

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

# HOUSE BILL

## No. 2598

Session of  
1982

INTRODUCED BY TADDONIO, LAUGHLIN, MANDERINO, GRUPPO, WESTON,  
CLARK, GEORGE, DEAL, BROWN, KUKOVICH, DURHAM, PUNT,  
LESCOVITZ, COLAFELLA, IRVIS AND McVERRY, JUNE 9, 1982

AS REPORTED FROM COMMITTEE ON CONSUMER AFFAIRS, HOUSE OF  
REPRESENTATIVES, AS AMENDED, SEPTEMBER 13, 1982

## AN ACT

1 Establishing an act regulating dental plan organizations.

2 TABLE OF CONTENTS

3 Section 1. Short title.

4 Section 2. Definitions.

5 Section 3. Certificate of authority for operation of dental  
6 plan organization; application; information to  
7 be submitted.

8 Section 4. Modification of information; notice.

9 Section 5. Issuance of certificate of authority.

10 Section 6. General surplus of plan.

11 Section 7. Special contingent surplus for organizations  
12 using more than 20 full-time dentists.

13 Section 8. Operational requirements.

14 Section 9. Evidence of coverage for enrollees.

15 Section 10. Schedule of charges for coverage, solicitation  
16 documents, contracts with providers.

1       Section 11.   Books and records; examination and inspection  
2                    by commissioner.  
3       Section 12.   Complaints; procedure for resolution; records.  
4       Section 13.   Annual report; filing; forms.  
5       Section 14.   Expenses, taxes, licenses and fees; maximum  
6                    expenditures.  
7       Section 15.   False or misleading advertising; enforcement.  
8       Section 16.   Suspension or revocation of certificate of  
9                    authority.  
10      Section 17.   Cease and desist orders.  
11      Section 18.   Violations; civil penalty.  
12      Section 19.   Insolvency of organization; action for  
13                    injunction; appointment of receiver.  
14      Section 20.   Applications, filings and reports treated as  
15                    public documents.  
16      Section 21.   Confidentiality of diagnosis or treatment  
17                    information.  
18      Section 22.   Rules and regulations.  
19      Section 23.   Severability.  
20      Section 24.   Effective date.

21      The General Assembly of the Commonwealth of Pennsylvania  
22 hereby enacts as follows:

23   Section 1.   Short title.

24       This act shall be known and may be cited as the "Dental Plan  
25 Organization Act."

26   Section 2.   Definitions.

27       The following words and phrases when used in this act shall  
28 have, unless the context clearly indicates otherwise, the  
29 meanings given to them in this section:

30       "Commissioner."   The Insurance Commissioner.

1 "Dental plan." Any contractual arrangement for dental  
2 services provided ~~directly~~ or arranged for or administered <—  
3 ~~directly~~ on a prepaid or postpaid ~~individual or~~ group capitation <—  
4 basis, but shall not include a plan arranged, operated and  
5 administered by a ~~labor organization for the purpose of~~ <—  
6 ~~providing dental services to the membership of the labor~~  
7 ~~organization, a plan arranged, operated and administered by an~~  
8 ~~employee for the purpose of providing dental services to his~~  
9 ~~employees, and a plan arranged, operated and administered by a~~  
10 ~~hospital plan corporation or a~~ professional health service  
11 corporation organized pursuant to 40 Pa.C.S. Chapters 61  
12 (relating to hospital plan corporations) and 63 (relating to  
13 professional health services plan corporations).

14 "Dental plan organization." Any person OR CORPORATION who <—  
15 undertakes to provide directly or to arrange for or administer  
16 one or more dental plans providing dental services.

17 "Dental services." The general and usual services rendered  
18 and care administered by doctors of dental surgery, as defined  
19 in the act of May 1, 1933 (P.L.216, No.76), known as "The Dental  
20 Law."

21 "Enrollee." An individual and his dependents who are  
22 enrolled in a dental plan organization.

23 "Evidence of coverage." Any certificate, agreement or  
24 contract issued to an enrollee setting forth the dental services  
25 to which the enrollee is entitled.

26 Section 3. Certificate of authority for operation of dental  
27 plan organization; application; information to be  
28 submitted.

29 (a) No person may establish, operate or administer a dental  
30 plan organization, or sell or offer to sell, or solicit offers

1 to purchase, or receive advance or periodic consideration in  
2 conjunction with any dental plan organization, utilizing in the  
3 aggregate the services of more than one full-time equivalent  
4 dentist without obtaining and maintaining a certificate of  
5 authority pursuant to this act.

6 (b) Within 90 days after the effective date of this act,  
7 every dental plan organization utilizing in the aggregate the  
8 services of more than one full-time equivalent dentist shall  
9 submit an application for a certificate of authority to the  
10 commissioner. A dental plan organization may continue to operate  
11 until the commissioner acts upon the application. If the  
12 application is denied, the dental plan organization shall be  
13 treated as if its certificate of authority has been revoked, AS <—  
14 DESCRIBED IN SECTION 16.

15 (c) An application for a certificate of authority shall be  
16 in a form prescribed by the commissioner, shall be verified by  
17 an officer or authorized representative of the dental plan  
18 organization and shall include the following:

19 (1) All basic organizational documents of the dental  
20 plan organization such as the articles of incorporation,  
21 articles of association, partnership agreement, trade name  
22 certificate, trust agreement, shareholder agreement or other  
23 applicable documents and all amendments to those documents.

24 (2) The bylaws, rules and regulations or similar  
25 documents regulating the conduct or the internal affairs of  
26 the dental plan organization.

27 (3) The names, addresses and official positions of the  
28 persons who are to be responsible for the conduct of the  
29 affairs of the dental plan organization, including all  
30 members of the board of directors, board of trustees,

1 executive committee or other governing board or committee,  
2 the principal officers in the case of a corporation and the  
3 partners or members in the case of a partnership or  
4 association.

5 (4) All proposed and existing contracts made between any  
6 dentist and the dental plan organization.

7 (5) All proposed and existing contracts made between any  
8 dentist and any person listed in paragraph (3), any  
9 consultant or any business manager.

10 (6) A description of the dental plan organization, its  
11 dental plan or plans, facilities and personnel.

12 (7) The form of the evidence of coverage to be issued to  
13 the enrollees.

14 (8) The form of any group contract which is issued to  
15 employers, unions, trustees or others.

16 (9) Financial statements showing the dental plan  
17 organization's assets, liabilities and sources of financial  
18 support. If the dental plan organization's financial affairs  
19 are audited by independent certified public accountants, a  
20 copy of the most recent regular certified financial statement  
21 shall satisfy this requirement unless the commissioner  
22 determines that additional or more recent financial  
23 information is required for the proper administration of this  
24 act.

25 (10) The proposed method of marketing the plan, a  
26 financial plan with a three-year projection of the initial  
27 operating results, a statement of the sources of working  
28 capital and any other sources of funding, a description of  
29 the facilities and personnel of the plan, and a list of  
30 names, addresses, and qualifications of all agents,

employees, or independent contractors to be used in solicitation and the basis of compensation for such services.

~~(11) A power of attorney duly executed by the dental plan organization if not domiciled in this State, appointing the commissioner, the commissioner's successors in office and duly authorized deputies as the true and lawful attorney of the dental plan organization in and for this State, upon whom lawful process in any legal action or proceeding against the dental plan organization on a cause of action arising in this State may be served.~~ <—

~~(12)~~ (11) A description of the geographic area or areas to be served.

~~(13)~~ (12) A description of the procedures and programs to be implemented to achieve an effective dental plan as required in section 5(a)(2) and a description of the complaint procedure required by section 12. <—

~~(14)~~ (13) Such other information as the commissioner may require. <—

(d) The dental plan organization shall pay a fee of \$100 to the commissioner upon filing an application for a certificate of authority.

#### Section 4. Modification of information; notice.

Within 30 days following any significant modification of the applicant's operations as set forth in the information required by section 3, the applicant shall file with the commissioner notice of such modification together with such supporting documents as necessary to fully explain the modification. Where the modification is the result of action by the applicant, the notice shall be provided at least 30 days prior to implementation and the modification shall be deemed approved if

1 the commissioner does not disapprove it within 30 days of  
2 filing. The commissioner may promulgate rules exempting from the  
3 filing requirements those items he considers unnecessary.

4 Section 5. Issuance of certificate of authority.

5 (a) The commissioner shall issue a certificate of authority  
6 if he is satisfied that the following conditions are met:

7 (1) The persons responsible for conducting the affairs  
8 of the dental plan organization are competent and trustworthy  
9 and of good moral character and are professionally capable of  
10 providing, arranging for or administering the services  
11 offered by the plan.

12 (2) The dental plan organization constitutes an  
13 appropriate mechanism to achieve an effective dental plan, as  
14 determined by the commissioner.

15 (3) The dental plan organization has made effective  
16 arrangements to assure that its ~~subscribers~~ ENROLLEES have <—  
17 reliable access to qualified providers in the geographic area  
18 or areas to be served by such organization as necessary to  
19 provide the dental care services described in the evidence of  
20 coverage and has made appropriate and reasonable arrangements  
21 for the availability of short-term dental care services in  
22 emergencies within the geographical area or areas to be  
23 served by the applicant.

24 (4) The dental plan organization has made appropriate  
25 arrangements for an ongoing evaluation and assurance of the  
26 quality of dental care services provided to enrollees and the  
27 adequacy of the personnel, facilities and equipment by or  
28 through which such services are rendered.

29 (5) The dental plan organization has a procedure to  
30 establish and maintain uniform systems of cost accounting and

1 reports and audits that meet the requirements of the  
2 commissioner, and disclose the cost and effectiveness of its  
3 operations, the pattern of utilization of its services, and  
4 the quality , availability and accessibility of its services.

5 (6) The dental plan organization is financially  
6 responsible and may reasonably be expected to meet its  
7 obligations to enrollees. In making this determination the  
8 commissioner shall consider at ~~best~~ LEAST the following: <—

9 (i) The financial soundness of the dental plan's  
10 arrangements for services and the schedule of charges  
11 used.

12 (ii) Surety bonds or deposits of cash or securities  
13 submitted in accordance with section 8 as a guarantee  
14 that the obligations will be performed.

15 (iii) The sufficiency of an agreement with dentists  
16 for the provision of dental services.

17 (iv) The adequacy of working capital.

18 (7) A general surplus is maintained as required in  
19 section 6.

20 (8) A contingent surplus is accumulated and maintained  
21 as required in section 7.

22 (9) The condition or methods of operation of the dental  
23 plan organization are consistent with the public interest,  
24 including the containment of costs of dental care services.

25 (b) When the commissioner disapproves an application for a  
26 certificate of authority he shall notify the dental plan  
27 organization in writing of the reasons for the disapproval.

28 (c) A certificate of authority shall expire one year  
29 following the date of issuance or previous renewal. If the  
30 dental plan organization remains in compliance with this act and



1 has paid a renewal fee of \$100, its certificate shall be  
2 renewed.

3 Section 6. General surplus of plan.

4 The commissioner may determine, at his discretion, the amount  
5 of a general surplus, if any, that the dental plan organization  
6 shall be required to maintain.

7 Section 7. Special contingent surplus for organizations using  
8 more than 20 full-time dentists.

9 A dental plan organization utilizing in the aggregate the  
10 services of more than 20 full-time equivalent dentists shall  
11 accumulate and maintain a special contingent surplus in excess  
12 of its assets over liabilities at the rate of 2% annually of its  
13 net contract and certificate income until the surplus totals  
14 \$100,000.

15 Section 8. Operational Requirements.

16 (a) Any director, officer, employee or partner of a dental  
17 plan organization who receives, collects, reimburses or invests  
18 moneys in connection with the activities of the organization  
19 shall be bonded for his fidelity in an amount which shall be  
20 determined by the commissioner.

21 (b) Each dentist employed by a dental plan organization  
22 shall be insured against professional liability or malpractice  
23 by an insurer licensed to conduct business in this State for  
24 such minimum amounts as shall be determined by the commissioner.

25 (c) The commissioner may establish qualifications of agents  
26 to perform their duties under this act, including bonding  
27 requirements, and issue licenses to those applicants for  
28 licensure and renewal who meet these requirements. Rules  
29 establishing such qualifications and procedures for the  
30 implementation of the licensing program shall be adopted by the

1 commissioner. As used in this section, "agent" means a person  
2 directly or indirectly associated with a prepaid dental plan  
3 organization primarily to engage in solicitation or enrollment.

4 (d) Each dental plan organization to which a certificate of  
5 authority has been issued pursuant to this act shall furnish a  
6 surety bond in an amount satisfactory to the commissioner or  
7 deposit with the commissioner cash or securities acceptable to  
8 him in at least the same amount as a guarantee that the  
9 obligations to the enrollees will be performed. The commissioner  
10 may waive or reduce this requirement whenever satisfied that the  
11 assets of the organization or its contracts with insurers,  
12 governments, or other organizations or providers are sufficient  
13 to reasonably assure the performance of its obligations.

14 (e) The investable funds of a dental plan organization shall  
15 be invested only in securities or other investments permitted by  
16 the laws of this State for the investment of assets constituting  
17 the legal reserves of life insurance companies or such other  
18 securities or investments as the commissioner may permit.

19 (f) Any licensed dentist may, upon the request of the  
20 dentist, participate as a provider in the prepaid dental plan. A  
21 licensed dentist may exercise such right for a period beginning  
22 at least 30 days prior to the effective date of the plan and  
23 continuing through at least 30 days immediately following the  
24 effective date of the plan. In addition to the 60-day period  
25 when a plan becomes effective, each plan shall provide an annual  
26 period of at least 30 days during which a licensed dentist may  
27 exercise such rights.

28 (g) Any enrollee may select any licensed dentist  
29 participating as a provider in the plan for the rendition of  
30 professional services rendered under the plan.

1 Section 9. Evidence of coverage for enrollees.

2 (a) Every enrollee of a prepaid dental plan shall be issued  
3 an evidence of coverage by the prepaid dental plan organization.

4 (b) No evidence of coverage, or amendment thereto, shall be  
5 delivered, issued for delivery, renewed, or used until the form  
6 of such evidence of coverage, or amendment thereto, has been  
7 filed by the dental plan organization with the commissioner and  
8 approved. If the commissioner does not disapprove the evidence  
9 of coverage or amendment within ~~30~~ 90 days after it is filed, it <—  
10 shall be deemed approved unless the commissioner sooner gives to  
11 such organization his approval thereof. At any time the  
12 commissioner may, upon at least 30 days' written notice to an  
13 organization, withdraw his approval, deemed or actual, of any  
14 evidence of coverage, or amendment thereto, on any grounds  
15 stated in this section. Such disapproval shall be effected by  
16 written order which shall state the grounds for disapproval.

17 (c) Evidence of coverage shall contain a clear and complete  
18 statement if a contract, or a reasonably complete summary if a  
19 certificate, of:

20 (1) The dental services ~~and the insurance~~ or other <—  
21 benefits, if any, to which enrollees are entitled.

22 (2) Any limitations or exclusions on the services, kind  
23 of services, benefits, or kind of benefits to be provided,  
24 including any charge, deductible or copayment feature.

25 (3) Where and in what manner information is available as  
26 to how services may be obtained, including telephone numbers.

27 (4) A clear and understandable description of the dental  
28 plan organization's method for resolving enrollee's  
29 complaints.

30 (d) Any subsequent change in the evidence of coverage or the

1 amount or percentage of payment which the enrollee is obligated  
2 to pay, shall be evidenced in a separate document issued to the  
3 enrollee.

4 Section 10. Schedule of charges for coverage, solicitation  
5 documents, contracts with providers.

6 (a) No schedule of charges for enrollee coverage,  
7 solicitation documents, or contract with a provider, or  
8 amendments thereto, shall take effect or be utilized in any way  
9 until an exact sample of such contract, schedule, document, or  
10 amendment has been filed by the dental plan organization with  
11 the commissioner and approved. If the commissioner does not  
12 disapprove the contract, schedule, document, or amendment within  
13 30 days after it is filed, it shall be deemed approved unless  
14 the commissioner sooner gives to such organization his approval  
15 thereof. If the commissioner determines within such 30-day  
16 period that such contract, schedule, document, or amendment  
17 thereof, is unlawful, unfair, or unreasonable, or otherwise  
18 fails to meet the requirements of this act, he shall so notify  
19 the organization. At any time the commissioner may, upon at  
20 least 30 days' written notice to an organization, withdraw his  
21 approval, deemed or actual. Such disapproval shall be effected  
22 by written order which shall state the grounds for disapproval.

23 (b) Charges shall be established in accordance with  
24 actuarial principles, but charges applicable to an enrollee  
25 shall not be individually determined based on the status of his  
26 health.

27 (c) The commissioner shall not approve a contract between a  
28 prepaid dental plan organization and a dental care provider if  
29 he finds that such contract fails to evidence a good faith  
30 effort by the prepaid dental plan organization to contain

1 increases in the costs of providing dental care services or does  
2 not require the contracting provider to observe, protect, and  
3 promote the rights of ~~subscribers~~ ENROLLEES as patients. <—

4 Section 11. Books and records; examination and inspection by  
5 commissioner.

6 (a) The commissioner or his designee may, for due cause and  
7 at least every three years, investigate the business and examine  
8 the books, accounts, records and files of every dental plan  
9 organization. For that purpose the commissioner or his designee  
10 shall have reasonably free access to the offices and places of  
11 business, books, accounts, papers, records and files of all  
12 dental plan organizations. A dental plan organization shall keep  
13 and use in its business such books, accounts and records as will  
14 enable the commissioner to determine whether the dental plan  
15 organization is complying with the provisions of this act and  
16 with the rules and regulations promulgated pursuant to it. A  
17 dental plan organization shall preserve its books, accounts and  
18 records for at least four years; except that preservation by  
19 photographic reproduction or records in photographic form shall  
20 constitute compliance with this act.

21 (b) For the purpose of the examination, the commissioner  
22 may, within the limits of funds appropriated for such purpose,  
23 contract with such persons as he may deem advisable to conduct  
24 the same or assist therein.

25 (c) At the discretion of the commissioner, the Secretary of  
26 Health and the State Dental Council and Examining Board may  
27 participate in the investigations and examinations described in  
28 this section to verify the existence of an effective dental  
29 plan.

30 (d) The expenses incurred in making any examination pursuant

1 to this section up to \$1,000 annually, shall be assessed against  
2 and paid by the dental plan organization so examined. Upon  
3 written notice by the commissioner of the total amount of an  
4 assessment, a dental plan organization shall become liable for  
5 and shall pay the assessment to the commissioner.

6 Section 12. Complaints; procedure for resolution; records.

7 (a) A dental plan organization shall establish and maintain  
8 a complaint system to provide reasonable procedures for the  
9 resolution of written complaints initiated by enrollees  
10 concerning dental plan services.

11 (b) A dental plan organization shall provide a timely  
12 written response to each written complaint it receives.  
13 Responses to written complaints relating to quality or  
14 appropriateness of care shall set forth a statement informing  
15 the complainant in detail of his right to have the complaint  
16 reviewed by a consulting dentist and of any other rights the  
17 complainant may have to submit such complaint to any  
18 professional peer review organization which has been set up by  
19 professional associations or organizations to monitor the  
20 quality or appropriateness of provider services rendered in the  
21 geographic area or areas serviced by the prepaid dental plan  
22 organization. Such statement shall set forth the name of the  
23 peer review organization, its address, telephone number, and any  
24 other pertinent data which will enable the complainant to seek  
25 further independent review of the complaint. Such appeal shall  
26 not be made to the peer review organization until the complaint  
27 system of the dental plan organization has been exhausted.

28 (c) Copies of complaints, responses, and reviewing  
29 consulting dentists' reports shall be available to the  
30 commissioner and the State Dental Council and Examining Board

1 for inspection for at least three years after resolution of the  
2 complaint.

3 (d) The commissioner may examine the complaint system and if  
4 he determines that the system is not adequate he may require a  
5 revision of the complaint system.

6 Section 13. Annual report; filing; forms.

7 (a) Every dental plan organization annually on or before  
8 March 1 shall file with the commissioner a report covering its  
9 activities for the preceding calendar year.

10 (b) The reports shall be on forms prescribed by the  
11 commissioner and shall include:

12 (1) A financial statement of the dental plan  
13 organization, including its balance sheet, receipts and  
14 disbursements for the preceding year certified by a certified  
15 public accountant.

16 (2) Any significant modification of information  
17 submitted with the application for a certificate of  
18 authority, including a current report of the names and  
19 addresses of the persons responsible for the conduct of the  
20 affairs of the corporation.

21 (3) The number of persons who became enrollees during  
22 the year, the number of enrollees as of the end of the year  
23 and the number of enrollments terminated during the year.

24 (4) A description of the enrollee complaint system  
25 including the procedures of the complaint system, the total  
26 number of written complaints handled through the system, a  
27 summary of causes underlying the complaints filed, and the  
28 number, amount and disposition of malpractice claims settled  
29 during the year by the dental plan organization and any of  
30 the dentists used by it.

1           (5) Any other information relating to the performance of  
2       the dental plan organization as required by the commissioner.  
3 Section 14. Expenses, taxes, licenses and fees; maximum  
4           expenditures.

5       A dental plan organization shall not use more than 30% of its  
6 gross contract and certificate income in the first year of  
7 operation, 25% in the second year of operation and 20% in any  
8 subsequent year for general expenses, acquisition expenses and  
9 miscellaneous taxes, licenses and fees.

10 Section 15. False or misleading advertising; enforcement.

11       (a) No dental plan organization or representative thereof,  
12 may cause or knowingly permit the use of advertising which is  
13 untrue or misleading, solicitation which is untrue or  
14 misleading, or any form of evidence of coverage which is  
15 deceptive. For purposes of this act:

16           (1) A statement or item of information shall be deemed  
17 to be untrue if it does not conform to fact in any respect  
18 which is or may be significant to an enrollee of, or person  
19 considering enrollment in, a dental plan.

20           (2) A statement or item of information shall be deemed  
21 to be misleading, whether or not it may be literally untrue,  
22 if, in the total context in which the statement is made or  
23 the item of information is communicated, the statement or  
24 item of information may be reasonably understood by a person  
25 who does not possess special knowledge regarding dental plan  
26 coverage, as indicating any benefit or advantage or the  
27 absence of any exclusion, limitation or disadvantage of  
28 possible significance to an enrollee of or person considering  
29 enrollment in a dental plan, if the benefit or advantage or  
30 absence of exclusion, limitation or disadvantage does not in



1 fact exist.

2 (3) Evidence of coverage shall be deemed to be deceptive  
3 if the evidence of coverage taken as a whole and with  
4 consideration given to typography, format and language, may  
5 cause a person who does not possess special knowledge  
6 regarding dental plans and evidences of coverage therefor, to  
7 expect benefits, services, charges or other advantages which  
8 the evidence of coverage does not provide or which the dental  
9 plan organization issuing the evidence of coverage does not  
10 regularly make available for enrollees covered under such  
11 evidence of coverage.

12 (b) The unfair trade practice provisions contained in the  
13 act of December 17, 1968 (P.L.1224, No.387), known as the  
14 "Unfair Trade Practices and Consumer Protection Law," shall  
15 apply to dental plan organizations, dental plans and evidences  
16 of coverage, except to the extent that the commissioner  
17 determines that the nature of dental plan organizations, dental  
18 plans and evidences of coverage render these sections clearly  
19 inappropriate.

20 (c) No dental plan organization, unless licensed as an  
21 insurer, may use in its name, evidence of coverage or  
22 literature, any of the words "insurance," "assurance,"  
23 "casualty," "surety," "mutual" or any other words descriptive of  
24 the insurance, casualty or surety business or deceptively  
25 similar to the name or description of any insurer licensed to do  
26 business in this State. The provisions of this subsection shall  
27 be enforced by the Office of Attorney General and, where  
28 applicable, the commissioner. Nothing in this act shall limit  
29 the powers of the Attorney General and the procedures with  
30 respect to consumer fraud.

1 Section 16. Suspension or revocation of certificate of  
2 authority.

3 (a) The commissioner may suspend or revoke any certificate  
4 of authority issued to a dental plan organization pursuant to  
5 this act if he finds that any of the following conditions exist:

6 (1) The dental plan organization is operating in a  
7 manner significantly contrary to that described in sections 3  
8 and 4.

9 (2) The dental plan organization issues an evidence of  
10 coverage which does not comply with the requirements of  
11 section 9.

12 (3) The dental plan organization does not provide or  
13 arrange for an effective dental plan as determined by the  
14 commissioner.

15 (4) The dental plan organization can no longer be  
16 expected to meet its obligations to enrollees.

17 (5) The dental plan organization, or any authorized  
18 person on its behalf, has advertised or merchandised its  
19 services in an untrue or misleading manner.

20 (6) The dental plan organization has failed to comply  
21 with this act or any rules and regulations promulgated  
22 thereunder.

23 (7) The dental plan organization has submitted false or  
24 misleading information in any filing or submission required  
25 by this act or any rule or regulation promulgated thereunder.

26 ~~(b) When the commissioner has cause to believe that grounds~~ <—  
27 ~~for the suspension or revocation of a certificate of authority~~  
28 ~~exist, he shall notify the dental plan organization in writing,~~  
29 ~~specifically stating the grounds for suspension or revocation. A~~  
30 ~~hearing on the matter shall be granted by the commissioner~~

~~within 20 days after a request in writing by the dental plan organization. After the hearing, or upon failure of the dental plan organization to appear at the hearing, the commissioner shall take action on his findings.~~

(B) WHEN THE COMMISSIONER HAS CAUSE TO BELIEVE THAT GROUNDS FOR THE SUSPENSION OR REVOCATION OF A CERTIFICATE OF AUTHORITY EXIST, HE SHALL NOTIFY THE DENTAL PLAN ORGANIZATION IN WRITING, SPECIFICALLY STATING THE GROUNDS FOR SUSPENSION OR REVOCATION. WITHIN 20 DAYS AFTER RECEIPT OF THE NOTICE, THE DENTAL PLAN ORGANIZATION MAY MAKE A WRITTEN REQUEST FOR A HEARING. THE HEARING SHALL BE HELD PURSUANT TO TITLE 2 OF THE PENNSYLVANIA CONSOLIDATED STATUTES (RELATING TO ADMINISTRATIVE LAW AND PROCEDURE) AND JUDICIAL REVIEW SHALL BE AVAILABLE AS PROVIDED THEREIN.

(c) If the commissioner suspends the certificate of authority, the dental plan organization shall not accept any additional enrollees or engage in any advertising or solicitation during the period of the suspension.

(d) If the commissioner revokes the certificate of authority, the dental plan organization shall proceed to dissolve its structure immediately following the effective date of the order of revocation, and shall conduct no further business except as may be essential to the orderly conclusion of the affairs of the dental plan organization. The commissioner by written order, however, may permit such further operation of the dental plan organization as he finds to be in the best interest of enrollees to the end that enrollees shall be afforded the greatest practical opportunity to obtain continuing dental plan coverage.

~~(e) Notwithstanding the provisions of subsections (c) and~~

~~(d), a dental plan organization which has had its certificate of authority suspended or revoked, or has suffered an adverse decision by the commissioner, shall be entitled to a hearing pursuant to Title 2 of the Pennsylvania Consolidated Statutes (relating to administrative law and procedure).~~

Section 17. Cease and desist orders.

(a) The commissioner may issue an order directing a dental plan organization or a representative of a dental plan organization to cease and desist from engaging in any act or practice in violation of the provisions of this act.

(b) Within 20 days after service of the order of cease and desist, the respondent may ~~request~~ SUBMIT TO THE COMMISSIONER IN WRITING A REQUEST FOR a hearing on the question of whether acts or practices in violation of this act have occurred. The hearings shall be conducted pursuant to Title 2 of the Pennsylvania Consolidated Statutes (relating to administrative law and procedure) and judicial review shall be available as provided therein.

Section 18. Violations; civil penalty.

Any dental plan organization which violates any provisions of this act, or neglects, fails or refuses to comply with any of the requirements of this act, except the failure to file an annual report and the failure to reply in writing to inquiries of the commissioner, shall be liable for a civil penalty of no more than \$1,000 for each violation. The penalty may be sued for and recovered by the Office of Attorney General.

Section 19. Insolvency of organization; action for injunction; appointment of receiver.

Whenever any dental plan organization shall become insolvent or shall suspend its ordinary business for want of funds to

1 carry on the same, or whenever the commissioner shall ascertain,  
2 as a result of examination as authorized by this act, or in any  
3 other manner, that the dental plan organization is exceeding its  
4 powers or violating the law or that its condition or methods of  
5 business may render the continuance of its operations hazardous  
6 to its enrollees or the public, or that its assets are less than  
7 its liabilities, the commissioner may institute an action in the  
8 Commonwealth Court to enjoin it from the transaction of any  
9 further business, or from the transfer or disposal of its  
10 property in any manner whatsoever. The court may proceed in the  
11 action in a summary manner or otherwise. It may grant injunctive  
12 relief and appoint a receiver, with power to sue for, collect,  
13 receive and take into his possession all the goods and chattels,  
14 rights and credits, moneys and effects, lands and tenement,  
15 books, papers, choses in action, bills, notes and property of  
16 every description belonging to the dental plan organization and  
17 sell and convey and assign the same, and authorize the purchase  
18 of continuing coverage for enrollees utilizing the remaining  
19 assets, and hold and dispose of the proceeds thereof under the  
20 direction of the Commonwealth Court. The court may cause the  
21 receiver to continue the existing operations of the  
22 organization, under court supervision, until the next  
23 anniversary of the subscription certificates and contracts then  
24 in force. The dental plan organization may be deemed insolvent  
25 whenever it is presently or prospectively unable to fulfill its  
26 outstanding contracts and to maintain the surpluses required  
27 pursuant to this act.

28 Section 20. Applications, filings and reports treated as public  
29 documents.

30 Applications, filings and reports required under this act

1 except contracts referred to in section 3(c)(4) and (5), shall  
2 be treated as public documents and shall not be considered  
3 confidential.

4 Section 21. Confidentiality of diagnosis or treatment  
5 information.

6 Data or information pertaining to the diagnosis, treatment or  
7 health of any enrollee obtained by the dental plan organization  
8 from the enrollee or any dentist shall be confidential and shall  
9 not be disclosed to any person except to the extent that it may  
10 be necessary to carry out the purposes of this act, or upon the  
11 express consent of the enrollee, or pursuant to statute or court  
12 order for the production of evidence or the discovery thereof,  
13 or in the event of claim or litigation between the enrollee and  
14 the dental plan organization wherein the data or information is  
15 pertinent. A dental plan organization shall be entitled to claim  
16 any statutory privileges against such disclosure which the  
17 dentist who furnished the information to the dental organization  
18 is entitled to claim.

19 Section 22. Rules and regulations.

20 The commissioner may promulgate such rules and regulations as  
21 he may deem necessary to effectuate the purposes of this act.

22 Section 23. Severability.

23 If any section, term or provision of this act shall be  
24 adjudged invalid for any reason, such judgment shall not affect,  
25 impair or invalidate any other section, term or provision of  
26 this act, and the remaining sections, terms and provisions shall  
27 be and remain in full force and effect.

28 Section 24. Effective date.

29 This act shall take effect in 60 days.