



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB0274

Introduced 01/28/11, by Rep. Dan Reitz

SYNOPSIS AS INTRODUCED:

225 ILCS 25/23	from Ch. 111, par. 2323
225 ILCS 25/24	from Ch. 111, par. 2324
225 ILCS 25/34.5 new	

Amends the Illinois Dental Practice Act. Allows the Department to refuse to issue, renew, revoke, suspend, or take other disciplinary action as the Department may deem proper against either a licensed dentist or dentist hygienist if the Department finds the licensee, after having his or her licensee placed on probationary status, has violated the terms of probation. Permits the Department to disclose information and documents in response to a federal, State, County, or local law enforcement agency subpoena in conjunction with an ongoing criminal investigation. Provides that the Department shall not disclose any information, including, but not limited to, any complaint against a licensee filed with the Department, however, a formal complaint filed by the Department against a licensee and any related information used in a proceeding or adjudication is a public record. Effective immediately.

LRB097 02702 CEL 42721 b

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 Sections 23 and 24 and by adding Section 34.5 as
6 follows:

7 (225 ILCS 25/23) (from Ch. 111, par. 2323)

8 (Section scheduled to be repealed on January 1, 2016)

9 Sec. 23. Refusal, revocation or suspension of dental
10 licenses. The Department may refuse to issue or renew, or may
11 revoke, suspend, place on probation, reprimand or take other
12 disciplinary action as the Department may deem proper,
13 including fines not to exceed \$10,000 per violation, with
14 regard to any license for any one or any combination of the
15 following causes:

16 1. Fraud in procuring the license.

17 2. Habitual intoxication or addiction to the use of
18 drugs.

19 3. Willful or repeated violations of the rules of the
20 Department of Public Health or Department of Nuclear
21 Safety.

22 4. Acceptance of a fee for service as a witness,
23 without the knowledge of the court, in addition to the fee

1 allowed by the court.

2 5. Division of fees or agreeing to split or divide the
3 fees received for dental services with any person for
4 bringing or referring a patient, except in regard to
5 referral services as provided for under Section 45, or
6 assisting in the care or treatment of a patient, without
7 the knowledge of the patient or his legal representative.

8 6. Employing, procuring, inducing, aiding or abetting
9 a person not licensed or registered as a dentist to engage
10 in the practice of dentistry. The person practiced upon is
11 not an accomplice, employer, procurer, inducer, aider, or
12 abetter within the meaning of this Act.

13 7. Making any misrepresentations or false promises,
14 directly or indirectly, to influence, persuade or induce
15 dental patronage.

16 8. Professional connection or association with or
17 lending his name to another for the illegal practice of
18 dentistry by another, or professional connection or
19 association with any person, firm or corporation holding
20 himself, herself, themselves, or itself out in any manner
21 contrary to this Act.

22 9. Obtaining or seeking to obtain practice, money, or
23 any other things of value by false or fraudulent
24 representations, but not limited to, engaging in such
25 fraudulent practice to defraud the medical assistance
26 program of the Department of Healthcare and Family Services

1 (formerly Department of Public Aid).

2 10. Practicing under a name other than his or her own.

3 11. Engaging in dishonorable, unethical, or
4 unprofessional conduct of a character likely to deceive,
5 defraud, or harm the public.

6 12. Conviction in this or another State of any crime
7 which is a felony under the laws of this State or
8 conviction of a felony in a federal court, conviction of a
9 misdemeanor, an essential element of which is dishonesty,
10 or conviction of any crime which is directly related to the
11 practice of dentistry or dental hygiene.

12 13. Permitting a dental hygienist, dental assistant or
13 other person under his or her supervision to perform any
14 operation not authorized by this Act.

15 14. Permitting more than 4 dental hygienists to be
16 employed under his supervision at any one time.

17 15. A violation of any provision of this Act or any
18 rules promulgated under this Act.

19 16. Taking impressions for or using the services of any
20 person, firm or corporation violating this Act.

21 17. Violating any provision of Section 45 relating to
22 advertising.

23 18. Discipline by another U.S. jurisdiction or foreign
24 nation, if at least one of the grounds for the discipline
25 is the same or substantially equivalent to those set forth
26 within this Act.

1 19. Willfully failing to report an instance of
2 suspected child abuse or neglect as required by the Abused
3 and Neglected Child Reporting Act.

4 20. Gross or repeated malpractice resulting in injury
5 or death of a patient.

6 21. The use or prescription for use of narcotics or
7 controlled substances or designated products as listed in
8 the Illinois Controlled Substances Act, in any way other
9 than for therapeutic purposes.

10 22. Willfully making or filing false records or reports
11 in his practice as a dentist, including, but not limited
12 to, false records to support claims against the dental
13 assistance program of the Department of Healthcare and
14 Family Services (formerly Illinois Department of Public
15 Aid).

16 23. Professional incompetence as manifested by poor
17 standards of care.

18 24. Physical or mental illness, including, but not
19 limited to, deterioration through the aging process, or
20 loss of motor skills which results in a dentist's inability
21 to practice dentistry with reasonable judgment, skill or
22 safety. In enforcing this paragraph, the Department may
23 compel a person licensed to practice under this Act to
24 submit to a mental or physical examination pursuant to the
25 terms and conditions of Section 23b.

26 25. Repeated irregularities in billing a third party

1 for services rendered to a patient. For purposes of this
2 paragraph 25, "irregularities in billing" shall include:

3 (a) Reporting excessive charges for the purpose of
4 obtaining a total payment in excess of that usually
5 received by the dentist for the services rendered.

6 (b) Reporting charges for services not rendered.

7 (c) Incorrectly reporting services rendered for
8 the purpose of obtaining payment not earned.

9 26. Continuing the active practice of dentistry while
10 knowingly having any infectious, communicable, or
11 contagious disease proscribed by rule or regulation of the
12 Department.

13 27. Being named as a perpetrator in an indicated report
14 by the Department of Children and Family Services pursuant
15 to the Abused and Neglected Child Reporting Act, and upon
16 proof by clear and convincing evidence that the licensee
17 has caused a child to be an abused child or neglected child
18 as defined in the Abused and Neglected Child Reporting Act.

19 28. Violating the Health Care Worker Self-Referral
20 Act.

21 29. Abandonment of a patient.

22 30. Mental incompetency as declared by a court of
23 competent jurisdiction.

24 31. A finding by the Department that the licensee,
25 after having his or her license placed on probationary
26 status, has violated the terms of probation.

1 All proceedings to suspend, revoke, place on probationary
2 status, or take any other disciplinary action as the Department
3 may deem proper, with regard to a license on any of the
4 foregoing grounds, must be commenced within 3 years after
5 receipt by the Department of a complaint alleging the
6 commission of or notice of the conviction order for any of the
7 acts described herein. Except for fraud in procuring a license,
8 no action shall be commenced more than 5 years after the date
9 of the incident or act alleged to have violated this Section.
10 The time during which the holder of the license was outside the
11 State of Illinois shall not be included within any period of
12 time limiting the commencement of disciplinary action by the
13 Department.

14 The Department may refuse to issue or may suspend the
15 license of any person who fails to file a return, or to pay the
16 tax, penalty or interest shown in a filed return, or to pay any
17 final assessment of tax, penalty or interest, as required by
18 any tax Act administered by the Illinois Department of Revenue,
19 until such time as the requirements of any such tax Act are
20 satisfied.

21 (Source: P.A. 94-1014, eff. 7-7-06.)

22 (225 ILCS 25/24) (from Ch. 111, par. 2324)

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

24 Sec. 24. Refusal, Suspension or Revocation of Dental
25 Hygienist License. The Department may refuse to issue or renew

1 or may revoke, suspend, place on probation, reprimand or take
2 other disciplinary action as the Department may deem proper,
3 including fines not to exceed \$2,500 per violation, with regard
4 to any dental hygienist license for any one or any combination
5 of the following causes:

6 1. Fraud in procuring license.

7 2. Performing any operation not authorized by this Act.

8 3. Practicing dental hygiene other than under the
9 supervision of a licensed dentist as provided by this Act.

10 4. The wilful violation of, or the wilful procuring of,
11 or knowingly assisting in the violation of, any Act which
12 is now or which hereafter may be in force in this State
13 relating to the use of habit-forming drugs.

14 5. The obtaining of, or an attempt to obtain a license,
15 or practice in the profession, or money, or any other thing
16 of value by fraudulent representation.

17 6. Gross negligence in performing the operative
18 procedure of dental hygiene.

19 7. Active practice of dental hygiene while knowingly
20 having any infectious, communicable, or contagious disease
21 proscribed by rule or regulation of the Department.

22 8. Habitual intoxication or addiction to the use of
23 habit-forming drugs.

24 9. Conviction in this or another state of any crime
25 which is a felony under the laws of this State or
26 conviction of a felony in a federal court, if the

1 Department determines, after investigation, that such
2 person has not been sufficiently rehabilitated to warrant
3 the public trust.

4 10. Aiding or abetting the unlicensed practice of
5 dentistry or dental hygiene.

6 11. Discipline by another U.S. jurisdiction or a
7 foreign nation, if at least one of the grounds for the
8 discipline is the same or substantially equivalent to those
9 set forth in this Act.

10 12. Violating the Health Care Worker Self-Referral
11 Act.

12 13. Violating the prohibitions of Section 38.1 of this
13 Act.

14 14. Engaging in dishonorable, unethical, or
15 unprofessional conduct of a character likely to deceive,
16 defraud, or harm the public.

17 15. A finding by the Department that the licensee,
18 after having his or her license placed on probationary
19 status, has violated the terms of probation.

20 The provisions of this Act relating to proceedings for the
21 suspension and revocation of a license to practice dentistry
22 shall apply to proceedings for the suspension or revocation of
23 a license as a dental hygienist.

24 (Source: P.A. 94-409, eff. 12-31-05.)

25 (225 ILCS 25/34.5 new)

1 Sec. 34.5. Access to records. Except as otherwise provided
2 in this Section, the Department must maintain all information
3 collected under an investigation of a licensee, including, but
4 not limited to, any complaint against a licensee filed with the
5 Department, for the confidential and exclusive use of the
6 Department. The Department may, however, disclose such
7 information and any document in response to a federal, State,
8 County, or local law enforcement agency subpoena issued in
9 conjunction with an ongoing criminal investigation.
10 Furthermore, the information and documents that an agency
11 discloses to a federal, State, County, or local law enforcement
12 agency for an investigation and prosecution of a criminal
13 offense must not be disclosed to any other agency or person or
14 for any other purpose other than an investigation and
15 prosecution of a criminal offense. A formal complaint filed by
16 the Department against a licensee seeking discipline of the
17 licensee's license and any information used by the Department
18 in a proceeding or adjudication is a public record, except as
19 otherwise prohibited by law.

20 Section 99. Effective date. This Act takes effect upon
21 becoming law.