



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

SB1144

Introduced 2/8/2007, by Sen. Donne E. Trotter

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 08626 RAS 28809 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7 (Section scheduled to be repealed on January 1, 2016)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.