

**SB3441**



**97TH GENERAL ASSEMBLY**

**State of Illinois**

**2011 and 2012**

**SB3441**

Introduced 2/7/2012, by Sen. David Koehler

**SYNOPSIS AS INTRODUCED:**

305 ILCS 5/12-4.25

from Ch. 23, par. 12-4.25

Amends the Medical Assistance Article of the Illinois Public Aid Code. Prohibits the Department of Healthcare and Family Services from requiring a practitioner-owned group practice, partnership, or corporation to have a set number of licensed practitioner-owners who are eligible to provide medical services under the Code in order for the practitioner-owned group practice, partnership, or corporation to qualify as an alternate payee under the State's medical assistance program. Provides that the Department shall not prohibit a corporate entity that employs health care providers from participating as an alternate payee under the State's medical assistance program if the corporation is organized for the purpose of providing medical or other health care services. Effective immediately.

LRB097 17744 KTG 62959 b

FISCAL NOTE ACT  
MAY APPLY

**A BILL FOR**

1 AN ACT concerning public aid.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Illinois Public Aid Code is amended by  
5 changing Section 12-4.25 as follows:

6 (305 ILCS 5/12-4.25) (from Ch. 23, par. 12-4.25)

7 Sec. 12-4.25. Medical assistance program; vendor  
8 participation.

9 (A) The Illinois Department may deny, suspend or terminate  
10 the eligibility of any person, firm, corporation, association,  
11 agency, institution or other legal entity to participate as a  
12 vendor of goods or services to recipients under the medical  
13 assistance program under Article V, if after reasonable notice  
14 and opportunity for a hearing the Illinois Department finds:

15 (a) Such vendor is not complying with the Department's  
16 policy or rules and regulations, or with the terms and  
17 conditions prescribed by the Illinois Department in its  
18 vendor agreement, which document shall be developed by the  
19 Department as a result of negotiations with each vendor  
20 category, including physicians, hospitals, long term care  
21 facilities, pharmacists, optometrists, podiatrists and  
22 dentists setting forth the terms and conditions applicable  
23 to the participation of each vendor group in the program;

1 or

2 (b) Such vendor has failed to keep or make available  
3 for inspection, audit or copying, after receiving a written  
4 request from the Illinois Department, such records  
5 regarding payments claimed for providing services. This  
6 section does not require vendors to make available patient  
7 records of patients for whom services are not reimbursed  
8 under this Code; or

9 (c) Such vendor has failed to furnish any information  
10 requested by the Department regarding payments for  
11 providing goods or services; or

12 (d) Such vendor has knowingly made, or caused to be  
13 made, any false statement or representation of a material  
14 fact in connection with the administration of the medical  
15 assistance program; or

16 (e) Such vendor has furnished goods or services to a  
17 recipient which are (1) in excess of his or her needs, (2)  
18 harmful to the recipient, or (3) of grossly inferior  
19 quality, all of such determinations to be based upon  
20 competent medical judgment and evaluations; or

21 (f) The vendor; a person with management  
22 responsibility for a vendor; an officer or person owning,  
23 either directly or indirectly, 5% or more of the shares of  
24 stock or other evidences of ownership in a corporate  
25 vendor; an owner of a sole proprietorship which is a  
26 vendor; or a partner in a partnership which is a vendor,

1           either:

2                   (1) was previously terminated from participation  
3                   in the Illinois medical assistance program, or was  
4                   terminated from participation in a medical assistance  
5                   program in another state that is of the same kind as  
6                   the program of medical assistance provided under  
7                   Article V of this Code; or

8                   (2) was a person with management responsibility  
9                   for a vendor previously terminated from participation  
10                   in the Illinois medical assistance program, or  
11                   terminated from participation in a medical assistance  
12                   program in another state that is of the same kind as  
13                   the program of medical assistance provided under  
14                   Article V of this Code, during the time of conduct  
15                   which was the basis for that vendor's termination; or

16                   (3) was an officer, or person owning, either  
17                   directly or indirectly, 5% or more of the shares of  
18                   stock or other evidences of ownership in a corporate  
19                   vendor previously terminated from participation in the  
20                   Illinois medical assistance program, or terminated  
21                   from participation in a medical assistance program in  
22                   another state that is of the same kind as the program  
23                   of medical assistance provided under Article V of this  
24                   Code, during the time of conduct which was the basis  
25                   for that vendor's termination; or

26                   (4) was an owner of a sole proprietorship or

1 partner of a partnership previously terminated from  
2 participation in the Illinois medical assistance  
3 program, or terminated from participation in a medical  
4 assistance program in another state that is of the same  
5 kind as the program of medical assistance provided  
6 under Article V of this Code, during the time of  
7 conduct which was the basis for that vendor's  
8 termination; or

9 (g) The vendor; a person with management  
10 responsibility for a vendor; an officer or person owning,  
11 either directly or indirectly, 5% or more of the shares of  
12 stock or other evidences of ownership in a corporate  
13 vendor; an owner of a sole proprietorship which is a  
14 vendor; or a partner in a partnership which is a vendor,  
15 either:

16 (1) has engaged in practices prohibited by  
17 applicable federal or State law or regulation relating  
18 to the medical assistance program; or

19 (2) was a person with management responsibility  
20 for a vendor at the time that such vendor engaged in  
21 practices prohibited by applicable federal or State  
22 law or regulation relating to the medical assistance  
23 program; or

24 (3) was an officer, or person owning, either  
25 directly or indirectly, 5% or more of the shares of  
26 stock or other evidences of ownership in a vendor at

1 the time such vendor engaged in practices prohibited by  
2 applicable federal or State law or regulation relating  
3 to the medical assistance program; or

4 (4) was an owner of a sole proprietorship or  
5 partner of a partnership which was a vendor at the time  
6 such vendor engaged in practices prohibited by  
7 applicable federal or State law or regulation relating  
8 to the medical assistance program; or

9 (h) The direct or indirect ownership of the vendor  
10 (including the ownership of a vendor that is a sole  
11 proprietorship, a partner's interest in a vendor that is a  
12 partnership, or ownership of 5% or more of the shares of  
13 stock or other evidences of ownership in a corporate  
14 vendor) has been transferred by an individual who is  
15 terminated or barred from participating as a vendor to the  
16 individual's spouse, child, brother, sister, parent,  
17 grandparent, grandchild, uncle, aunt, niece, nephew,  
18 cousin, or relative by marriage.

19 (A-5) The Illinois Department may deny, suspend, or  
20 terminate the eligibility of any person, firm, corporation,  
21 association, agency, institution, or other legal entity to  
22 participate as a vendor of goods or services to recipients  
23 under the medical assistance program under Article V if, after  
24 reasonable notice and opportunity for a hearing, the Illinois  
25 Department finds that the vendor; a person with management  
26 responsibility for a vendor; an officer or person owning,

1 either directly or indirectly, 5% or more of the shares of  
2 stock or other evidences of ownership in a corporate vendor; an  
3 owner of a sole proprietorship that is a vendor; or a partner  
4 in a partnership that is a vendor has been convicted of a  
5 felony offense based on fraud or willful misrepresentation  
6 related to any of the following:

7 (1) The medical assistance program under Article V of  
8 this Code.

9 (2) A medical assistance program in another state that  
10 is of the same kind as the program of medical assistance  
11 provided under Article V of this Code.

12 (3) The Medicare program under Title XVIII of the  
13 Social Security Act.

14 (4) The provision of health care services.

15 (A-10) The Illinois Department may deny, suspend, or  
16 terminate the eligibility of any person, firm, corporation,  
17 association, agency, institution, or other legal entity to  
18 participate as a vendor of goods or services to recipients  
19 under the medical assistance program under Article V if, after  
20 reasonable notice and opportunity for a hearing, the Illinois  
21 Department finds that (i) the vendor, (ii) a person with  
22 management responsibility for a vendor, (iii) an officer or  
23 person owning, either directly or indirectly, 5% or more of the  
24 shares of stock or other evidences of ownership in a corporate  
25 vendor, (iv) an owner of a sole proprietorship that is a  
26 vendor, or (v) a partner in a partnership that is a vendor has

1 been convicted of a felony offense related to any of the  
2 following:

3 (1) Murder.

4 (2) A Class X felony under the Criminal Code of 1961.

5 (B) The Illinois Department shall deny, suspend or  
6 terminate the eligibility of any person, firm, corporation,  
7 association, agency, institution or other legal entity to  
8 participate as a vendor of goods or services to recipients  
9 under the medical assistance program under Article V:

10 (1) if such vendor is not properly licensed;

11 (2) within 30 days of the date when such vendor's  
12 professional license, certification or other authorization  
13 has been refused renewal or has been revoked, suspended or  
14 otherwise terminated; or

15 (3) if such vendor has been convicted of a violation of  
16 this Code, as provided in Article VIII A.

17 (C) Upon termination of a vendor of goods or services from  
18 participation in the medical assistance program authorized by  
19 this Article, a person with management responsibility for such  
20 vendor during the time of any conduct which served as the basis  
21 for that vendor's termination is barred from participation in  
22 the medical assistance program.

23 Upon termination of a corporate vendor, the officers and  
24 persons owning, directly or indirectly, 5% or more of the  
25 shares of stock or other evidences of ownership in the vendor  
26 during the time of any conduct which served as the basis for



1 that vendor's termination are barred from participation in the  
2 medical assistance program. A person who owns, directly or  
3 indirectly, 5% or more of the shares of stock or other  
4 evidences of ownership in a terminated corporate vendor may not  
5 transfer his or her ownership interest in that vendor to his or  
6 her spouse, child, brother, sister, parent, grandparent,  
7 grandchild, uncle, aunt, niece, nephew, cousin, or relative by  
8 marriage.

9 Upon termination of a sole proprietorship or partnership,  
10 the owner or partners during the time of any conduct which  
11 served as the basis for that vendor's termination are barred  
12 from participation in the medical assistance program. The owner  
13 of a terminated vendor that is a sole proprietorship, and a  
14 partner in a terminated vendor that is a partnership, may not  
15 transfer his or her ownership or partnership interest in that  
16 vendor to his or her spouse, child, brother, sister, parent,  
17 grandparent, grandchild, uncle, aunt, niece, nephew, cousin,  
18 or relative by marriage.

19 Rules adopted by the Illinois Department to implement these  
20 provisions shall specifically include a definition of the term  
21 "management responsibility" as used in this Section. Such  
22 definition shall include, but not be limited to, typical job  
23 titles, and duties and descriptions which will be considered as  
24 within the definition of individuals with management  
25 responsibility for a provider.

26 (D) If a vendor has been suspended from the medical

1 assistance program under Article V of the Code, the Director  
2 may require that such vendor correct any deficiencies which  
3 served as the basis for the suspension. The Director shall  
4 specify in the suspension order a specific period of time,  
5 which shall not exceed one year from the date of the order,  
6 during which a suspended vendor shall not be eligible to  
7 participate. At the conclusion of the period of suspension the  
8 Director shall reinstate such vendor, unless he finds that such  
9 vendor has not corrected deficiencies upon which the suspension  
10 was based.

11 If a vendor has been terminated from the medical assistance  
12 program under Article V, such vendor shall be barred from  
13 participation for at least one year, except that if a vendor  
14 has been terminated based on a conviction of a violation of  
15 Article VIIIA or a conviction of a felony based on fraud or a  
16 willful misrepresentation related to (i) the medical  
17 assistance program under Article V, (ii) a medical assistance  
18 program in another state that is of the kind provided under  
19 Article V, (iii) the Medicare program under Title XVIII of the  
20 Social Security Act, or (iv) the provision of health care  
21 services, then the vendor shall be barred from participation  
22 for 5 years or for the length of the vendor's sentence for that  
23 conviction, whichever is longer. At the end of one year a  
24 vendor who has been terminated may apply for reinstatement to  
25 the program. Upon proper application to be reinstated such  
26 vendor may be deemed eligible by the Director providing that

1 such vendor meets the requirements for eligibility under this  
2 Code. If such vendor is deemed not eligible for reinstatement,  
3 he shall be barred from again applying for reinstatement for  
4 one year from the date his application for reinstatement is  
5 denied.

6 A vendor whose termination from participation in the  
7 Illinois medical assistance program under Article V was based  
8 solely on an action by a governmental entity other than the  
9 Illinois Department may, upon reinstatement by that  
10 governmental entity or upon reversal of the termination, apply  
11 for rescission of the termination from participation in the  
12 Illinois medical assistance program. Upon proper application  
13 for rescission, the vendor may be deemed eligible by the  
14 Director if the vendor meets the requirements for eligibility  
15 under this Code.

16 If a vendor has been terminated and reinstated to the  
17 medical assistance program under Article V and the vendor is  
18 terminated a second or subsequent time from the medical  
19 assistance program, the vendor shall be barred from  
20 participation for at least 2 years, except that if a vendor has  
21 been terminated a second time based on a conviction of a  
22 violation of Article VIII A or a conviction of a felony based on  
23 fraud or a willful misrepresentation related to (i) the medical  
24 assistance program under Article V, (ii) a medical assistance  
25 program in another state that is of the kind provided under  
26 Article V, (iii) the Medicare program under Title XVIII of the

1 Social Security Act, or (iv) the provision of health care  
2 services, then the vendor shall be barred from participation  
3 for life. At the end of 2 years, a vendor who has been  
4 terminated may apply for reinstatement to the program. Upon  
5 application to be reinstated, the vendor may be deemed eligible  
6 if the vendor meets the requirements for eligibility under this  
7 Code. If the vendor is deemed not eligible for reinstatement,  
8 the vendor shall be barred from again applying for  
9 reinstatement for 2 years from the date the vendor's  
10 application for reinstatement is denied.

11 (E) The Illinois Department may recover money improperly or  
12 erroneously paid, or overpayments, either by setoff, crediting  
13 against future billings or by requiring direct repayment to the  
14 Illinois Department.

15 If the Illinois Department establishes through an  
16 administrative hearing that the overpayments resulted from the  
17 vendor or alternate payee willfully making, or causing to be  
18 made, a false statement or misrepresentation of a material fact  
19 in connection with billings and payments under the medical  
20 assistance program under Article V, the Department may recover  
21 interest on the amount of the overpayments at the rate of 5%  
22 per annum. For purposes of this paragraph, "willfully" means  
23 that a person makes a statement or representation with actual  
24 knowledge that it was false, or makes a statement or  
25 representation with knowledge of facts or information that  
26 would cause one to be aware that the statement or

1 representation was false when made.

2 (F) The Illinois Department may withhold payments to any  
3 vendor or alternate payee during the pendency of any proceeding  
4 under this Section. The Illinois Department shall state by rule  
5 with as much specificity as practicable the conditions under  
6 which payments will not be withheld during the pendency of any  
7 proceeding under this Section. Payments may be denied for bills  
8 submitted with service dates occurring during the pendency of a  
9 proceeding where the final administrative decision is to  
10 terminate eligibility to participate in the medical assistance  
11 program. The Illinois Department shall state by rule with as  
12 much specificity as practicable the conditions under which  
13 payments will not be denied for such bills. The Illinois  
14 Department shall state by rule a process and criteria by which  
15 a vendor or alternate payee may request full or partial release  
16 of payments withheld under this subsection. The Department must  
17 complete a proceeding under this Section in a timely manner.

18 (F-5) The Illinois Department may temporarily withhold  
19 payments to a vendor or alternate payee if any of the following  
20 individuals have been indicted or otherwise charged under a law  
21 of the United States or this or any other state with a felony  
22 offense that is based on alleged fraud or willful  
23 misrepresentation on the part of the individual related to (i)  
24 the medical assistance program under Article V of this Code,  
25 (ii) a medical assistance program provided in another state  
26 which is of the kind provided under Article V of this Code,

1 (iii) the Medicare program under Title XVIII of the Social  
2 Security Act, or (iv) the provision of health care services:

3 (1) If the vendor or alternate payee is a corporation:  
4 an officer of the corporation or an individual who owns,  
5 either directly or indirectly, 5% or more of the shares of  
6 stock or other evidence of ownership of the corporation.

7 (2) If the vendor is a sole proprietorship: the owner  
8 of the sole proprietorship.

9 (3) If the vendor or alternate payee is a partnership:  
10 a partner in the partnership.

11 (4) If the vendor or alternate payee is any other  
12 business entity authorized by law to transact business in  
13 this State: an officer of the entity or an individual who  
14 owns, either directly or indirectly, 5% or more of the  
15 evidences of ownership of the entity.

16 If the Illinois Department withholds payments to a vendor  
17 or alternate payee under this subsection, the Department shall  
18 not release those payments to the vendor or alternate payee  
19 while any criminal proceeding related to the indictment or  
20 charge is pending unless the Department determines that there  
21 is good cause to release the payments before completion of the  
22 proceeding. If the indictment or charge results in the  
23 individual's conviction, the Illinois Department shall retain  
24 all withheld payments, which shall be considered forfeited to  
25 the Department. If the indictment or charge does not result in  
26 the individual's conviction, the Illinois Department shall

1 release to the vendor or alternate payee all withheld payments.

2 (G) The provisions of the Administrative Review Law, as now  
3 or hereafter amended, and the rules adopted pursuant thereto,  
4 shall apply to and govern all proceedings for the judicial  
5 review of final administrative decisions of the Illinois  
6 Department under this Section. The term "administrative  
7 decision" is defined as in Section 3-101 of the Code of Civil  
8 Procedure.

9 (G-5) Non-emergency transportation.

10 (1) Notwithstanding any other provision in this  
11 Section, for non-emergency transportation vendors, the  
12 Department may terminate the vendor from participation in  
13 the medical assistance program prior to an evidentiary  
14 hearing but after reasonable notice and opportunity to  
15 respond as established by the Department by rule.

16 (2) Vendors of non-emergency medical transportation  
17 services, as defined by the Department by rule, shall  
18 submit to a fingerprint-based criminal background check on  
19 current and future information available in the State  
20 system and current information available through the  
21 Federal Bureau of Investigation's system by submitting all  
22 necessary fees and information in the form and manner  
23 prescribed by the Department of State Police. The following  
24 individuals shall be subject to the check:

25 (A) In the case of a vendor that is a corporation,  
26 every shareholder who owns, directly or indirectly, 5%

1 or more of the outstanding shares of the corporation.

2 (B) In the case of a vendor that is a partnership,  
3 every partner.

4 (C) In the case of a vendor that is a sole  
5 proprietorship, the sole proprietor.

6 (D) Each officer or manager of the vendor.

7 Each such vendor shall be responsible for payment of  
8 the cost of the criminal background check.

9 (3) Vendors of non-emergency medical transportation  
10 services may be required to post a surety bond. The  
11 Department shall establish, by rule, the criteria and  
12 requirements for determining when a surety bond must be  
13 posted and the value of the bond.

14 (4) The Department, or its agents, may refuse to accept  
15 requests for non-emergency transportation authorizations,  
16 including prior-approval and post-approval requests, for a  
17 specific non-emergency transportation vendor if:

18 (A) the Department has initiated a notice of  
19 termination of the vendor from participation in the  
20 medical assistance program; or

21 (B) the Department has issued notification of its  
22 withholding of payments pursuant to subsection (F-5)  
23 of this Section; or

24 (C) the Department has issued a notification of its  
25 withholding of payments due to reliable evidence of  
26 fraud or willful misrepresentation pending



1 investigation.

2 (H) Nothing contained in this Code shall in any way limit  
3 or otherwise impair the authority or power of any State agency  
4 responsible for licensing of vendors.

5 (I) Based on a finding of noncompliance on the part of a  
6 nursing home with any requirement for certification under Title  
7 XVIII or XIX of the Social Security Act (42 U.S.C. Sec. 1395 et  
8 seq. or 42 U.S.C. Sec. 1396 et seq.), the Illinois Department  
9 may impose one or more of the following remedies after notice  
10 to the facility:

11 (1) Termination of the provider agreement.

12 (2) Temporary management.

13 (3) Denial of payment for new admissions.

14 (4) Civil money penalties.

15 (5) Closure of the facility in emergency situations or  
16 transfer of residents, or both.

17 (6) State monitoring.

18 (7) Denial of all payments when the Health Care Finance  
19 Administration has imposed this sanction.

20 The Illinois Department shall by rule establish criteria  
21 governing continued payments to a nursing facility subsequent  
22 to termination of the facility's provider agreement if, in the  
23 sole discretion of the Illinois Department, circumstances  
24 affecting the health, safety, and welfare of the facility's  
25 residents require those continued payments. The Illinois  
26 Department may condition those continued payments on the

1 appointment of temporary management, sale of the facility to  
2 new owners or operators, or other arrangements that the  
3 Illinois Department determines best serve the needs of the  
4 facility's residents.

5 Except in the case of a facility that has a right to a  
6 hearing on the finding of noncompliance before an agency of the  
7 federal government, a facility may request a hearing before a  
8 State agency on any finding of noncompliance within 60 days  
9 after the notice of the intent to impose a remedy. Except in  
10 the case of civil money penalties, a request for a hearing  
11 shall not delay imposition of the penalty. The choice of  
12 remedies is not appealable at a hearing. The level of  
13 noncompliance may be challenged only in the case of a civil  
14 money penalty. The Illinois Department shall provide by rule  
15 for the State agency that will conduct the evidentiary  
16 hearings.

17 The Illinois Department may collect interest on unpaid  
18 civil money penalties.

19 The Illinois Department may adopt all rules necessary to  
20 implement this subsection (I).

21 (J) The Illinois Department, by rule, may permit individual  
22 practitioners to designate that Department payments that may be  
23 due the practitioner be made to an alternate payee or alternate  
24 payees.

25 (a) Such alternate payee or alternate payees shall be  
26 required to register as an alternate payee in the Medical

1 Assistance Program with the Illinois Department.

2 (b) If a practitioner designates an alternate payee,  
3 the alternate payee and practitioner shall be jointly and  
4 severally liable to the Department for payments made to the  
5 alternate payee. Pursuant to subsection (E) of this  
6 Section, any Department action to recover money or  
7 overpayments from an alternate payee shall be subject to an  
8 administrative hearing.

9 (c) Registration as an alternate payee or alternate  
10 payees in the Illinois Medical Assistance Program shall be  
11 conditional. At any time, the Illinois Department may deny  
12 or cancel any alternate payee's registration in the  
13 Illinois Medical Assistance Program without cause. Any  
14 such denial or cancellation is not subject to an  
15 administrative hearing.

16 (d) The Illinois Department may seek a revocation of  
17 any alternate payee, and all owners, officers, and  
18 individuals with management responsibility for such  
19 alternate payee shall be permanently prohibited from  
20 participating as an owner, an officer, or an individual  
21 with management responsibility with an alternate payee in  
22 the Illinois Medical Assistance Program, if after  
23 reasonable notice and opportunity for a hearing the  
24 Illinois Department finds that:

25 (1) the alternate payee is not complying with the  
26 Department's policy or rules and regulations, or with

1 the terms and conditions prescribed by the Illinois  
2 Department in its alternate payee registration  
3 agreement; or

4 (2) the alternate payee has failed to keep or make  
5 available for inspection, audit, or copying, after  
6 receiving a written request from the Illinois  
7 Department, such records regarding payments claimed as  
8 an alternate payee; or

9 (3) the alternate payee has failed to furnish any  
10 information requested by the Illinois Department  
11 regarding payments claimed as an alternate payee; or

12 (4) the alternate payee has knowingly made, or  
13 caused to be made, any false statement or  
14 representation of a material fact in connection with  
15 the administration of the Illinois Medical Assistance  
16 Program; or

17 (5) the alternate payee, a person with management  
18 responsibility for an alternate payee, an officer or  
19 person owning, either directly or indirectly, 5% or  
20 more of the shares of stock or other evidences of  
21 ownership in a corporate alternate payee, or a partner  
22 in a partnership which is an alternate payee:

23 (a) was previously terminated from  
24 participation as a vendor in the Illinois Medical  
25 Assistance Program, or was previously revoked as  
26 an alternate payee in the Illinois Medical

1 Assistance Program, or was terminated from  
2 participation as a vendor in a medical assistance  
3 program in another state that is of the same kind  
4 as the program of medical assistance provided  
5 under Article V of this Code; or

6 (b) was a person with management  
7 responsibility for a vendor previously terminated  
8 from participation as a vendor in the Illinois  
9 Medical Assistance Program, or was previously  
10 revoked as an alternate payee in the Illinois  
11 Medical Assistance Program, or was terminated from  
12 participation as a vendor in a medical assistance  
13 program in another state that is of the same kind  
14 as the program of medical assistance provided  
15 under Article V of this Code, during the time of  
16 conduct which was the basis for that vendor's  
17 termination or alternate payee's revocation; or

18 (c) was an officer, or person owning, either  
19 directly or indirectly, 5% or more of the shares of  
20 stock or other evidences of ownership in a  
21 corporate vendor previously terminated from  
22 participation as a vendor in the Illinois Medical  
23 Assistance Program, or was previously revoked as  
24 an alternate payee in the Illinois Medical  
25 Assistance Program, or was terminated from  
26 participation as a vendor in a medical assistance

1 program in another state that is of the same kind  
2 as the program of medical assistance provided  
3 under Article V of this Code, during the time of  
4 conduct which was the basis for that vendor's  
5 termination; or

6 (d) was an owner of a sole proprietorship or  
7 partner in a partnership previously terminated  
8 from participation as a vendor in the Illinois  
9 Medical Assistance Program, or was previously  
10 revoked as an alternate payee in the Illinois  
11 Medical Assistance Program, or was terminated from  
12 participation as a vendor in a medical assistance  
13 program in another state that is of the same kind  
14 as the program of medical assistance provided  
15 under Article V of this Code, during the time of  
16 conduct which was the basis for that vendor's  
17 termination or alternate payee's revocation; or

18 (6) the alternate payee, a person with management  
19 responsibility for an alternate payee, an officer or  
20 person owning, either directly or indirectly, 5% or  
21 more of the shares of stock or other evidences of  
22 ownership in a corporate alternate payee, or a partner  
23 in a partnership which is an alternate payee:

24 (a) has engaged in conduct prohibited by  
25 applicable federal or State law or regulation  
26 relating to the Illinois Medical Assistance

1 Program; or

2 (b) was a person with management  
3 responsibility for a vendor or alternate payee at  
4 the time that the vendor or alternate payee engaged  
5 in practices prohibited by applicable federal or  
6 State law or regulation relating to the Illinois  
7 Medical Assistance Program; or

8 (c) was an officer, or person owning, either  
9 directly or indirectly, 5% or more of the shares of  
10 stock or other evidences of ownership in a vendor  
11 or alternate payee at the time such vendor or  
12 alternate payee engaged in practices prohibited by  
13 applicable federal or State law or regulation  
14 relating to the Illinois Medical Assistance  
15 Program; or

16 (d) was an owner of a sole proprietorship or  
17 partner in a partnership which was a vendor or  
18 alternate payee at the time such vendor or  
19 alternate payee engaged in practices prohibited by  
20 applicable federal or State law or regulation  
21 relating to the Illinois Medical Assistance  
22 Program; or

23 (7) the direct or indirect ownership of the vendor  
24 or alternate payee (including the ownership of a vendor  
25 or alternate payee that is a partner's interest in a  
26 vendor or alternate payee, or ownership of 5% or more

1 of the shares of stock or other evidences of ownership  
2 in a corporate vendor or alternate payee) has been  
3 transferred by an individual who is terminated or  
4 barred from participating as a vendor or is prohibited  
5 or revoked as an alternate payee to the individual's  
6 spouse, child, brother, sister, parent, grandparent,  
7 grandchild, uncle, aunt, niece, nephew, cousin, or  
8 relative by marriage.

9 (K) The Illinois Department of Healthcare and Family  
10 Services may withhold payments, in whole or in part, to a  
11 provider or alternate payee upon receipt of evidence, received  
12 from State or federal law enforcement or federal oversight  
13 agencies or from the results of a preliminary Department audit  
14 and determined by the Department to be credible, that the  
15 circumstances giving rise to the need for a withholding of  
16 payments may involve fraud or willful misrepresentation under  
17 the Illinois Medical Assistance program. The Department shall  
18 by rule define what constitutes "credible" evidence for  
19 purposes of this subsection. The Department may withhold  
20 payments without first notifying the provider or alternate  
21 payee of its intention to withhold such payments. A provider or  
22 alternate payee may request a reconsideration of payment  
23 withholding, and the Department must grant such a request. The  
24 Department shall state by rule a process and criteria by which  
25 a provider or alternate payee may request full or partial  
26 release of payments withheld under this subsection. This



1 request may be made at any time after the Department first  
2 withholds such payments.

3 (a) The Illinois Department must send notice of its  
4 withholding of program payments within 5 days of taking  
5 such action. The notice must set forth the general  
6 allegations as to the nature of the withholding action, but  
7 need not disclose any specific information concerning its  
8 ongoing investigation. The notice must do all of the  
9 following:

10 (1) State that payments are being withheld in  
11 accordance with this subsection.

12 (2) State that the withholding is for a temporary  
13 period, as stated in paragraph (b) of this subsection,  
14 and cite the circumstances under which withholding  
15 will be terminated.

16 (3) Specify, when appropriate, which type or types  
17 of Medicaid claims withholding is effective.

18 (4) Inform the provider or alternate payee of the  
19 right to submit written evidence for reconsideration  
20 of the withholding by the Illinois Department.

21 (5) Inform the provider or alternate payee that a  
22 written request may be made to the Illinois Department  
23 for full or partial release of withheld payments and  
24 that such requests may be made at any time after the  
25 Department first withholds such payments.

26 (b) All withholding-of-payment actions under this

1 subsection shall be temporary and shall not continue after  
2 any of the following:

3 (1) The Illinois Department or the prosecuting  
4 authorities determine that there is insufficient  
5 evidence of fraud or willful misrepresentation by the  
6 provider or alternate payee.

7 (2) Legal proceedings related to the provider's or  
8 alternate payee's alleged fraud, willful  
9 misrepresentation, violations of this Act, or  
10 violations of the Illinois Department's administrative  
11 rules are completed.

12 (3) The withholding of payments for a period of 3  
13 years.

14 (c) The Illinois Department may adopt all rules  
15 necessary to implement this subsection (K).

16 (L) The Department of Healthcare and Family Services shall  
17 not require a practitioner-owned group practice, partnership,  
18 or corporation to have a set number of licensed  
19 practitioner-owners who are eligible to provide medical  
20 services under this Code in order for the practitioner-owned  
21 group practice, partnership, or corporation to qualify as an  
22 alternate payee under the State's medical assistance program.  
23 The Department shall not prohibit a corporate entity that  
24 employs health care providers from participating as an  
25 alternate payee under the State's medical assistance program if  
26 the corporation is organized for the purpose of providing

1 medical or other health care services.

2 (Source: P.A. 94-265, eff. 1-1-06; 94-975, eff. 6-30-06.)

3 Section 99. Effective date. This Act takes effect upon  
4 becoming law.