



## 97TH GENERAL ASSEMBLY

### State of Illinois

2011 and 2012

**HB3494**

Introduced 2/24/2011, 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 08664 CEL 48793 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8 (Section scheduled to be repealed on January 1, 2016)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 Nothing in this item 5 affects any bona fide independent  
9 contractor or employment arrangements among health care  
10 professionals, health facilities, health care providers,  
11 or other entities, except as otherwise prohibited by law.  
12 Any employment arrangements may include provisions for  
13 compensation, health insurance, pension, or other  
14 employment benefits for the provision of services within  
15 the scope of the licensee's practice under this Act.  
16 Nothing in this item 5 shall be construed to require an  
17 employment arrangement to receive professional fees for  
18 services rendered.

19 6. Employing, procuring, inducing, aiding or abetting  
20 a person not licensed or registered as a dentist to engage  
21 in the practice of dentistry. The person practiced upon is  
22 not an accomplice, employer, procurer, inducer, aider, or  
23 abetter within the meaning of this Act.

24 7. Making any misrepresentations or false promises,  
25 directly or indirectly, to influence, persuade or induce  
26 dental patronage.

1           8. Professional connection or association with or  
2           lending his name to another for the illegal practice of  
3           dentistry by another, or professional connection or  
4           association with any person, firm or corporation holding  
5           himself, herself, themselves, or itself out in any manner  
6           contrary to this Act.

7           9. Obtaining or seeking to obtain practice, money, or  
8           any other things of value by false or fraudulent  
9           representations, but not limited to, engaging in such  
10          fraudulent practice to defraud the medical assistance  
11          program of the Department of Healthcare and Family Services  
12          (formerly Department of Public Aid).

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

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

17          12. Conviction in this or another State of any crime  
18          which is a felony under the laws of this State or  
19          conviction of a felony in a federal court, conviction of a  
20          misdemeanor, an essential element of which is dishonesty,  
21          or conviction of any crime which is directly related to the  
22          practice of dentistry or dental hygiene.

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

26          14. Permitting more than 4 dental hygienists to be

1 employed under his supervision at any one time.

2 15. A violation of any provision of this Act or any  
3 rules promulgated under this Act.

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

6 17. Violating any provision of Section 45 relating to  
7 advertising.

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

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

15 20. Gross or repeated malpractice resulting in injury  
16 or death of a patient.

17 21. The use or prescription for use of narcotics or  
18 controlled substances or designated products as listed in  
19 the Illinois Controlled Substances Act, in any way other  
20 than for therapeutic purposes.

21 22. Willfully making or filing false records or reports  
22 in his practice as a dentist, including, but not limited  
23 to, false records to support claims against the dental  
24 assistance program of the Department of Healthcare and  
25 Family Services (formerly Illinois Department of Public  
26 Aid).

1           23. Professional incompetence as manifested by poor  
2 standards of care.

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

11           25. Repeated irregularities in billing a third party  
12 for services rendered to a patient. For purposes of this  
13 paragraph 25, "irregularities in billing" shall include:

14                   (a) Reporting excessive charges for the purpose of  
15 obtaining a total payment in excess of that usually  
16 received by the dentist for the services rendered.

17                   (b) Reporting charges for services not rendered.

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

20           26. Continuing the active practice of dentistry while  
21 knowingly having any infectious, communicable, or  
22 contagious disease proscribed by rule or regulation of the  
23 Department.

24           27. Being named as a perpetrator in an indicated report  
25 by the Department of Children and Family Services pursuant  
26 to the Abused and Neglected Child Reporting Act, and upon

1 proof by clear and convincing evidence that the licensee  
2 has caused a child to be an abused child or neglected child  
3 as defined in the Abused and Neglected Child Reporting Act.

4 28. Violating the Health Care Worker Self-Referral  
5 Act.

6 29. Abandonment of a patient.

7 30. Mental incompetency as declared by a court of  
8 competent jurisdiction.

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

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

25 The Department may refuse to issue or may suspend the  
26 license of any person who fails to file a return, or to pay the

1 tax, penalty or interest shown in a filed return, or to pay any  
2 final assessment of tax, penalty or interest, as required by  
3 any tax Act administered by the Illinois Department of Revenue,  
4 until such time as the requirements of any such tax Act are  
5 satisfied.

6 (Source: P.A. 96-1482, eff. 11-29-10.)

7 (225 ILCS 25/24) (from Ch. 111, par. 2324)

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

9 Sec. 24. Refusal, Suspension or Revocation of Dental  
10 Hygienist License. The Department may refuse to issue or renew  
11 or may revoke, suspend, place on probation, reprimand or take  
12 other disciplinary action as the Department may deem proper,  
13 including fines not to exceed \$2,500 per violation, with regard  
14 to any dental hygienist license for any one or any combination  
15 of the following causes:

16 1. Fraud in procuring license.

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

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

20 4. The wilful violation of, or the wilful procuring of,  
21 or knowingly assisting in the violation of, any Act which  
22 is now or which hereafter may be in force in this State  
23 relating to the use of habit-forming drugs.

24 5. The obtaining of, or an attempt to obtain a license,  
25 or practice in the profession, or money, or any other thing



1 of value by fraudulent representation.

2 6. Gross negligence in performing the operative  
3 procedure of dental hygiene.

4 7. Active practice of dental hygiene while knowingly  
5 having any infectious, communicable, or contagious disease  
6 proscribed by rule or regulation of the Department.

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

9 9. Conviction in this or another state of any crime  
10 which is a felony under the laws of this State or  
11 conviction of a felony in a federal court, if the  
12 Department determines, after investigation, that such  
13 person has not been sufficiently rehabilitated to warrant  
14 the public trust.

15 10. Aiding or abetting the unlicensed practice of  
16 dentistry or dental hygiene.

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

21 12. Violating the Health Care Worker Self-Referral  
22 Act.

23 13. Violating the prohibitions of Section 38.1 of this  
24 Act.

25 14. Engaging in dishonorable, unethical, or  
26 unprofessional conduct of a character likely to deceive,

1 defraud, or harm the public.

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

5 The provisions of this Act relating to proceedings for the  
6 suspension and revocation of a license to practice dentistry  
7 shall apply to proceedings for the suspension or revocation of  
8 a license as a dental hygienist.

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

10 (225 ILCS 25/34.5 new)

11 Sec. 34.5. Access to records. Except as otherwise provided  
12 in this Section, the Department must maintain all information  
13 collected under an investigation of a licensee, including, but  
14 not limited to, any complaint against a licensee filed with the  
15 Department, for the confidential and exclusive use of the  
16 Department. The Department may, however, disclose such  
17 information and any document in response to a federal, State,  
18 County, or local law enforcement agency subpoena issued in  
19 conjunction with an ongoing criminal investigation.  
20 Furthermore, the information and documents that an agency  
21 discloses to a federal, State, County, or local law enforcement  
22 agency for an investigation and prosecution of a criminal  
23 offense must not be disclosed to any other agency or person or  
24 for any other purpose other than an investigation and  
25 prosecution of a criminal offense. A formal complaint filed by

1 the Department against a licensee seeking discipline of the  
2 licensee's license and any information used by the Department  
3 in a proceeding or adjudication is a public record, except as  
4 otherwise prohibited by law.

5 Section 99. Effective date. This Act takes effect upon  
6 becoming law.