**Section 1220.407 Death or Incapacitation of Dentist**

a) *The executor or administrator of a dentist's estate or the legal guardian or authorized representative of a dentist who has become incapacitated may contract with another dentist or dentists to continue the operations of the deceased or incapacitated dentist's practice for a period of no more than one year from the time of death or incapacitation of the dentist or until the practice is sold, whichever occurs first.* [225 ILCS 25/38.2(a)]

b) An executor, administrator, guardian or authorized representative seeking authorization to contract with another dentist or dentists to continue a practice as referenced in subsection (a), shall file an application with the Division, on forms provided by the Division, that shall include:

1) The name and license number of the deceased or incapacitated dentist;

2) A signed affidavit certifying *that the executor, administrator, guardian, or authorized representative understands that any interference by the executor, administrator, guardian, or authorized representative or any agent or assignee of the executor, administrator, guardian, or authorized representative with the contracting dentist's or dentists' practice of dentistry or professional judgment or any other violation of this Section is grounds for an immediate termination of the operations of the dental practice* [225 ILCS 25/38.2(a)(1)(E)];

3) The required fee set forth in Section 1220.415;

4) The name and address of the dental practice;

5) The name, address and tax identification number of the estate;

6) The name and license number of each dentist who will operate the dental practice; and

7) A copy of the death certificate of the dentist, if applicable, or a copy of a physician's statement detailing the dentist's incapacitating condition as set forth in subsection (e).

c) A dental practice seeking to continue operations of a deceased or incapacitated dentist shall not begin until the provisions of subsection (b) have been met.

d) *Within 30 days after the death or incapacitation of a dentist, the executor, administrator, guardian, or authorized representative shall send notification of the death or incapacitation by mail to the last known address of each patient of record that has seen the deceased or incapacitated dentist within the previous 12 months, with an explanation of how copies of the practitioner's records may be obtained. This notice may also contain any other relevant information concerning the continuation of the dental practice.* [225 ILCS 38.2(a)(2)]

e) A licensed dentist shall be considered incapacitated if:

1) a physician licensed to practice medicine in all its branches has examined the licensee and has determined that the licensee lacks decision making capacity in order to competently and safely practice dentistry and that the incapacity is expected to continue for a minimum of 6 months;

2) that physician has made a written record of this determination and has signed the written record within 90days after the examination; and

3) the written record has been delivered to the Department.

f) A declaration of incapacity or a determination of incapacity shall not be a bar to Department action pursuant to Section 23 of the Act.

g) After review for compliance with the standards set forth in this Section, the Division shall place the licensee's dental license in inactive or deceased status as appropriate.

h) Prior to the Division restoring a license that has been placed in inactive status due to an incapacitating illness or condition, the licensee shall:

1) request restoration in writing on forms supplied by the Department; and

2) provide a statement from a physician licensed to practice medicine in all its branches that the physician has examined the licensee and has determined that the licensee is no longer under the incapacitating illness or condition as stated in subsection (e) and that the licensee is not subject to any other incapacitating illness or condition that would affect the licensee's ability to competently and safely practice dentistry.

(Source: Added at 38 Ill. Reg. 15907, effective July 25, 2014)