basis, except that the acquisition costs of  
22 all prescription drugs shall be updated no less frequently than  
23 every 30 days as required by Section 5-5.12.

24 The rules and regulations of the Illinois Department shall  
25 require that a written statement including the required opinion  
26 of a physician shall accompany any claim for reimbursement for

1 abortions, or induced miscarriages or premature births. This  
2 statement shall indicate what procedures were used in providing  
3 such medical services.

4 The Illinois Department shall require all dispensers of  
5 medical services, other than an individual practitioner or  
6 group of practitioners, desiring to participate in the Medical  
7 Assistance program established under this Article to disclose  
8 all financial, beneficial, ownership, equity, surety or other  
9 interests in any and all firms, corporations, partnerships,  
10 associations, business enterprises, joint ventures, agencies,  
11 institutions or other legal entities providing any form of  
12 health care services in this State under this Article.

13 The Illinois Department may require that all dispensers of  
14 medical services desiring to participate in the medical  
15 assistance program established under this Article disclose,  
16 under such terms and conditions as the Illinois Department may  
17 by rule establish, all inquiries from clients and attorneys  
18 regarding medical bills paid by the Illinois Department, which  
19 inquiries could indicate potential existence of claims or liens  
20 for the Illinois Department.

21 Enrollment of a vendor that provides non-emergency medical  
22 transportation, defined by the Department by rule, shall be  
23 conditional for 180 days. During that time, the Department of  
24 Healthcare and Family Services ~~Public Aid~~ may terminate the  
25 vendor's eligibility to participate in the medical assistance  
26 program without cause. That termination of eligibility is not

1 subject to the Department's hearing process.

2 The Illinois Department shall establish policies,  
3 procedures, standards and criteria by rule for the acquisition,  
4 repair and replacement of orthotic and prosthetic devices and  
5 durable medical equipment. Such rules shall provide, but not be  
6 limited to, the following services: (1) immediate repair or  
7 replacement of such devices by recipients without medical  
8 authorization; and (2) rental, lease, purchase or  
9 lease-purchase of durable medical equipment in a  
10 cost-effective manner, taking into consideration the  
11 recipient's medical prognosis, the extent of the recipient's  
12 needs, and the requirements and costs for maintaining such  
13 equipment. Such rules shall enable a recipient to temporarily  
14 acquire and use alternative or substitute devices or equipment  
15 pending repairs or replacements of any device or equipment  
16 previously authorized for such recipient by the Department.

17 The Department shall execute, relative to the nursing home  
18 prescreening project, written inter-agency agreements with the  
19 Department of Human Services and the Department on Aging, to  
20 effect the following: (i) intake procedures and common  
21 eligibility criteria for those persons who are receiving  
22 non-institutional services; and (ii) the establishment and  
23 development of non-institutional services in areas of the State  
24 where they are not currently available or are undeveloped.

25 The Illinois Department shall develop and operate, in  
26 cooperation with other State Departments and agencies and in



1 compliance with applicable federal laws and regulations,  
2 appropriate and effective systems of health care evaluation and  
3 programs for monitoring of utilization of health care services  
4 and facilities, as it affects persons eligible for medical  
5 assistance under this Code.

6 The Illinois Department shall report annually to the  
7 General Assembly, no later than the second Friday in April of  
8 1979 and each year thereafter, in regard to:

9 (a) actual statistics and trends in utilization of  
10 medical services by public aid recipients;

11 (b) actual statistics and trends in the provision of  
12 the various medical services by medical vendors;

13 (c) current rate structures and proposed changes in  
14 those rate structures for the various medical vendors; and

15 (d) efforts at utilization review and control by the  
16 Illinois Department.

17 The period covered by each report shall be the 3 years  
18 ending on the June 30 prior to the report. The report shall  
19 include suggested legislation for consideration by the General  
20 Assembly. The filing of one copy of the report with the  
21 Speaker, one copy with the Minority Leader and one copy with  
22 the Clerk of the House of Representatives, one copy with the  
23 President, one copy with the Minority Leader and one copy with  
24 the Secretary of the Senate, one copy with the Legislative  
25 Research Unit, and such additional copies with the State  
26 Government Report Distribution Center for the General Assembly

1 as is required under paragraph (t) of Section 7 of the State  
2 Library Act shall be deemed sufficient to comply with this  
3 Section.

4 (Source: P.A. 92-16, eff. 6-28-01; 92-651, eff. 7-11-02;  
5 92-789, eff. 8-6-02; 93-632, eff. 2-1-04; 93-841, eff. 7-30-04;  
6 93-981, eff. 8-23-04; revised 12-15-05.)

7 Section 99. Effective date. This Act takes effect January  
8 1, 2008.