

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 An employer who is eligible to participate in the State's
3 medical assistance program may be designated as an alternate
4 payee by an individual practitioner who is employed by the
5 payee. The employer who qualifies as a payee for more than 4
6 practitioners and the employer who is not licensed in the same
7 profession as the practitioner in his or her employ who has
8 designated the employer as an alternate payee shall be subject
9 to enhanced screening and verification by the Department. A
10 corporation may be named as an alternate payee. A corporation
11 registered with the Secretary of State to do business in the
12 State of Illinois and whose shares of ownership are not
13 publicly traded in a recognized stock exchange within the
14 United States of America shall be subject to enhanced screening
15 and verification by the Department.

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

17 Section 99. Effective date. This Act takes effect upon
18 becoming law.