



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB5676

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, 2009.

LRB095 19839 RAS 46232 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7 (Section scheduled to be repealed on January 1, 2016)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 Department of Healthcare and Family Services shall
24 provide the following services to persons eligible for
25 assistance under this Article who are participating in
26 education, training or employment programs operated by the

1 Department of Human Services as successor to the Department of
2 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 Department of Healthcare and Family Services must
12 provide coverage and reimbursement for amino acid-based
13 elemental formulas, regardless of delivery method, for the
14 diagnosis and treatment of (i) eosinophilic disorders and (ii)
15 short bowel syndrome when the prescribing physician has issued
16 a written order stating that the amino acid-based elemental
17 formula is medically necessary.

18 The Illinois Department shall authorize the provision of,
19 and shall authorize payment for, screening by low-dose
20 mammography for the presence of occult breast cancer for women
21 35 years of age or older who are eligible for medical
22 assistance under this Article, as follows: a baseline mammogram
23 for women 35 to 39 years of age and an annual mammogram for
24 women 40 years of age or older. All screenings shall include a
25 physical breast exam, instruction on self-examination and
26 information regarding the frequency of self-examination and

1 its value as a preventative tool. As used in this Section,
2 "low-dose mammography" means the x-ray examination of the
3 breast using equipment dedicated specifically for mammography,
4 including the x-ray tube, filter, compression device, image
5 receptor, and cassettes, with an average radiation exposure
6 delivery of less than one rad mid-breast, with 2 views for each
7 breast.

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

20 All medical providers providing medical assistance to
21 pregnant women under this Code shall receive information from
22 the Department on the availability of services under the Drug
23 Free Families with a Future or any comparable program providing
24 case management services for addicted women, including
25 information on appropriate referrals for other social services
26 that may be needed by addicted women in addition to treatment

1 for addiction.

2 The Illinois Department, in cooperation with the
3 Departments of Human Services (as successor to the Department
4 of Alcoholism and Substance Abuse) and Public Health, through a
5 public awareness campaign, may provide information concerning
6 treatment for alcoholism and drug abuse and addiction, prenatal
7 health care, and other pertinent programs directed at reducing
8 the number of drug-affected infants born to recipients of
9 medical assistance.

10 Neither the Department of Healthcare and Family Services
11 nor the Department of Human Services shall sanction the
12 recipient solely on the basis of her substance abuse.

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

22 The Illinois Department may develop and contract with
23 Partnerships of medical providers to arrange medical services
24 for persons eligible under Section 5-2 of this Code.
25 Implementation of this Section may be by demonstration projects
26 in certain geographic areas. The Partnership shall be

1 represented by a sponsor organization. The Department, by rule,
2 shall develop qualifications for sponsors of Partnerships.
3 Nothing in this Section shall be construed to require that the
4 sponsor organization be a medical organization.

5 The sponsor must negotiate formal written contracts with
6 medical providers for physician services, inpatient and
7 outpatient hospital care, home health services, treatment for
8 alcoholism and substance abuse, and other services determined
9 necessary by the Illinois Department by rule for delivery by
10 Partnerships. Physician services must include prenatal and
11 obstetrical care. The Illinois Department shall reimburse
12 medical services delivered by Partnership providers to clients
13 in target areas according to provisions of this Article and the
14 Illinois Health Finance Reform Act, except that:

15 (1) Physicians participating in a Partnership and
16 providing certain services, which shall be determined by
17 the Illinois Department, to persons in areas covered by the
18 Partnership may receive an additional surcharge for such
19 services.

20 (2) The Department may elect to consider and negotiate
21 financial incentives to encourage the development of
22 Partnerships and the efficient delivery of medical care.

23 (3) Persons receiving medical services through
24 Partnerships may receive medical and case management
25 services above the level usually offered through the
26 medical assistance program.

1 Medical providers shall be required to meet certain
2 qualifications to participate in Partnerships to ensure the
3 delivery of high quality medical services. These
4 qualifications shall be determined by rule of the Illinois
5 Department and may be higher than qualifications for
6 participation in the medical assistance program. Partnership
7 sponsors may prescribe reasonable additional qualifications
8 for participation by medical providers, only with the prior
9 written approval of the Illinois Department.

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

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

22 The Illinois Department shall require health care
23 providers to maintain records that document the medical care
24 and services provided to recipients of Medical Assistance under
25 this Article. The Illinois Department shall require health care
26 providers to make available, when authorized by the patient, in

1 writing, the medical records in a timely fashion to other
2 health care providers who are treating or serving persons
3 eligible for Medical Assistance under this Article. All
4 dispensers of medical services shall be required to maintain
5 and retain business and professional records sufficient to
6 fully and accurately document the nature, scope, details and
7 receipt of the health care provided to persons eligible for
8 medical assistance under this Code, in accordance with
9 regulations promulgated by the Illinois Department. The rules
10 and regulations shall require that proof of the receipt of
11 prescription drugs, dentures, prosthetic devices and
12 eyeglasses by eligible persons under this Section accompany
13 each claim for reimbursement submitted by the dispenser of such
14 medical services. No such claims for reimbursement shall be
15 approved for payment by the Illinois Department without such
16 proof of receipt, unless the Illinois Department shall have put
17 into effect and shall be operating a system of post-payment
18 audit and review which shall, on a sampling basis, be deemed
19 adequate by the Illinois Department to assure that such drugs,
20 dentures, prosthetic devices and eyeglasses for which payment
21 is being made are actually being received by eligible
22 recipients. Within 90 days after the effective date of this
23 amendatory Act of 1984, the Illinois Department shall establish
24 a current list of acquisition costs for all prosthetic devices
25 and any other items recognized as medical equipment and
26 supplies reimbursable under this Article and shall update such

1 list on a quarterly basis, except that the acquisition costs of
2 all prescription drugs shall be updated no less frequently than
3 every 30 days as required by Section 5-5.12.

4 The rules and regulations of the Illinois Department shall
5 require that a written statement including the required opinion
6 of a physician shall accompany any claim for reimbursement for
7 abortions, or induced miscarriages or premature births. This
8 statement shall indicate what procedures were used in providing
9 such medical services.

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

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

1 Enrollment of a vendor that provides non-emergency medical
2 transportation, defined by the Department by rule, shall be
3 conditional for 180 days. During that time, the Department of
4 Healthcare and Family Services may terminate the vendor's
5 eligibility to participate in the medical assistance program
6 without cause. That termination of eligibility is not subject
7 to the Department's hearing process.

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

23 The Department shall execute, relative to the nursing home
24 prescreening project, written inter-agency agreements with the
25 Department of Human Services and the Department on Aging, to
26 effect the following: (i) intake procedures and common

1 eligibility criteria for those persons who are receiving
2 non-institutional services; and (ii) the establishment and
3 development of non-institutional services in areas of the State
4 where they are not currently available or are undeveloped.

5 The Illinois Department shall develop and operate, in
6 cooperation with other State Departments and agencies and in
7 compliance with applicable federal laws and regulations,
8 appropriate and effective systems of health care evaluation and
9 programs for monitoring of utilization of health care services
10 and facilities, as it affects persons eligible for medical
11 assistance under this Code.

12 The Illinois Department shall report annually to the
13 General Assembly, no later than the second Friday in April of
14 1979 and each year thereafter, in regard to:

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

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

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

21 (d) efforts at utilization review and control by the
22 Illinois Department.

23 The period covered by each report shall be the 3 years
24 ending on the June 30 prior to the report. The report shall
25 include suggested legislation for consideration by the General
26 Assembly. The filing of one copy of the report with the

1 Speaker, one copy with the Minority Leader and one copy with
2 the Clerk of the House of Representatives, one copy with the
3 President, one copy with the Minority Leader and one copy with
4 the Secretary of the Senate, one copy with the Legislative
5 Research Unit, and such additional copies with the State
6 Government Report Distribution Center for the General Assembly
7 as is required under paragraph (t) of Section 7 of the State
8 Library Act shall be deemed sufficient to comply with this
9 Section.

10 (Source: P.A. 95-331, eff. 8-21-07; 95-520, eff. 8-28-07.)

11 Section 99. Effective date. This Act takes effect January
12 1, 2009.