

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 (E-10) A vendor who disputes an overpayment identified as
12 part of a Department audit shall utilize the Department's
13 self-referral disclosure protocol as set forth under this Code
14 to identify, investigate, and return to the Department any
15 undisputed audit overpayment amount. Unless the disputed
16 overpayment amount is subject to a fraud payment suspension, or
17 involves a termination sanction, the Department shall defer the
18 recovery of the disputed overpayment amount up to one year
19 after the date of the Department's final audit determination,
20 or earlier, or as required by State or federal law. If the
21 administrative hearing extends beyond one year, and such delay
22 was not caused by the request of the vendor, then the
23 Department shall not recover the disputed overpayment amount
24 until the date of the final administrative decision. If a final
25 administrative decision establishes that the disputed
26 overpayment amount is owed to the Department, then the amount

1 shall be immediately due to the Department. The Department
2 shall be entitled to recover interest from the vendor on the
3 overpayment amount from the date of the overpayment through the
4 date the vendor returns the overpayment to the Department at a
5 rate not to exceed the Wall Street Journal Prime Rate, as
6 published from time to time, but not to exceed 5%. Any interest
7 billed by the Department shall be due immediately upon receipt
8 of the Department's billing statement.

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

1 subsection. The Department must complete a proceeding under
2 this Section in a timely manner.

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

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

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

26 (2) If the vendor is a sole proprietorship: the owner

1 of the sole proprietorship.

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

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

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

21 (F-10) If the Illinois Department establishes that the
22 vendor or alternate payee owes a debt to the Illinois
23 Department, and the vendor or alternate payee subsequently
24 fails to pay or make satisfactory payment arrangements with the
25 Illinois Department for the debt owed, the Illinois Department
26 may seek all remedies available under the law of this State to

1 recover the debt, including, but not limited to, wage
2 garnishment or the filing of claims or liens against the vendor
3 or alternate payee.

4 (F-15) Enforcement of judgment.

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

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

19 (3) In any case in which any person or entity has
20 failed to comply with a judgment ordering or imposing any
21 fine or other sanction, any expenses incurred by the
22 Illinois Department to enforce the judgment, including,
23 but not limited to, attorney's fees, court costs, and costs
24 related to property demolition or foreclosure, after they
25 are fixed by a court of competent jurisdiction or the
26 Director, shall be a debt due and owing the State and may

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

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

24 (5) The Director may set aside any judgment entered by
25 default and set a new hearing date upon a petition filed at
26 any time (i) if the petitioner's failure to appear at the

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

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

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

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

24 (2) Vendors who pose a risk of fraud, waste, abuse, or
25 harm shall submit to a fingerprint-based criminal
26 background check on current and future information

1 available in the State system and current information
2 available through the Federal Bureau of Investigation's
3 system by submitting all necessary fees and information in
4 the form and manner prescribed by the Department of State
5 Police. The following individuals shall be subject to the
6 check:

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

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

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

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

15 Each such vendor shall be responsible for payment of
16 the cost of the criminal background check.

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

22 (4) The Department, or its agents, may refuse to accept
23 requests for authorization from specific vendors who pose a
24 risk of fraud, waste, abuse, or harm, including
25 prior-approval and post-approval requests, if:

26 (A) the Department has initiated a notice of

1 termination, suspension, or exclusion of the vendor
2 from participation in the medical assistance program;
3 or

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

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

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

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

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

1 Abuse does not include diagnostic or therapeutic
2 measures conducted primarily as a safeguard against
3 possible vendor liability.

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

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

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

1 terminated, suspended, placed on provisional status, or
2 reinstated. In the hearing, any evidence relevant to the vendor
3 constituting an immediate danger to the public may be
4 introduced against such vendor; provided, however, that the
5 vendor, or his or her counsel, shall have the opportunity to
6 discredit, impeach, and submit evidence rebutting such
7 evidence.

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

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

17 (1) Termination of the provider agreement.

18 (2) Temporary management.

19 (3) Denial of payment for new admissions.

20 (4) Civil money penalties.

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

23 (6) State monitoring.

24 (7) Denial of all payments when the U.S. Department of
25 Health and Human Services has imposed this sanction.

26 The Illinois Department shall by rule establish criteria

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

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

23 The Illinois Department may collect interest on unpaid
24 civil money penalties.

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

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

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

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

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

22 (d) The Illinois Department may seek a revocation of
23 any alternate payee, and all owners, officers, and
24 individuals with management responsibility for such
25 alternate payee shall be permanently prohibited from
26 participating as an owner, an officer, or an individual

1 with management responsibility with an alternate payee in
2 the Illinois Medical Assistance Program, if after
3 reasonable notice and opportunity for a hearing the
4 Illinois Department finds that:

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

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

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

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

23 (5) the alternate payee, a person with management
24 responsibility for an alternate payee, an officer or
25 person owning, either directly or indirectly, 5% or
26 more of the shares of stock or other evidences of

1 ownership in a corporate alternate payee, or a partner
2 in a partnership which is an alternate payee:

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

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

1 (c) was an officer, or person owning, either
2 directly or indirectly, 5% or more of the shares of
3 stock or other evidences of ownership in a
4 corporate vendor previously terminated, suspended,
5 or excluded from participation as a vendor in the
6 Illinois Medical Assistance Program, or was
7 previously revoked as an alternate payee in the
8 Illinois Medical Assistance Program, or was
9 terminated, suspended, or excluded from
10 participation as a vendor in a medical assistance
11 program in another state that is of the same kind
12 as the program of medical assistance provided
13 under Article V of this Code, during the time of
14 conduct which was the basis for that vendor's
15 termination, suspension, or exclusion; or

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

1 conduct which was the basis for that vendor's
2 termination, suspension, or exclusion or alternate
3 payee's revocation; or

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

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

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

20 (c) was an officer, or person owning, either
21 directly or indirectly, 5% or more of the shares of
22 stock or other evidences of ownership in a vendor
23 or alternate payee at the time such vendor or
24 alternate payee engaged in practices prohibited by
25 applicable federal or State law or regulation
26 relating to the Illinois Medical Assistance

1 Program; or

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

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

21 (K) The Illinois Department of Healthcare and Family
22 Services may withhold payments, in whole or in part, to a
23 provider or alternate payee where there is credible evidence,
24 received from State or federal law enforcement or federal
25 oversight agencies or from the results of a preliminary
26 Department audit, that the circumstances giving rise to the

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

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

21 (1) State that payments are being withheld in
22 accordance with this subsection.

23 (2) State that the withholding is for a temporary
24 period, as stated in paragraph (b) of this subsection,
25 and cite the circumstances under which withholding
26 will be terminated.

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

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

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

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

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

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

23 (3) The withholding of payments for a period of 3
24 years.

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

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

25 (a) The Illinois Department must send notice of its
26 withholding of program payments within 5 days of taking

1 such action. The notice must set forth the general
2 allegations as to the nature of the withholding action but
3 need not disclose any specific information concerning its
4 ongoing investigation. The notice must do all of the
5 following:

6 (1) State that payments are being withheld in
7 accordance with this subsection.

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

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

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

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

24 (b) All withholding of payment actions under this
25 subsection shall be temporary and shall not continue after
26 any of the following:

1 (1) The Illinois Department determines that there
2 is insufficient evidence of fraud, or the provider or
3 alternate payee demonstrates clear cooperation with
4 the Illinois Department, as determined by the Illinois
5 Department, such that the circumstances do not give
6 rise to the need for withholding of payments; or

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

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

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

25 (M) Notwithstanding any other provision of this Code, the
26 Illinois Department, at its discretion, may exempt an entity

1 licensed under the Nursing Home Care Act and the ID/DD
2 Community Care Act from the provisions of subsections (A-15),
3 (B), and (C) of this Section if the licensed entity is in
4 receivership.

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

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