

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, or may exclude any such  
14 person or entity from participation as such a vendor, and may  
15 deny, suspend, or recover payments, if after reasonable notice  
16 and opportunity for a hearing the Illinois Department finds:

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

1 dentists setting forth the terms and conditions applicable  
2 to the participation of each vendor group in the program;  
3 or

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

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

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

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

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

1 vendor; an owner of a sole proprietorship which is a  
2 vendor; or a partner in a partnership which is a vendor,  
3 either:

4 (1) was previously terminated, suspended, or  
5 excluded from participation in the Illinois medical  
6 assistance program, or was terminated, suspended, or  
7 excluded from participation in another state or  
8 federal medical assistance or health care program; or

9 (2) was a person with management responsibility  
10 for a vendor previously terminated, suspended, or  
11 excluded from participation in the Illinois medical  
12 assistance program, or terminated, suspended, or  
13 excluded from participation in another state or  
14 federal medical assistance or health care program  
15 during the time of conduct which was the basis for that  
16 vendor's termination, suspension, or exclusion; or

17 (3) was an officer, or person owning, either  
18 directly or indirectly, 5% or more of the shares of  
19 stock or other evidences of ownership in a corporate or  
20 limited liability company vendor previously  
21 terminated, suspended, or excluded from participation  
22 in the Illinois medical assistance program, or  
23 terminated, suspended, or excluded from participation  
24 in a state or federal medical assistance or health care  
25 program during the time of conduct which was the basis  
26 for that vendor's termination, suspension, or

1 exclusion; or

2 (4) was an owner of a sole proprietorship or  
3 partner of a partnership previously terminated,  
4 suspended, or excluded from participation in the  
5 Illinois medical assistance program, or terminated,  
6 suspended, or excluded from participation in a state or  
7 federal medical assistance or health care program  
8 during the time of conduct which was the basis for that  
9 vendor's termination, suspension, or exclusion; or

10 (f-1) Such vendor has a delinquent debt owed to the  
11 Illinois Department; or

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

19 (1) has engaged in practices prohibited by  
20 applicable federal or State law or regulation; or

21 (2) was a person with management responsibility  
22 for a vendor at the time that such vendor engaged in  
23 practices prohibited by applicable federal or State  
24 law or regulation; or

25 (3) was an officer, or person owning, either  
26 directly or indirectly, 5% or more of the shares of

1 stock or other evidences of ownership in a vendor at  
2 the time such vendor engaged in practices prohibited by  
3 applicable federal or State law or regulation; 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; or

8 (h) The direct or indirect ownership of the vendor  
9 (including the ownership of a vendor that is a sole  
10 proprietorship, a partner's interest in a vendor that is a  
11 partnership, or ownership of 5% or more of the shares of  
12 stock or other evidences of ownership in a corporate  
13 vendor) has been transferred by an individual who is  
14 terminated, suspended, or excluded or barred from  
15 participating as a vendor to the individual's spouse,  
16 child, brother, sister, parent, grandparent, grandchild,  
17 uncle, aunt, niece, nephew, cousin, or relative by  
18 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, or may  
24 exclude any such person or entity from participation as such a  
25 vendor, if, after reasonable notice and opportunity for a  
26 hearing, the Illinois Department finds that the vendor; a

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

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

10 (2) A medical assistance or health care program in  
11 another state.

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

14 (4) The provision of health care services.

15 (5) A violation of this Code, as provided in Article  
16 VIIIA, or another state or federal medical assistance  
17 program or health care program.

18 (A-10) The Illinois Department may deny, suspend, or  
19 terminate the eligibility of any person, firm, corporation,  
20 association, agency, institution, or other legal entity to  
21 participate as a vendor of goods or services to recipients  
22 under the medical assistance program under Article V, or may  
23 exclude any such person or entity from participation as such a  
24 vendor, if, after reasonable notice and opportunity for a  
25 hearing, the Illinois Department finds that (i) the vendor,  
26 (ii) a person with management responsibility for a vendor,

1 (iii) an officer or person owning, either directly or  
2 indirectly, 5% or more of the shares of stock or other  
3 evidences of ownership in a corporate vendor, (iv) an owner of  
4 a sole proprietorship that is a vendor, or (v) a partner in a  
5 partnership that is a vendor has been convicted of an offense  
6 related to any of the following:

7 (1) Murder.

8 (2) A Class X felony under the Criminal Code of 1961 or  
9 the Criminal Code of 2012.

10 (3) Sexual misconduct that may subject recipients to an  
11 undue risk of harm.

12 (4) A criminal offense that may subject recipients to  
13 an undue risk of harm.

14 (5) A crime of fraud or dishonesty.

15 (6) A crime involving a controlled substance.

16 (7) A misdemeanor relating to fraud, theft,  
17 embezzlement, breach of fiduciary responsibility, or other  
18 financial misconduct related to a health care program.

19 (A-15) The Illinois Department may deny the eligibility of  
20 any person, firm, corporation, association, agency,  
21 institution, or other legal entity to participate as a vendor  
22 of goods or services to recipients under the medical assistance  
23 program under Article V if, after reasonable notice and  
24 opportunity for a hearing, the Illinois Department finds:

25 (1) The applicant or any person with management  
26 responsibility for the applicant; an officer or member of

1 the board of directors of an applicant; an entity owning  
2 (directly or indirectly) 5% or more of the shares of stock  
3 or other evidences of ownership in a corporate vendor  
4 applicant; an owner of a sole proprietorship applicant; a  
5 partner in a partnership applicant; or a technical or other  
6 advisor to an applicant has a debt owed to the Illinois  
7 Department, and no payment arrangements acceptable to the  
8 Illinois Department have been made by the applicant.

9 (2) The applicant or any person with management  
10 responsibility for the applicant; an officer or member of  
11 the board of directors of an applicant; an entity owning  
12 (directly or indirectly) 5% or more of the shares of stock  
13 or other evidences of ownership in a corporate vendor  
14 applicant; an owner of a sole proprietorship applicant; a  
15 partner in a partnership vendor applicant; or a technical  
16 or other advisor to an applicant was (i) a person with  
17 management responsibility, (ii) an officer or member of the  
18 board of directors of an applicant, (iii) an entity owning  
19 (directly or indirectly) 5% or more of the shares of stock  
20 or other evidences of ownership in a corporate vendor, (iv)  
21 an owner of a sole proprietorship, (v) a partner in a  
22 partnership vendor, (vi) a technical or other advisor to a  
23 vendor, during a period of time where the conduct of that  
24 vendor resulted in a debt owed to the Illinois Department,  
25 and no payment arrangements acceptable to the Illinois  
26 Department have been made by that vendor.



1           (3) There is a credible allegation of the use,  
2 transfer, or lease of assets of any kind to an applicant  
3 from a current or prior vendor who has a debt owed to the  
4 Illinois Department, no payment arrangements acceptable to  
5 the Illinois Department have been made by that vendor or  
6 the vendor's alternate payee, and the applicant knows or  
7 should have known of such debt.

8           (4) There is a credible allegation of a transfer of  
9 management responsibilities, or direct or indirect  
10 ownership, to an applicant from a current or prior vendor  
11 who has a debt owed to the Illinois Department, and no  
12 payment arrangements acceptable to the Illinois Department  
13 have been made by that vendor or the vendor's alternate  
14 payee, and the applicant knows or should have known of such  
15 debt.

16           (5) There is a credible allegation of the use,  
17 transfer, or lease of assets of any kind to an applicant  
18 who is a spouse, child, brother, sister, parent,  
19 grandparent, grandchild, uncle, aunt, niece, relative by  
20 marriage, nephew, cousin, or relative of a current or prior  
21 vendor who has a debt owed to the Illinois Department and  
22 no payment arrangements acceptable to the Illinois  
23 Department have been made.

24           (6) There is a credible allegation that the applicant's  
25 previous affiliations with a provider of medical services  
26 that has an uncollected debt, a provider that has been or

1 is subject to a payment suspension under a federal health  
2 care program, or a provider that has been previously  
3 excluded from participation in the medical assistance  
4 program, poses a risk of fraud, waste, or abuse to the  
5 Illinois Department.

6 As used in this subsection, "credible allegation" is  
7 defined to include an allegation from any source, including,  
8 but not limited to, fraud hotline complaints, claims data  
9 mining, patterns identified through provider audits, civil  
10 actions filed under the Illinois False Claims Act, and law  
11 enforcement investigations. An allegation is considered to be  
12 credible when it has indicia of reliability.

13 (B) The Illinois Department shall deny, suspend or  
14 terminate the eligibility of any person, firm, corporation,  
15 association, agency, institution or other legal entity to  
16 participate as a vendor of goods or services to recipients  
17 under the medical assistance program under Article V, or may  
18 exclude any such person or entity from participation as such a  
19 vendor:

20 (1) immediately, if such vendor is not properly  
21 licensed, certified, or authorized;

22 (2) within 30 days of the date when such vendor's  
23 professional license, certification or other authorization  
24 has been refused renewal, restricted, revoked, suspended,  
25 or otherwise terminated; or

26 (3) if such vendor has been convicted of a violation of

1           this Code, as provided in Article VIIIA.

2           (C) Upon termination, suspension, or exclusion of a vendor  
3 of goods or services from participation in the medical  
4 assistance program authorized by this Article, a person with  
5 management responsibility for such vendor during the time of  
6 any conduct which served as the basis for that vendor's  
7 termination, suspension, or exclusion is barred from  
8 participation in the medical assistance program.

9           Upon termination, suspension, or exclusion of a corporate  
10 vendor, the officers and persons owning, directly or  
11 indirectly, 5% or more of the shares of stock or other  
12 evidences of ownership in the vendor during the time of any  
13 conduct which served as the basis for that vendor's  
14 termination, suspension, or exclusion are barred from  
15 participation in the medical assistance program. A person who  
16 owns, directly or indirectly, 5% or more of the shares of stock  
17 or other evidences of ownership in a terminated, suspended, or  
18 excluded vendor may not transfer his or her ownership interest  
19 in that vendor to his or her spouse, child, brother, sister,  
20 parent, grandparent, grandchild, uncle, aunt, niece, nephew,  
21 cousin, or relative by marriage.

22           Upon termination, suspension, or exclusion of a sole  
23 proprietorship or partnership, the owner or partners during the  
24 time of any conduct which served as the basis for that vendor's  
25 termination, suspension, or exclusion are barred from  
26 participation in the medical assistance program. The owner of a

1 terminated, suspended, or excluded vendor that is a sole  
2 proprietorship, and a partner in a terminated, suspended, or  
3 excluded vendor that is a partnership, may not transfer his or  
4 her ownership or partnership interest in that vendor to his or  
5 her spouse, child, brother, sister, parent, grandparent,  
6 grandchild, uncle, aunt, niece, nephew, cousin, or relative by  
7 marriage.

8 A person who owns, directly or indirectly, 5% or more of  
9 the shares of stock or other evidences of ownership in a  
10 corporate or limited liability company vendor who owes a debt  
11 to the Department, if that vendor has not made payment  
12 arrangements acceptable to the Department, shall not transfer  
13 his or her ownership interest in that vendor, or vendor assets  
14 of any kind, to his or her spouse, child, brother, sister,  
15 parent, grandparent, grandchild, uncle, aunt, niece, nephew,  
16 cousin, or relative by marriage.

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

24 A vendor or a prior vendor who has been terminated,  
25 excluded, or suspended from the medical assistance program, or  
26 from another state or federal medical assistance or health care

1 program, and any individual currently or previously barred from  
2 the medical assistance program, or from another state or  
3 federal medical assistance or health care program, as a result  
4 of being an officer or a person owning, directly or indirectly,  
5 5% or more of the shares of stock or other evidences of  
6 ownership in a corporate or limited liability company vendor  
7 during the time of any conduct which served as the basis for  
8 that vendor's termination, suspension, or exclusion, may be  
9 required to post a surety bond as part of a condition of  
10 enrollment or participation in the medical assistance program.  
11 The Illinois Department shall establish, by rule, the criteria  
12 and requirements for determining when a surety bond must be  
13 posted and the value of the bond.

14 A vendor or a prior vendor who has a debt owed to the  
15 Illinois Department and any individual currently or previously  
16 barred from the medical assistance program, or from another  
17 state or federal medical assistance or health care program, as  
18 a result of being an officer or a person owning, directly or  
19 indirectly, 5% or more of the shares of stock or other  
20 evidences of ownership in that corporate or limited liability  
21 company vendor during the time of any conduct which served as  
22 the basis for the debt, may be required to post a surety bond  
23 as part of a condition of enrollment or participation in the  
24 medical assistance program. The Illinois Department shall  
25 establish, by rule, the criteria and requirements for  
26 determining when a surety bond must be posted and the value of

1 the bond.

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

13 If a vendor has been terminated, suspended, or excluded  
14 from the medical assistance program under Article V, such  
15 vendor shall be barred from participation for at least one  
16 year, except that if a vendor has been terminated, suspended,  
17 or excluded based on a conviction of a violation of Article  
18 VIIIA or a conviction of a felony based on fraud or a willful  
19 misrepresentation related to (i) the medical assistance  
20 program under Article V, (ii) a federal or another state's  
21 medical assistance or health care program, or (iii) the  
22 provision of health care services, then the vendor shall be  
23 barred from participation for 5 years or for the length of the  
24 vendor's sentence for that conviction, whichever is longer. At  
25 the end of one year a vendor who has been terminated,  
26 suspended, or excluded may apply for reinstatement to the

1 program. Upon proper application to be reinstated such vendor  
2 may be deemed eligible by the Director providing that such  
3 vendor meets the requirements for eligibility under this Code.  
4 If such vendor is deemed not eligible for reinstatement, he  
5 shall be barred from again applying for reinstatement for one  
6 year from the date his application for reinstatement is denied.

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

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

1 assistance program under Article V, (ii) a federal or another  
2 state's medical assistance or health care program, or (iii) the  
3 provision of health care services, then the vendor shall be  
4 barred from participation for life. At the end of 2 years, a  
5 vendor who has been terminated, suspended, or excluded may  
6 apply for reinstatement to the program. Upon application to be  
7 reinstated, the vendor may be deemed eligible if the vendor  
8 meets the requirements for eligibility under this Code. If the  
9 vendor is deemed not eligible for reinstatement, the vendor  
10 shall be barred from again applying for reinstatement for 2  
11 years from the date the vendor's application for reinstatement  
12 is denied.

13 (E) The Illinois Department may recover money improperly or  
14 erroneously paid, or overpayments, either by setoff, crediting  
15 against future billings or by requiring direct repayment to the  
16 Illinois Department. The Illinois Department may suspend or  
17 deny payment, in whole or in part, if such payment would be  
18 improper or erroneous or would otherwise result in overpayment.

19 (1) Payments may be suspended, denied, or recovered  
20 from a vendor or alternate payee: (i) for services rendered  
21 in violation of the Illinois Department's provider  
22 notices, statutes, rules, and regulations; (ii) for  
23 services rendered in violation of the terms and conditions  
24 prescribed by the Illinois Department in its vendor  
25 agreement; (iii) for any vendor who fails to grant the  
26 Office of Inspector General timely access to full and



1 complete records, including, but not limited to, records  
2 relating to recipients under the medical assistance  
3 program for the most recent 6 years, in accordance with  
4 Section 140.28 of Title 89 of the Illinois Administrative  
5 Code, and other information for the purpose of audits,  
6 investigations, or other program integrity functions,  
7 after reasonable written request by the Inspector General;  
8 this subsection (E) does not require vendors to make  
9 available the medical records of patients for whom services  
10 are not reimbursed under this Code or to provide access to  
11 medical records more than 6 years old; (iv) when the vendor  
12 has knowingly made, or caused to be made, any false  
13 statement or representation of a material fact in  
14 connection with the administration of the medical  
15 assistance program; or (v) when the vendor previously  
16 rendered services while terminated, suspended, or excluded  
17 from participation in the medical assistance program or  
18 while terminated or excluded from participation in another  
19 state or federal medical assistance or health care program.

20 (2) Notwithstanding any other provision of law, if a  
21 vendor has the same taxpayer identification number  
22 (assigned under Section 6109 of the Internal Revenue Code  
23 of 1986) as is assigned to a vendor with past-due financial  
24 obligations to the Illinois Department, the Illinois  
25 Department may make any necessary adjustments to payments  
26 to that vendor in order to satisfy any past-due

1 obligations, regardless of whether the vendor is assigned a  
2 different billing number under the medical assistance  
3 program.

4 ~~If the Illinois Department establishes through an~~  
5 ~~administrative hearing that the overpayments resulted from the~~  
6 ~~vendor or alternate payee knowingly making, using, or causing~~  
7 ~~to be made or used, a false record or statement to obtain~~  
8 ~~payment or other benefit from the medical assistance program~~  
9 ~~under Article V, the Department may recover interest on the~~  
10 ~~amount of the payment or other benefit at the rate of 5% per~~  
11 ~~annum. In addition to any other penalties that may be~~  
12 ~~prescribed by law, such a vendor or alternate payee shall be~~  
13 ~~subject to civil penalties consisting of an amount not to~~  
14 ~~exceed 3 times the amount of payment or other benefit resulting~~  
15 ~~from each such false record or statement, and the sum of \$2,000~~  
16 ~~for each such false record or statement for payment or other~~  
17 ~~benefit. For purposes of this paragraph, "knowingly" means that~~  
18 ~~a vendor or alternate payee with respect to information: (i)~~  
19 ~~has actual knowledge of the information, (ii) acts in~~  
20 ~~deliberate ignorance of the truth or falsity of the~~  
21 ~~information, or (iii) acts in reckless disregard of the truth~~  
22 ~~or falsity of the information. No proof of specific intent to~~  
23 ~~defraud is required.~~

24 (E-5) Civil monetary penalties.

25 (1) As used in this subsection (E-5):

26 (a) "Knowingly" means that a person, with respect

1 to information: (i) has actual knowledge of the  
2 information; (ii) acts in deliberate ignorance of the  
3 truth or falsity of the information; or (iii) acts in  
4 reckless disregard of the truth or falsity of the  
5 information. No proof of specific intent to defraud is  
6 required.

7 (b) "Overpayment" means any funds that a person  
8 receives or retains from the medical assistance  
9 program to which the person, after applicable  
10 reconciliation, is not entitled under this Code.

11 (c) "Remuneration" means the offer or transfer of  
12 items or services for free or for other than fair  
13 market value by a person; however, remuneration does  
14 not include items or services of a nominal value of no  
15 more than \$10 per item or service, or \$50 in the  
16 aggregate on an annual basis, or any other offer or  
17 transfer of items or services as determined by the  
18 Department.

19 (d) "Should know" means that a person, with respect  
20 to information: (i) acts in deliberate ignorance of the  
21 truth or falsity of the information; or (ii) acts in  
22 reckless disregard of the truth or falsity of the  
23 information. No proof of specific intent to defraud is  
24 required.

25 (2) Any person (including a vendor, provider,  
26 organization, agency, or other entity, or an alternate

1 payee thereof, but excluding a recipient) who:

2 (a) knowingly presents or causes to be presented to  
3 an officer, employee, or agent of the State, a claim  
4 that the Department determines:

5 (i) is for a medical or other item or service  
6 that the person knows or should know was not  
7 provided as claimed, including any person who  
8 engages in a pattern or practice of presenting or  
9 causing to be presented a claim for an item or  
10 service that is based on a code that the person  
11 knows or should know will result in a greater  
12 payment to the person than the code the person  
13 knows or should know is applicable to the item or  
14 service actually provided;

15 (ii) is for a medical or other item or service  
16 and the person knows or should know that the claim  
17 is false or fraudulent;

18 (iii) is presented for a vendor physician's  
19 service, or an item or service incident to a vendor  
20 physician's service, by a person who knows or  
21 should know that the individual who furnished, or  
22 supervised the furnishing of, the service:

23 (AA) was not licensed as a physician;

24 (BB) was licensed as a physician but such  
25 license had been obtained through a  
26 misrepresentation of material fact (including

1 cheating on an examination required for  
2 licensing); or

3 (CC) represented to the patient at the  
4 time the service was furnished that the  
5 physician was certified in a medical specialty  
6 by a medical specialty board, when the  
7 individual was not so certified;

8 (iv) is for a medical or other item or service  
9 furnished during a period in which the person was  
10 excluded from the medical assistance program or a  
11 federal or state health care program under which  
12 the claim was made pursuant to applicable law; or

13 (v) is for a pattern of medical or other items  
14 or services that a person knows or should know are  
15 not medically necessary;

16 (b) knowingly presents or causes to be presented to  
17 any person a request for payment which is in violation  
18 of the conditions for receipt of vendor payments under  
19 the medical assistance program under Section 11-13 of  
20 this Code;

21 (c) knowingly gives or causes to be given to any  
22 person, with respect to medical assistance program  
23 coverage of inpatient hospital services, information  
24 that he or she knows or should know is false or  
25 misleading, and that could reasonably be expected to  
26 influence the decision when to discharge such person or

1 other individual from the hospital;

2 (d) in the case of a person who is not an  
3 organization, agency, or other entity, is excluded  
4 from participating in the medical assistance program  
5 or a federal or state health care program and who, at  
6 the time of a violation of this subsection (E-5):

7 (i) retains a direct or indirect ownership or  
8 control interest in an entity that is  
9 participating in the medical assistance program or  
10 a federal or state health care program, and who  
11 knows or should know of the action constituting the  
12 basis for the exclusion; or

13 (ii) is an officer or managing employee of such  
14 an entity;

15 (e) offers or transfers remuneration to any  
16 individual eligible for benefits under the medical  
17 assistance program that such person knows or should  
18 know is likely to influence such individual to order or  
19 receive from a particular vendor, provider,  
20 practitioner, or supplier any item or service for which  
21 payment may be made, in whole or in part, under the  
22 medical assistance program;

23 (f) arranges or contracts (by employment or  
24 otherwise) with an individual or entity that the person  
25 knows or should know is excluded from participation in  
26 the medical assistance program or a federal or state

1 health care program, for the provision of items or  
2 services for which payment may be made under such a  
3 program;

4 (g) commits an act described in subsection (b) or  
5 (c) of Section 8A-3;

6 (h) knowingly makes, uses, or causes to be made or  
7 used, a false record or statement material to a false  
8 or fraudulent claim for payment for items and services  
9 furnished under the medical assistance program;

10 (i) fails to grant timely access, upon reasonable  
11 request (as defined by the Department by rule), to the  
12 Inspector General, for the purpose of audits,  
13 investigations, evaluations, or other statutory  
14 functions of the Inspector General of the Department;

15 (j) orders or prescribes a medical or other item or  
16 service during a period in which the person was  
17 excluded from the medical assistance program or a  
18 federal or state health care program, in the case where  
19 the person knows or should know that a claim for such  
20 medical or other item or service will be made under  
21 such a program;

22 (k) knowingly makes or causes to be made any false  
23 statement, omission, or misrepresentation of a  
24 material fact in any application, bid, or contract to  
25 participate or enroll as a vendor or provider of  
26 services or a supplier under the medical assistance

1           program;

2           (l) knows of an overpayment and does not report and  
3           return the overpayment to the Department in accordance  
4           with paragraph (6);

5           shall be subject, in addition to any other penalties that  
6           may be prescribed by law, to a civil money penalty of not  
7           more than \$10,000 for each item or service (or, in cases  
8           under subparagraph (c), \$15,000 for each individual with  
9           respect to whom false or misleading information was given;  
10          in cases under subparagraph (d), \$10,000 for each day the  
11          prohibited relationship occurs; in cases under  
12          subparagraph (g), \$50,000 for each such act; in cases under  
13          subparagraph (h), \$50,000 for each false record or  
14          statement; in cases under subparagraph (i), \$15,000 for  
15          each day of the failure described in such subparagraph; or  
16          in cases under subparagraph (k), \$50,000 for each false  
17          statement, omission, or misrepresentation of a material  
18          fact). In addition, such a person shall be subject to an  
19          assessment of not more than 3 times the amount claimed for  
20          each such item or service in lieu of damages sustained by  
21          the State because of such claim (or, in cases under  
22          subparagraph (g), damages of not more than 3 times the  
23          total amount of remuneration offered, paid, solicited, or  
24          received, without regard to whether a portion of such  
25          remuneration was offered, paid, solicited, or received for  
26          a lawful purpose; or in cases under subparagraph (k), an



1 assessment of not more than 3 times the total amount  
2 claimed for each item or service for which payment was made  
3 based upon the application, bid, or contract containing the  
4 false statement, omission, or misrepresentation of a  
5 material fact).

6 (3) In addition, the Director or his or her designee  
7 may make a determination in the same proceeding to exclude,  
8 terminate, suspend, or bar the person from participation in  
9 the medical assistance program.

10 (4) The Illinois Department may seek the civil monetary  
11 penalties and exclusion, termination, suspension, or  
12 barment identified in this subsection (E-5). Prior to the  
13 imposition of any penalties or sanctions, the affected  
14 person shall be afforded an opportunity for a hearing after  
15 reasonable notice. The Department shall establish hearing  
16 procedures by rule.

17 (5) Any final order, decision, or other determination  
18 made, issued, or executed by the Director under the  
19 provisions of this subsection (E-5), whereby a person is  
20 aggrieved, shall be subject to review in accordance with  
21 the provisions of the Administrative Review Law, and the  
22 rules adopted pursuant thereto, which shall apply to and  
23 govern all proceedings for the judicial review of final  
24 administrative decisions of the Director.

25 (6) (a) If a person has received an overpayment, the  
26 person shall:

1           (i) report and return the overpayment to the  
2           Department at the correct address; and

3           (ii) notify the Department in writing of the reason  
4           for the overpayment.

5           (b) An overpayment must be reported and returned under  
6           subparagraph (a) by the later of:

7           (i) the date which is 60 days after the date on  
8           which the overpayment was identified; or

9           (ii) the date any corresponding cost report is due,  
10           if applicable.

11           (F) The Illinois Department may withhold payments to any  
12           vendor or alternate payee prior to or during the pendency of  
13           any audit or proceeding under this Section, and through the  
14           pendency of any administrative appeal or administrative review  
15           by any court proceeding. The Illinois Department shall state by  
16           rule with as much specificity as practicable the conditions  
17           under which payments will not be withheld under this Section.  
18           Payments may be denied for bills submitted with service dates  
19           occurring during the pendency of a proceeding, after a final  
20           decision has been rendered, or after the conclusion of any  
21           administrative appeal, where the final administrative decision  
22           is to terminate, exclude, or suspend eligibility to participate  
23           in the medical assistance program. The Illinois Department  
24           shall state by rule with as much specificity as practicable the  
25           conditions under which payments will not be denied for such  
26           bills. The Illinois Department shall state by rule a process

1 and criteria by which a vendor or alternate payee may request  
2 full or partial release of payments withheld under this  
3 subsection. The Department must complete a proceeding under  
4 this Section in a timely manner.

5 Notwithstanding recovery allowed under subsection (E) or  
6 this subsection (F), the Illinois Department may withhold  
7 payments to any vendor or alternate payee who is not properly  
8 licensed, certified, or in compliance with State or federal  
9 agency regulations. Payments may be denied for bills submitted  
10 with service dates occurring during the period of time that a  
11 vendor is not properly licensed, certified, or in compliance  
12 with State or federal regulations. Facilities licensed under  
13 the Nursing Home Care Act shall have payments denied or  
14 withheld pursuant to subsection (I) of this Section.

15 (F-5) The Illinois Department may temporarily withhold  
16 payments to a vendor or alternate payee if any of the following  
17 individuals have been indicted or otherwise charged under a law  
18 of the United States or this or any other state with an offense  
19 that is based on alleged fraud or willful misrepresentation on  
20 the part of the individual related to (i) the medical  
21 assistance program under Article V of this Code, (ii) a federal  
22 or another state's medical assistance or health care program,  
23 or (iii) the provision of health care services:

24 (1) If the vendor or alternate payee is a corporation:  
25 an officer of the corporation or an individual who owns,  
26 either directly or indirectly, 5% or more of the shares of

1 stock or other evidence of ownership of the corporation.

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

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

6 (4) If the vendor or alternate payee is any other  
7 business entity authorized by law to transact business in  
8 this State: an officer of the entity or an individual who  
9 owns, either directly or indirectly, 5% or more of the  
10 evidences of ownership of the entity.

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

23 (F-10) If the Illinois Department establishes that the  
24 vendor or alternate payee owes a debt to the Illinois  
25 Department, and the vendor or alternate payee subsequently  
26 fails to pay or make satisfactory payment arrangements with the

1 Illinois Department for the debt owed, the Illinois Department  
2 may seek all remedies available under the law of this State to  
3 recover the debt, including, but not limited to, wage  
4 garnishment or the filing of claims or liens against the vendor  
5 or alternate payee.

6 (F-15) Enforcement of judgment.

7 (1) Any fine, recovery amount, other sanction, or costs  
8 imposed, or part of any fine, recovery amount, other  
9 sanction, or cost imposed, remaining unpaid after the  
10 exhaustion of or the failure to exhaust judicial review  
11 procedures under the Illinois Administrative Review Law is  
12 a debt due and owing the State and may be collected using  
13 all remedies available under the law.

14 (2) After expiration of the period in which judicial  
15 review under the Illinois Administrative Review Law may be  
16 sought for a final administrative decision, unless stayed  
17 by a court of competent jurisdiction, the findings,  
18 decision, and order of the Director may be enforced in the  
19 same manner as a judgment entered by a court of competent  
20 jurisdiction.

21 (3) In any case in which any person or entity has  
22 failed to comply with a judgment ordering or imposing any  
23 fine or other sanction, any expenses incurred by the  
24 Illinois Department to enforce the judgment, including,  
25 but not limited to, attorney's fees, court costs, and costs  
26 related to property demolition or foreclosure, after they

1 are fixed by a court of competent jurisdiction or the  
2 Director, shall be a debt due and owing the State and may  
3 be collected in accordance with applicable law. Prior to  
4 any expenses being fixed by a final administrative decision  
5 pursuant to this subsection (F-15), the Illinois  
6 Department shall provide notice to the individual or entity  
7 that states that the individual or entity shall appear at a  
8 hearing before the administrative hearing officer to  
9 determine whether the individual or entity has failed to  
10 comply with the judgment. The notice shall set the date for  
11 such a hearing, which shall not be less than 7 days from  
12 the date that notice is served. If notice is served by  
13 mail, the 7-day period shall begin to run on the date that  
14 the notice was deposited in the mail.

15 (4) Upon being recorded in the manner required by  
16 Article XII of the Code of Civil Procedure or by the  
17 Uniform Commercial Code, a lien shall be imposed on the  
18 real estate or personal estate, or both, of the individual  
19 or entity in the amount of any debt due and owing the State  
20 under this Section. The lien may be enforced in the same  
21 manner as a judgment of a court of competent jurisdiction.  
22 A lien shall attach to all property and assets of such  
23 person, firm, corporation, association, agency,  
24 institution, or other legal entity until the judgment is  
25 satisfied.

26 (5) The Director may set aside any judgment entered by

1 default and set a new hearing date upon a petition filed at  
2 any time (i) if the petitioner's failure to appear at the  
3 hearing was for good cause, or (ii) if the petitioner  
4 established that the Department did not provide proper  
5 service of process. If any judgment is set aside pursuant  
6 to this paragraph (5), the hearing officer shall have  
7 authority to enter an order extinguishing any lien which  
8 has been recorded for any debt due and owing the Illinois  
9 Department as a result of the vacated default judgment.

10 (G) The provisions of the Administrative Review Law, as now  
11 or hereafter amended, and the rules adopted pursuant thereto,  
12 shall apply to and govern all proceedings for the judicial  
13 review of final administrative decisions of the Illinois  
14 Department under this Section. The term "administrative  
15 decision" is defined as in Section 3-101 of the Code of Civil  
16 Procedure.

17 (G-5) Vendors who pose a risk of fraud, waste, abuse, or  
18 harm.

19 (1) Notwithstanding any other provision in this  
20 Section, the Department may terminate, suspend, or exclude  
21 vendors who pose a risk of fraud, waste, abuse, or harm  
22 from participation in the medical assistance program prior  
23 to an evidentiary hearing but after reasonable notice and  
24 opportunity to respond as established by the Department by  
25 rule.

26 (2) Vendors who pose a risk of fraud, waste, abuse, or

1           harm shall submit to a fingerprint-based criminal  
2           background check on current and future information  
3           available in the State system and current information  
4           available through the Federal Bureau of Investigation's  
5           system by submitting all necessary fees and information in  
6           the form and manner prescribed by the Department of State  
7           Police. The following individuals shall be subject to the  
8           check:

9                   (A) In the case of a vendor that is a corporation,  
10                   every shareholder who owns, directly or indirectly, 5%  
11                   or more of the outstanding shares of the corporation.

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

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

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

17           Each such vendor shall be responsible for payment of  
18           the cost of the criminal background check.

19           (3) Vendors who pose a risk of fraud, waste, abuse, or  
20           harm may be required to post a surety bond. The Department  
21           shall establish, by rule, the criteria and requirements for  
22           determining when a surety bond must be posted and the value  
23           of the bond.

24           (4) The Department, or its agents, may refuse to accept  
25           requests for authorization from specific vendors who pose a  
26           risk of fraud, waste, abuse, or harm, including



1 prior-approval and post-approval requests, if:

2 (A) the Department has initiated a notice of  
3 termination, suspension, or exclusion of the vendor  
4 from participation in the medical assistance program;  
5 or

6 (B) the Department has issued notification of its  
7 withholding of payments pursuant to subsection (F-5)  
8 of this Section; or

9 (C) the Department has issued a notification of its  
10 withholding of payments due to reliable evidence of  
11 fraud or willful misrepresentation pending  
12 investigation.

13 (5) As used in this subsection, the following terms are  
14 defined as follows:

15 (A) "Fraud" means an intentional deception or  
16 misrepresentation made by a person with the knowledge  
17 that the deception could result in some unauthorized  
18 benefit to himself or herself or some other person. It  
19 includes any act that constitutes fraud under  
20 applicable federal or State law.

21 (B) "Abuse" means provider practices that are  
22 inconsistent with sound fiscal, business, or medical  
23 practices and that result in an unnecessary cost to the  
24 medical assistance program or in reimbursement for  
25 services that are not medically necessary or that fail  
26 to meet professionally recognized standards for health

1 care. It also includes recipient practices that result  
2 in unnecessary cost to the medical assistance program.  
3 Abuse does not include diagnostic or therapeutic  
4 measures conducted primarily as a safeguard against  
5 possible vendor liability.

6 (C) "Waste" means the unintentional misuse of  
7 medical assistance resources, resulting in unnecessary  
8 cost to the medical assistance program. Waste does not  
9 include diagnostic or therapeutic measures conducted  
10 primarily as a safeguard against possible vendor  
11 liability.

12 (D) "Harm" means physical, mental, or monetary  
13 damage to recipients or to the medical assistance  
14 program.

15 (G-6) The Illinois Department, upon making a determination  
16 based upon information in the possession of the Illinois  
17 Department that continuation of participation in the medical  
18 assistance program by a vendor would constitute an immediate  
19 danger to the public, may immediately suspend such vendor's  
20 participation in the medical assistance program without a  
21 hearing. In instances in which the Illinois Department  
22 immediately suspends the medical assistance program  
23 participation of a vendor under this Section, a hearing upon  
24 the vendor's participation must be convened by the Illinois  
25 Department within 15 days after such suspension and completed  
26 without appreciable delay. Such hearing shall be held to

1 determine whether to recommend to the Director that the  
2 vendor's medical assistance program participation be denied,  
3 terminated, suspended, placed on provisional status, or  
4 reinstated. In the hearing, any evidence relevant to the vendor  
5 constituting an immediate danger to the public may be  
6 introduced against such vendor; provided, however, that the  
7 vendor, or his or her counsel, shall have the opportunity to  
8 discredit, impeach, and submit evidence rebutting such  
9 evidence.

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

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

19 (1) Termination of the provider agreement.

20 (2) Temporary management.

21 (3) Denial of payment for new admissions.

22 (4) Civil money penalties.

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

25 (6) State monitoring.

26 (7) Denial of all payments when the U.S. Department of

1 Health and Human Services has imposed this sanction.

2 The Illinois Department shall by rule establish criteria  
3 governing continued payments to a nursing facility subsequent  
4 to termination of the facility's provider agreement if, in the  
5 sole discretion of the Illinois Department, circumstances  
6 affecting the health, safety, and welfare of the facility's  
7 residents require those continued payments. The Illinois  
8 Department may condition those continued payments on the  
9 appointment of temporary management, sale of the facility to  
10 new owners or operators, or other arrangements that the  
11 Illinois Department determines best serve the needs of the  
12 facility's residents.

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

25 The Illinois Department may collect interest on unpaid  
26 civil money penalties.

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

3           (J) The Illinois Department, by rule, may permit individual  
4 practitioners to designate that Department payments that may be  
5 due the practitioner be made to an alternate payee or alternate  
6 payees.

7           (a) Such alternate payee or alternate payees shall be  
8 required to register as an alternate payee in the Medical  
9 Assistance Program with the Illinois Department.

10           (b) If a practitioner designates an alternate payee,  
11 the alternate payee and practitioner shall be jointly and  
12 severally liable to the Department for payments made to the  
13 alternate payee. Pursuant to subsection (E) of this  
14 Section, any Department action to suspend or deny payment  
15 or recover money or overpayments from an alternate payee  
16 shall be subject to an administrative hearing.

17           (c) Registration as an alternate payee or alternate  
18 payees in the Illinois Medical Assistance Program shall be  
19 conditional. At any time, the Illinois Department may deny  
20 or cancel any alternate payee's registration in the  
21 Illinois Medical Assistance Program without cause. Any  
22 such denial or cancellation is not subject to an  
23 administrative hearing.

24           (d) The Illinois Department may seek a revocation of  
25 any alternate payee, and all owners, officers, and  
26 individuals with management responsibility for such

1       alternate payee shall be permanently prohibited from  
2       participating as an owner, an officer, or an individual  
3       with management responsibility with an alternate payee in  
4       the Illinois Medical Assistance Program, if after  
5       reasonable notice and opportunity for a hearing the  
6       Illinois Department finds that:

7               (1) the alternate payee is not complying with the  
8       Department's policy or rules and regulations, or with  
9       the terms and conditions prescribed by the Illinois  
10       Department in its alternate payee registration  
11       agreement; or

12               (2) the alternate payee has failed to keep or make  
13       available for inspection, audit, or copying, after  
14       receiving a written request from the Illinois  
15       Department, such records regarding payments claimed as  
16       an alternate payee; or

17               (3) the alternate payee has failed to furnish any  
18       information requested by the Illinois Department  
19       regarding payments claimed as an alternate payee; or

20               (4) the alternate payee has knowingly made, or  
21       caused to be made, any false statement or  
22       representation of a material fact in connection with  
23       the administration of the Illinois Medical Assistance  
24       Program; or

25               (5) the alternate payee, a person with management  
26       responsibility for an alternate payee, an officer or

1 person owning, either directly or indirectly, 5% or  
2 more of the shares of stock or other evidences of  
3 ownership in a corporate alternate payee, or a partner  
4 in a partnership which is an alternate payee:

5 (a) was previously terminated, suspended, or  
6 excluded from participation as a vendor in the  
7 Illinois Medical Assistance Program, or was  
8 previously revoked as an alternate payee in the  
9 Illinois Medical Assistance Program, or was  
10 terminated, suspended, or excluded from  
11 participation as a vendor in a medical assistance  
12 program in another state that is of the same kind  
13 as the program of medical assistance provided  
14 under Article V of this Code; or

15 (b) was a person with management  
16 responsibility for a vendor previously terminated,  
17 suspended, or excluded from participation as a  
18 vendor in the Illinois Medical Assistance Program,  
19 or was previously revoked as an alternate payee in  
20 the Illinois Medical Assistance Program, or was  
21 terminated, suspended, or excluded from  
22 participation as a vendor in a medical assistance  
23 program in another state that is of the same kind  
24 as the program of medical assistance provided  
25 under Article V of this Code, during the time of  
26 conduct which was the basis for that vendor's

1 termination, suspension, or exclusion or alternate  
2 payee's revocation; or

3 (c) was an officer, or person owning, either  
4 directly or indirectly, 5% or more of the shares of  
5 stock or other evidences of ownership in a  
6 corporate vendor previously terminated, suspended,  
7 or excluded from participation as a vendor in the  
8 Illinois Medical Assistance Program, or was  
9 previously revoked as an alternate payee in the  
10 Illinois Medical Assistance Program, or was  
11 terminated, suspended, or excluded 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, suspension, or exclusion; or

18 (d) was an owner of a sole proprietorship or  
19 partner in a partnership previously terminated,  
20 suspended, or excluded from participation as a  
21 vendor in the Illinois Medical Assistance Program,  
22 or was previously revoked as an alternate payee in  
23 the Illinois Medical Assistance Program, or was  
24 terminated, suspended, or excluded from  
25 participation as a vendor in a medical assistance  
26 program in another state that is of the same kind



1 as the program of medical assistance provided  
2 under Article V of this Code, during the time of  
3 conduct which was the basis for that vendor's  
4 termination, suspension, or exclusion or alternate  
5 payee's revocation; or

6 (6) the alternate payee, a person with management  
7 responsibility for an alternate payee, an officer or  
8 person owning, either directly or indirectly, 5% or  
9 more of the shares of stock or other evidences of  
10 ownership in a corporate alternate payee, or a partner  
11 in a partnership which is an alternate payee:

12 (a) has engaged in conduct prohibited by  
13 applicable federal or State law or regulation  
14 relating to the Illinois Medical Assistance  
15 Program; or

16 (b) was a person with management  
17 responsibility for a vendor or alternate payee at  
18 the time that the vendor or alternate payee engaged  
19 in practices prohibited by applicable federal or  
20 State law or regulation relating to the Illinois  
21 Medical Assistance Program; or

22 (c) was an officer, or person owning, either  
23 directly or indirectly, 5% or more of the shares of  
24 stock or other evidences of ownership in a vendor  
25 or alternate payee at the time such vendor or  
26 alternate payee engaged in practices prohibited by

1 applicable federal or State law or regulation  
2 relating to the Illinois Medical Assistance  
3 Program; or

4 (d) was an owner of a sole proprietorship or  
5 partner in a partnership which was a vendor or  
6 alternate payee at the time such vendor or  
7 alternate payee engaged in practices prohibited by  
8 applicable federal or State law or regulation  
9 relating to the Illinois Medical Assistance  
10 Program; or

11 (7) the direct or indirect ownership of the vendor  
12 or alternate payee (including the ownership of a vendor  
13 or alternate payee that is a partner's interest in a  
14 vendor or alternate payee, or ownership of 5% or more  
15 of the shares of stock or other evidences of ownership  
16 in a corporate vendor or alternate payee) has been  
17 transferred by an individual who is terminated,  
18 suspended, or excluded or barred from participating as  
19 a vendor or is prohibited or revoked as an alternate  
20 payee to the individual's spouse, child, brother,  
21 sister, parent, grandparent, grandchild, uncle, aunt,  
22 niece, nephew, cousin, or relative by marriage.

23 (K) The Illinois Department of Healthcare and Family  
24 Services may withhold payments, in whole or in part, to a  
25 provider or alternate payee where there is credible evidence,  
26 received from State or federal law enforcement or federal

1 oversight agencies or from the results of a preliminary  
2 Department audit, that the circumstances giving rise to the  
3 need for a withholding of payments may involve fraud or willful  
4 misrepresentation under the Illinois Medical Assistance  
5 program. The Department shall by rule define what constitutes  
6 "credible" evidence for purposes of this subsection. The  
7 Department may withhold payments without first notifying the  
8 provider or alternate payee of its intention to withhold such  
9 payments. A provider or alternate payee may request a  
10 reconsideration of payment withholding, and the Department  
11 must grant such a request. The Department shall state by rule a  
12 process and criteria by which a provider or alternate payee may  
13 request full or partial release of payments withheld under this  
14 subsection. This request may be made at any time after the  
15 Department first withholds such payments.

16 (a) The Illinois Department must send notice of its  
17 withholding of program payments within 5 days of taking  
18 such action. The notice must set forth the general  
19 allegations as to the nature of the withholding action, but  
20 need not disclose any specific information concerning its  
21 ongoing investigation. The notice must do all of the  
22 following:

23 (1) State that payments are being withheld in  
24 accordance with this subsection.

25 (2) State that the withholding is for a temporary  
26 period, as stated in paragraph (b) of this subsection,

1           and cite the circumstances under which withholding  
2           will be terminated.

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

5           (4) Inform the provider or alternate payee of the  
6           right to submit written evidence for reconsideration  
7           of the withholding by the Illinois Department.

8           (5) Inform the provider or alternate payee that a  
9           written request may be made to the Illinois Department  
10          for full or partial release of withheld payments and  
11          that such requests may be made at any time after the  
12          Department first withholds such payments.

13          (b) All withholding-of-payment actions under this  
14          subsection shall be temporary and shall not continue after  
15          any of the following:

16                (1) The Illinois Department or the prosecuting  
17                authorities determine that there is insufficient  
18                evidence of fraud or willful misrepresentation by the  
19                provider or alternate payee.

20                (2) Legal proceedings related to the provider's or  
21                alternate payee's alleged fraud, willful  
22                misrepresentation, violations of this Act, or  
23                violations of the Illinois Department's administrative  
24                rules are completed.

25                (3) The withholding of payments for a period of 3  
26                years.

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

3           (K-5) The Illinois Department may withhold payments, in  
4           whole or in part, to a provider or alternate payee upon  
5           initiation of an audit, quality of care review, investigation  
6           when there is a credible allegation of fraud, or the provider  
7           or alternate payee demonstrating a clear failure to cooperate  
8           with the Illinois Department such that the circumstances give  
9           rise to the need for a withholding of payments. As used in this  
10          subsection, "credible allegation" is defined to include an  
11          allegation from any source, including, but not limited to,  
12          fraud hotline complaints, claims data mining, patterns  
13          identified through provider audits, civil actions filed under  
14          the Illinois False Claims Act, and law enforcement  
15          investigations. An allegation is considered to be credible when  
16          it has indicia of reliability. The Illinois Department may  
17          withhold payments without first notifying the provider or  
18          alternate payee of its intention to withhold such payments. A  
19          provider or alternate payee may request a hearing or a  
20          reconsideration of payment withholding, and the Illinois  
21          Department must grant such a request. The Illinois Department  
22          shall state by rule a process and criteria by which a provider  
23          or alternate payee may request a hearing or a reconsideration  
24          for the full or partial release of payments withheld under this  
25          subsection. This request may be made at any time after the  
26          Illinois Department first withholds such payments.

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

8           (1) State that payments are being withheld in  
9 accordance with this subsection.

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

14           (3) Specify, when appropriate, which type or types  
15 of claims are withheld.

16           (4) Inform the provider or alternate payee of the  
17 right to request a hearing or a reconsideration of the  
18 withholding by the Illinois Department, including the  
19 ability to submit written evidence.

20           (5) Inform the provider or alternate payee that a  
21 written request may be made to the Illinois Department  
22 for a hearing or a reconsideration for the full or  
23 partial release of withheld payments and that such  
24 requests may be made at any time after the Illinois  
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 determines that there  
4 is insufficient evidence of fraud, or the provider or  
5 alternate payee demonstrates clear cooperation with  
6 the Illinois Department, as determined by the Illinois  
7 Department, such that the circumstances do not give  
8 rise to the need for withholding of payments; or

9 (2) The withholding of payments has lasted for a  
10 period in excess of 3 years.

11 (c) The Illinois Department may adopt all rules  
12 necessary to implement this subsection (K-5).

13 (L) The Illinois Department shall establish a protocol to  
14 enable health care providers to disclose an actual or potential  
15 violation of this Section pursuant to a self-referral  
16 disclosure protocol, referred to in this subsection as "the  
17 protocol". The protocol shall include direction for health care  
18 providers on a specific person, official, or office to whom  
19 such disclosures shall be made. The Illinois Department shall  
20 post information on the protocol on the Illinois Department's  
21 public website. The Illinois Department may adopt rules  
22 necessary to implement this subsection (L). In addition to  
23 other factors that the Illinois Department finds appropriate,  
24 the Illinois Department may consider a health care provider's  
25 timely use or failure to use the protocol in considering the  
26 provider's failure to comply with this Code.

1           (M) Notwithstanding any other provision of this Code, the  
2 Illinois Department, at its discretion, may exempt an entity  
3 licensed under the Nursing Home Care Act and the ID/DD  
4 Community Care Act from the provisions of subsections (A-15),  
5 (B), and (C) of this Section if the licensed entity is in  
6 receivership.

7 (Source: P.A. 97-689, eff. 6-14-12; 97-1150, eff. 1-25-13.)

8           Section 99. Effective date. This Act takes effect upon  
9 becoming law.