



## 98TH GENERAL ASSEMBLY

### State of Illinois

2013 and 2014

SB2787

Introduced 1/30/2014, by Sen. William R. Haine

#### SYNOPSIS AS INTRODUCED:

See Index

Amends the Medical Practice Act of 1987. In a provision concerning the confidentiality of medical reports and committee reports, provides that the Department of Financial and Professional Regulation may disclose information and documents to a federal, state (rather than State), or local law enforcement agency pursuant to a subpoena in an ongoing criminal investigation, to a health care licensing body, to a medical licensing authority of this State or another state or jurisdiction, or to the Department of Healthcare and Family Services' Office of the Medicaid Inspector General pursuant to an official request made by that licensing body, by a medical licensing authority, or by the Office of the Medicaid Inspector General. Amends the Illinois Public Aid Code. Replaces all references to "Inspector General" with "Medicaid Inspector General". Requires the Medicaid Inspector General to oversee the program integrity functions of the Department of Healthcare and Family Services and the Medicaid funded programs of the Department on Aging and the Department of Human Services (rather than oversee the Department of Healthcare and Family Services' and the Department on Aging's integrity functions). Requires the Medicaid Inspector General to report his or her findings to certain persons. Requires State agencies and departments to provide the Office of the Medicaid Inspector General access to certain confidential and other information and data.

LRB098 15972 KTG 53891 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning public aid.

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

4 Section 5. The Medical Practice Act of 1987 is amended by  
5 changing Section 23 as follows:

6 (225 ILCS 60/23) (from Ch. 111, par. 4400-23)

7 (Section scheduled to be repealed on December 31, 2014)

8 Sec. 23. Reports relating to professional conduct and  
9 capacity.

10 (A) Entities required to report.

11 (1) Health care institutions. The chief administrator  
12 or executive officer of any health care institution  
13 licensed by the Illinois Department of Public Health shall  
14 report to the Disciplinary Board when any person's clinical  
15 privileges are terminated or are restricted based on a  
16 final determination made in accordance with that  
17 institution's by-laws or rules and regulations that a  
18 person has either committed an act or acts which may  
19 directly threaten patient care or that a person may be  
20 mentally or physically disabled in such a manner as to  
21 endanger patients under that person's care. Such officer  
22 also shall report if a person accepts voluntary termination  
23 or restriction of clinical privileges in lieu of formal

1 action based upon conduct related directly to patient care  
2 or in lieu of formal action seeking to determine whether a  
3 person may be mentally or physically disabled in such a  
4 manner as to endanger patients under that person's care.  
5 The Disciplinary Board shall, by rule, provide for the  
6 reporting to it by health care institutions of all  
7 instances in which a person, licensed under this Act, who  
8 is impaired by reason of age, drug or alcohol abuse or  
9 physical or mental impairment, is under supervision and,  
10 where appropriate, is in a program of rehabilitation. Such  
11 reports shall be strictly confidential and may be reviewed  
12 and considered only by the members of the Disciplinary  
13 Board, or by authorized staff as provided by rules of the  
14 Disciplinary Board. Provisions shall be made for the  
15 periodic report of the status of any such person not less  
16 than twice annually in order that the Disciplinary Board  
17 shall have current information upon which to determine the  
18 status of any such person. Such initial and periodic  
19 reports of impaired physicians shall not be considered  
20 records within the meaning of The State Records Act and  
21 shall be disposed of, following a determination by the  
22 Disciplinary Board that such reports are no longer  
23 required, in a manner and at such time as the Disciplinary  
24 Board shall determine by rule. The filing of such reports  
25 shall be construed as the filing of a report for purposes  
26 of subsection (C) of this Section.

1           (1.5) Clinical training programs. The program director  
2           of any post-graduate clinical training program shall  
3           report to the Disciplinary Board if a person engaged in a  
4           post-graduate clinical training program at the  
5           institution, including, but not limited to, a residency or  
6           fellowship, separates from the program for any reason prior  
7           to its conclusion. The program director shall provide all  
8           documentation relating to the separation if, after review  
9           of the report, the Disciplinary Board determines that a  
10          review of those documents is necessary to determine whether  
11          a violation of this Act occurred.

12          (2) Professional associations. The President or chief  
13          executive officer of any association or society, of persons  
14          licensed under this Act, operating within this State shall  
15          report to the Disciplinary Board when the association or  
16          society renders a final determination that a person has  
17          committed unprofessional conduct related directly to  
18          patient care or that a person may be mentally or physically  
19          disabled in such a manner as to endanger patients under  
20          that person's care.

21          (3) Professional liability insurers. Every insurance  
22          company which offers policies of professional liability  
23          insurance to persons licensed under this Act, or any other  
24          entity which seeks to indemnify the professional liability  
25          of a person licensed under this Act, shall report to the  
26          Disciplinary Board the settlement of any claim or cause of

1 action, or final judgment rendered in any cause of action,  
2 which alleged negligence in the furnishing of medical care  
3 by such licensed person when such settlement or final  
4 judgment is in favor of the plaintiff.

5 (4) State's Attorneys. The State's Attorney of each  
6 county shall report to the Disciplinary Board, within 5  
7 days, any instances in which a person licensed under this  
8 Act is convicted of any felony or Class A misdemeanor. The  
9 State's Attorney of each county may report to the  
10 Disciplinary Board through a verified complaint any  
11 instance in which the State's Attorney believes that a  
12 physician has willfully violated the notice requirements  
13 of the Parental Notice of Abortion Act of 1995.

14 (5) State agencies. All agencies, boards, commissions,  
15 departments, or other instrumentalities of the government  
16 of the State of Illinois shall report to the Disciplinary  
17 Board any instance arising in connection with the  
18 operations of such agency, including the administration of  
19 any law by such agency, in which a person licensed under  
20 this Act has either committed an act or acts which may be a  
21 violation of this Act or which may constitute  
22 unprofessional conduct related directly to patient care or  
23 which indicates that a person licensed under this Act may  
24 be mentally or physically disabled in such a manner as to  
25 endanger patients under that person's care.

26 (B) Mandatory reporting. All reports required by items

1 (34), (35), and (36) of subsection (A) of Section 22 and by  
2 Section 23 shall be submitted to the Disciplinary Board in a  
3 timely fashion. Unless otherwise provided in this Section, the  
4 reports shall be filed in writing within 60 days after a  
5 determination that a report is required under this Act. All  
6 reports shall contain the following information:

7 (1) The name, address and telephone number of the  
8 person making the report.

9 (2) The name, address and telephone number of the  
10 person who is the subject of the report.

11 (3) The name and date of birth of any patient or  
12 patients whose treatment is a subject of the report, if  
13 available, or other means of identification if such  
14 information is not available, identification of the  
15 hospital or other healthcare facility where the care at  
16 issue in the report was rendered, provided, however, no  
17 medical records may be revealed.

18 (4) A brief description of the facts which gave rise to  
19 the issuance of the report, including the dates of any  
20 occurrences deemed to necessitate the filing of the report.

21 (5) If court action is involved, the identity of the  
22 court in which the action is filed, along with the docket  
23 number and date of filing of the action.

24 (6) Any further pertinent information which the  
25 reporting party deems to be an aid in the evaluation of the  
26 report.

1           The Disciplinary Board or Department may also exercise the  
2 power under Section 38 of this Act to subpoena copies of  
3 hospital or medical records in mandatory report cases alleging  
4 death or permanent bodily injury. Appropriate rules shall be  
5 adopted by the Department with the approval of the Disciplinary  
6 Board.

7           When the Department has received written reports  
8 concerning incidents required to be reported in items (34),  
9 (35), and (36) of subsection (A) of Section 22, the licensee's  
10 failure to report the incident to the Department under those  
11 items shall not be the sole grounds for disciplinary action.

12           Nothing contained in this Section shall act to in any way,  
13 waive or modify the confidentiality of medical reports and  
14 committee reports to the extent provided by law. Any  
15 information reported or disclosed shall be kept for the  
16 confidential use of the Disciplinary Board, the Medical  
17 Coordinators, the Disciplinary Board's attorneys, the medical  
18 investigative staff, and authorized clerical staff, as  
19 provided in this Act, and shall be afforded the same status as  
20 is provided information concerning medical studies in Part 21  
21 of Article VIII of the Code of Civil Procedure, except that the  
22 Department may disclose information and documents to a federal,  
23 state ~~State~~, or local law enforcement agency pursuant to a  
24 subpoena in an ongoing criminal investigation, ~~or~~ to a health  
25 care licensing body, to a ~~or~~ medical licensing authority of  
26 this State or another state or jurisdiction, or to the

1 Department of Healthcare and Family Services' Office of the  
2 Medicaid Inspector General ~~of this State or another state or~~  
3 ~~jurisdiction~~ pursuant to an official request made by that  
4 licensing body, by a ~~or~~ medical licensing authority, or by the  
5 Office of the Medicaid Inspector General. Furthermore,  
6 information and documents disclosed to a federal, state ~~State~~,  
7 or local law enforcement agency may be used by that agency only  
8 for the investigation and prosecution of a criminal offense,  
9 or, in the case of disclosure to a health care licensing body  
10 or medical licensing authority, only for investigations and  
11 disciplinary action proceedings with regard to a license, or,  
12 in the case of disclosure to the Department of Healthcare and  
13 Family Services' Office of the Medicaid Inspector General, only  
14 for the investigations, quality care reviews, or sanction  
15 action proceedings. Information and documents disclosed to the  
16 Department of Public Health may be used by that Department only  
17 for investigation and disciplinary action regarding the  
18 license of a health care institution licensed by the Department  
19 of Public Health.

20 (C) Immunity from prosecution. Any individual or  
21 organization acting in good faith, and not in a wilful and  
22 wanton manner, in complying with this Act by providing any  
23 report or other information to the Disciplinary Board or a peer  
24 review committee, or assisting in the investigation or  
25 preparation of such information, or by voluntarily reporting to  
26 the Disciplinary Board or a peer review committee information



1 regarding alleged errors or negligence by a person licensed  
2 under this Act, or by participating in proceedings of the  
3 Disciplinary Board or a peer review committee, or by serving as  
4 a member of the Disciplinary Board or a peer review committee,  
5 shall not, as a result of such actions, be subject to criminal  
6 prosecution or civil damages.

7 (D) Indemnification. Members of the Disciplinary Board,  
8 the Licensing Board, the Medical Coordinators, the  
9 Disciplinary Board's attorneys, the medical investigative  
10 staff, physicians retained under contract to assist and advise  
11 the medical coordinators in the investigation, and authorized  
12 clerical staff shall be indemnified by the State for any  
13 actions occurring within the scope of services on the  
14 Disciplinary Board or Licensing Board, done in good faith and  
15 not wilful and wanton in nature. The Attorney General shall  
16 defend all such actions unless he or she determines either that  
17 there would be a conflict of interest in such representation or  
18 that the actions complained of were not in good faith or were  
19 wilful and wanton.

20 Should the Attorney General decline representation, the  
21 member shall have the right to employ counsel of his or her  
22 choice, whose fees shall be provided by the State, after  
23 approval by the Attorney General, unless there is a  
24 determination by a court that the member's actions were not in  
25 good faith or were wilful and wanton.

26 The member must notify the Attorney General within 7 days

1 of receipt of notice of the initiation of any action involving  
2 services of the Disciplinary Board. Failure to so notify the  
3 Attorney General shall constitute an absolute waiver of the  
4 right to a defense and indemnification.

5 The Attorney General shall determine within 7 days after  
6 receiving such notice, whether he or she will undertake to  
7 represent the member.

8 (E) Deliberations of Disciplinary Board. Upon the receipt  
9 of any report called for by this Act, other than those reports  
10 of impaired persons licensed under this Act required pursuant  
11 to the rules of the Disciplinary Board, the Disciplinary Board  
12 shall notify in writing, by certified mail, the person who is  
13 the subject of the report. Such notification shall be made  
14 within 30 days of receipt by the Disciplinary Board of the  
15 report.

16 The notification shall include a written notice setting  
17 forth the person's right to examine the report. Included in  
18 such notification shall be the address at which the file is  
19 maintained, the name of the custodian of the reports, and the  
20 telephone number at which the custodian may be reached. The  
21 person who is the subject of the report shall submit a written  
22 statement responding, clarifying, adding to, or proposing the  
23 amending of the report previously filed. The person who is the  
24 subject of the report shall also submit with the written  
25 statement any medical records related to the report. The  
26 statement and accompanying medical records shall become a

1 permanent part of the file and must be received by the  
2 Disciplinary Board no more than 30 days after the date on which  
3 the person was notified by the Disciplinary Board of the  
4 existence of the original report.

5 The Disciplinary Board shall review all reports received by  
6 it, together with any supporting information and responding  
7 statements submitted by persons who are the subject of reports.  
8 The review by the Disciplinary Board shall be in a timely  
9 manner but in no event, shall the Disciplinary Board's initial  
10 review of the material contained in each disciplinary file be  
11 less than 61 days nor more than 180 days after the receipt of  
12 the initial report by the Disciplinary Board.

13 When the Disciplinary Board makes its initial review of the  
14 materials contained within its disciplinary files, the  
15 Disciplinary Board shall, in writing, make a determination as  
16 to whether there are sufficient facts to warrant further  
17 investigation or action. Failure to make such determination  
18 within the time provided shall be deemed to be a determination  
19 that there are not sufficient facts to warrant further  
20 investigation or action.

21 Should the Disciplinary Board find that there are not  
22 sufficient facts to warrant further investigation, or action,  
23 the report shall be accepted for filing and the matter shall be  
24 deemed closed and so reported to the Secretary. The Secretary  
25 shall then have 30 days to accept the Disciplinary Board's  
26 decision or request further investigation. The Secretary shall

1 inform the Board of the decision to request further  
2 investigation, including the specific reasons for the  
3 decision. The individual or entity filing the original report  
4 or complaint and the person who is the subject of the report or  
5 complaint shall be notified in writing by the Secretary of any  
6 final action on their report or complaint. The Department shall  
7 disclose to the individual or entity who filed the original  
8 report or complaint, on request, the status of the Disciplinary  
9 Board's review of a specific report or complaint. Such request  
10 may be made at any time, including prior to the Disciplinary  
11 Board's determination as to whether there are sufficient facts  
12 to warrant further investigation or action.

13 (F) Summary reports. The Disciplinary Board shall prepare,  
14 on a timely basis, but in no event less than once every other  
15 month, a summary report of final disciplinary actions taken  
16 upon disciplinary files maintained by the Disciplinary Board.  
17 The summary reports shall be made available to the public upon  
18 request and payment of the fees set by the Department. This  
19 publication may be made available to the public on the  
20 Department's website. Information or documentation relating to  
21 any disciplinary file that is closed without disciplinary  
22 action taken shall not be disclosed and shall be afforded the  
23 same status as is provided by Part 21 of Article VIII of the  
24 Code of Civil Procedure.

25 (G) Any violation of this Section shall be a Class A  
26 misdemeanor.

1 (H) If any such person violates the provisions of this  
2 Section an action may be brought in the name of the People of  
3 the State of Illinois, through the Attorney General of the  
4 State of Illinois, for an order enjoining such violation or for  
5 an order enforcing compliance with this Section. Upon filing of  
6 a verified petition in such court, the court may issue a  
7 temporary restraining order without notice or bond and may  
8 preliminarily or permanently enjoin such violation, and if it  
9 is established that such person has violated or is violating  
10 the injunction, the court may punish the offender for contempt  
11 of court. Proceedings under this paragraph shall be in addition  
12 to, and not in lieu of, all other remedies and penalties  
13 provided for by this Section.

14 (Source: P.A. 97-449, eff. 1-1-12; 97-622, eff. 11-23-11;  
15 98-601, eff. 12-30-13.)

16 Section 10. The Illinois Public Aid Code is amended by  
17 changing Sections 5-16.10, 8A-12, 11-5.2, 11-5.4, 12-4.25,  
18 12-4.25b, 12-4.40 and 12-13.1 as follows:

19 (305 ILCS 5/5-16.10)

20 Sec. 5-16.10. Managed care entities; marketing. A managed  
21 health care entity providing services under this Article V may  
22 not engage in door-to-door marketing activities or marketing  
23 activities at an office of the Illinois Department or a county  
24 department in order to enroll recipients in the entity's health

1 care delivery system. The Department shall adopt rules defining  
2 "marketing activities" prohibited by this Section.

3 Before a managed health care entity providing services  
4 under this Article V may market its health care delivery system  
5 to recipients, the Illinois Department must approve a marketing  
6 plan submitted by the entity to the Illinois Department. The  
7 Illinois Department shall adopt guidelines for approving  
8 marketing plans submitted by managed health care entities under  
9 this Section. Besides prohibiting door-to-door marketing  
10 activities and marketing activities at public aid offices, the  
11 guidelines shall include at least the following:

12 (1) A managed health care entity may not offer or  
13 provide any gift, favor, or other inducement in marketing  
14 its health care delivery system to integrated health care  
15 program enrollees. A managed health care entity may provide  
16 health care related items that are of nominal value and  
17 pre-approved by the Department to prospective enrollees. A  
18 managed health care entity may also provide to enrollees  
19 health care related items that have been pre-approved by  
20 the Department as an incentive to manage their health care  
21 appropriately.

22 (2) All persons employed or otherwise engaged by a  
23 managed health care entity to market the entity's health  
24 care delivery system to recipients or to supervise that  
25 marketing shall register with the Illinois Department.

26 The Medicaid Inspector General appointed under Section

1 12-13.1 may conduct investigations to determine whether the  
2 marketing practices of managed health care entities providing  
3 services under this Article V comply with the guidelines.

4 (Source: P.A. 90-538, eff. 12-1-97.)

5 (305 ILCS 5/8A-12)

6 Sec. 8A-12. Early fraud prevention and detection program.  
7 The Illinois Department may conduct an early fraud prevention  
8 and detection program as provided in this Section. If  
9 conducted, the program shall apply to all categories of  
10 assistance and all applicants for aid. The program may be  
11 conducted in appropriate counties as determined by the  
12 Department. The program shall have the following features:

13 (1) No intimidation of applicants or recipients may  
14 occur, either by referral or threat of referral for a fraud  
15 prevention investigation.

16 (2) An applicant may not be referred for a fraud  
17 prevention investigation until an application for aid is  
18 completed and signed by the applicant or any authorized  
19 representative.

20 (3) An applicant may be referred to the Medicaid  
21 Inspector General for a fraud prevention investigation if  
22 there are reasonable grounds to question the accuracy of  
23 any information, statements, documents, or other  
24 representations by the applicant or any authorized  
25 representative. Referrals for fraud prevention

1 investigations shall be made in accordance with guidelines  
2 to be jointly determined by the Medicaid Inspector General  
3 and the Department.

4 (Source: P.A. 89-118, eff. 7-7-95.)

5 (305 ILCS 5/11-5.2)

6 Sec. 11-5.2. Income, Residency, and Identity Verification  
7 System.

8 (a) The Department shall ensure that its proposed  
9 integrated eligibility system shall include the computerized  
10 functions of income, residency, and identity eligibility  
11 verification to verify eligibility, eliminate duplication of  
12 medical assistance, and deter fraud. Until the integrated  
13 eligibility system is operational, the Department may enter  
14 into a contract with the vendor selected pursuant to Section  
15 11-5.3 as necessary to obtain the electronic data matching  
16 described in this Section. This contract shall be exempt from  
17 the Illinois Procurement Code pursuant to subsection (h) of  
18 Section 1-10 of that Code.

19 (b) Prior to awarding medical assistance at application  
20 under Article V of this Code, the Department shall, to the  
21 extent such databases are available to the Department, conduct  
22 data matches using the name, date of birth, address, and Social  
23 Security Number of each applicant or recipient or responsible  
24 relative of an applicant or recipient against the following:

25 (1) Income tax information.



1           (2) Employer reports of income and unemployment  
2 insurance payment information maintained by the Department  
3 of Employment Security.

4           (3) Earned and unearned income, citizenship and death,  
5 and other relevant information maintained by the Social  
6 Security Administration.

7           (4) Immigration status information maintained by the  
8 United States Citizenship and Immigration Services.

9           (5) Wage reporting and similar information maintained  
10 by states contiguous to this State.

11           (6) Employment information maintained by the  
12 Department of Employment Security in its New Hire Directory  
13 database.

14           (7) Employment information maintained by the United  
15 States Department of Health and Human Services in its  
16 National Directory of New Hires database.

17           (8) Veterans' benefits information maintained by the  
18 United States Department of Health and Human Services, in  
19 coordination with the Department of Health and Human  
20 Services and the Department of Veterans' Affairs, in the  
21 federal Public Assistance Reporting Information System  
22 (PARIS) database.

23           (9) Residency information maintained by the Illinois  
24 Secretary of State.

25           (10) A database which is substantially similar to or a  
26 successor of a database described in this Section that

1 contains information relevant for verifying eligibility  
2 for medical assistance.

3 (c) (Blank).

4 (d) If a discrepancy results between information provided  
5 by an applicant, recipient, or responsible relative and  
6 information contained in one or more of the databases or  
7 information tools listed under subsection (b) ~~or (e)~~ of this  
8 Section or subsection (c) of Section 11-5.3 and that  
9 discrepancy calls into question the accuracy of information  
10 relevant to a condition of eligibility provided by the  
11 applicant, recipient, or responsible relative, the Department  
12 or its contractor shall review the applicant's or recipient's  
13 case using the following procedures:

14 (1) If the information discovered under subsection (b)  
15 ~~(e)~~ of this Section or subsection (c) of Section 11-5.3  
16 does not result in the Department finding the applicant or  
17 recipient ineligible for assistance under Article V of this  
18 Code, the Department shall finalize the determination or  
19 redetermination of eligibility.

20 (2) If the information discovered results in the  
21 Department finding the applicant or recipient ineligible  
22 for assistance, the Department shall provide notice as set  
23 forth in Section 11-7 of this Article.

24 (3) If the information discovered is insufficient to  
25 determine that the applicant or recipient is eligible or  
26 ineligible, the Department shall provide written notice to

1 the applicant or recipient which shall describe in  
2 sufficient detail the circumstances of the discrepancy,  
3 the information or documentation required, the manner in  
4 which the applicant or recipient may respond, and the  
5 consequences of failing to take action. The applicant or  
6 recipient shall have 10 business days to respond.

7 (4) If the applicant or recipient does not respond to  
8 the notice, the Department shall deny assistance for  
9 failure to cooperate, in which case the Department shall  
10 provide notice as set forth in Section 11-7. Eligibility  
11 for assistance shall not be established until the  
12 discrepancy has been resolved.

13 (5) If an applicant or recipient responds to the  
14 notice, the Department shall determine the effect of the  
15 information or documentation provided on the applicant's  
16 or recipient's case and shall take appropriate action.  
17 Written notice of the Department's action shall be provided  
18 as set forth in Section 11-7 of this Article.

19 (6) Suspected cases of fraud shall be referred to the  
20 Department's Medicaid Inspector General.

21 (e) The Department shall adopt any rules necessary to  
22 implement this Section.

23 (Source: P.A. 97-689, eff. 6-14-12; revised 11-12-13.)

24 (305 ILCS 5/11-5.4)

25 Sec. 11-5.4. Expedited long-term care eligibility

1 determination and enrollment.

2 (a) An expedited long-term care eligibility determination  
3 and enrollment system shall be established to reduce long-term  
4 care determinations to 90 days or fewer by July 1, 2014 and  
5 streamline the long-term care enrollment process.  
6 Establishment of the system shall be a joint venture of the  
7 Department of Human Services and Healthcare and Family Services  
8 and the Department on Aging. The Governor shall name a lead  
9 agency no later than 30 days after the effective date of this  
10 amendatory Act of the 98th General Assembly to assume  
11 responsibility for the full implementation of the  
12 establishment and maintenance of the system. Project outcomes  
13 shall include an enhanced eligibility determination tracking  
14 system accessible to providers and a centralized application  
15 review and eligibility determination with all applicants  
16 reviewed within 90 days of receipt by the State of a complete  
17 application. If the Department of Healthcare and Family  
18 Services' Office of the Medicaid Inspector General determines  
19 that there is a likelihood that a non-allowable transfer of  
20 assets has occurred, and the facility in which the applicant  
21 resides is notified, an extension of up to 90 days shall be  
22 permissible. On or before December 31, 2015, a streamlined  
23 application and enrollment process shall be put in place based  
24 on the following principles:

25 (1) Minimize the burden on applicants by collecting  
26 only the data necessary to determine eligibility for

1 medical services, long-term care services, and spousal  
2 impoverishment offset.

3 (2) Integrate online data sources to simplify the  
4 application process by reducing the amount of information  
5 needed to be entered and to expedite eligibility  
6 verification.

7 (3) Provide online prompts to alert the applicant that  
8 information is missing or not complete.

9 (b) The Department shall, on or before July 1, 2014, assess  
10 the feasibility of incorporating all information needed to  
11 determine eligibility for long-term care services, including  
12 asset transfer and spousal impoverishment financials, into the  
13 State's integrated eligibility system identifying all  
14 resources needed and reasonable timeframes for achieving the  
15 specified integration.

16 (c) The lead agency shall file interim reports with the  
17 Chairs and Minority Spokespersons of the House and Senate Human  
18 Services Committees no later than September 1, 2013 and on  
19 February 1, 2014. The Department of Healthcare and Family  
20 Services shall include in the annual Medicaid report for State  
21 Fiscal Year 2014 and every fiscal year thereafter information  
22 concerning implementation of the provisions of this Section.

23 (d) No later than August 1, 2014, the Auditor General shall  
24 report to the General Assembly concerning the extent to which  
25 the timeframes specified in this Section have been met and the  
26 extent to which State staffing levels are adequate to meet the

1 requirements of this Section.

2 (Source: P.A. 98-104, eff. 7-22-13.)

3 (305 ILCS 5/12-4.25) (from Ch. 23, par. 12-4.25)

4 Sec. 12-4.25. Medical assistance program; vendor  
5 participation.

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

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

24 (b) Such vendor has failed to keep or make available  
25 for inspection, audit or copying, after receiving a written

1 request from the Illinois Department, such records  
2 regarding payments claimed for providing services. This  
3 section does not require vendors to make available patient  
4 records of patients for whom services are not reimbursed  
5 under this Code; or

6 (c) Such vendor has failed to furnish any information  
7 requested by the Department regarding payments for  
8 providing goods or services; or

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

13 (e) Such vendor has furnished goods or services to a  
14 recipient which are (1) in excess of need, (2) harmful, or  
15 (3) of grossly inferior quality, all of such determinations  
16 to be based upon competent medical judgment and  
17 evaluations; or

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

25 (1) was previously terminated, suspended, or  
26 excluded from participation in the Illinois medical

1 assistance program, or was terminated, suspended, or  
2 excluded from participation in another state or  
3 federal medical assistance or health care program; or

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

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

23 (4) was an owner of a sole proprietorship or  
24 partner of a partnership previously terminated,  
25 suspended, or excluded from participation in the  
26 Illinois medical assistance program, or terminated,



1           suspended, or excluded from participation in a state or  
2           federal medical assistance or health care program  
3           during the time of conduct which was the basis for that  
4           vendor's termination, suspension, or exclusion; or

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

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

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

16                (2) was a person with management responsibility  
17                for a vendor at the time that such vendor engaged in  
18                practices prohibited by applicable federal or State  
19                law or regulation; or

20                (3) 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 at  
23                the time such vendor engaged in practices prohibited by  
24                applicable federal or State law or regulation; or

25                (4) was an owner of a sole proprietorship or  
26                partner of a partnership which was a vendor at the time

1           such vendor engaged in practices prohibited by  
2           applicable federal or State law or regulation; or

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

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

1 convicted of an offense based on fraud or willful  
2 misrepresentation related to any of the following:

3 (1) The medical assistance program under Article V of  
4 this Code.

5 (2) A medical assistance or health care program in  
6 another state.

7 (3) The Medicare program under Title XVIII of the  
8 Social Security Act.

9 (4) The provision of health care services.

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

13 (A-10) The Illinois Department may 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, if, after reasonable notice and opportunity for a  
20 hearing, the Illinois Department finds that (i) the vendor,  
21 (ii) a person with management responsibility for a vendor,  
22 (iii) an officer or person owning, either directly or  
23 indirectly, 5% or more of the shares of stock or other  
24 evidences of ownership in a corporate vendor, (iv) an owner of  
25 a sole proprietorship that is a vendor, or (v) a partner in a  
26 partnership that is a vendor has been convicted of an offense

1 related to any of the following:

2 (1) Murder.

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

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

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

9 (5) A crime of fraud or dishonesty.

10 (6) A crime involving a controlled substance.

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

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

20 (1) The applicant or any person with management  
21 responsibility for the applicant; an officer or member of  
22 the board of directors of an applicant; an entity owning  
23 (directly or indirectly) 5% or more of the shares of stock  
24 or other evidences of ownership in a corporate vendor  
25 applicant; an owner of a sole proprietorship applicant; a  
26 partner in a partnership applicant; or a technical or other

1           advisor to an applicant has a debt owed to the Illinois  
2           Department, and no payment arrangements acceptable to the  
3           Illinois Department have been made by the applicant.

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

22          (3) There is a credible allegation of the use,  
23          transfer, or lease of assets of any kind to an applicant  
24          from a current or prior vendor who has a debt owed to the  
25          Illinois Department, no payment arrangements acceptable to  
26          the Illinois Department have been made by that vendor or

1 the vendor's alternate payee, and the applicant knows or  
2 should have known of such debt.

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

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

19 (6) There is a credible allegation that the applicant's  
20 previous affiliations with a provider of medical services  
21 that has an uncollected debt, a provider that has been or  
22 is subject to a payment suspension under a federal health  
23 care program, or a provider that has been previously  
24 excluded from participation in the medical assistance  
25 program, poses a risk of fraud, waste, or abuse to the  
26 Illinois Department.

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

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

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

17                 (2) within 30 days of the date when such vendor's  
18 professional license, certification or other authorization  
19 has been refused renewal, restricted, revoked, suspended,  
20 or otherwise terminated; or

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

23           (C) Upon termination, suspension, or exclusion of a vendor  
24 of goods or services from participation in the medical  
25 assistance program authorized by this Article, a person with  
26 management responsibility for such vendor during the time of

1 any conduct which served as the basis for that vendor's  
2 termination, suspension, or exclusion is barred from  
3 participation in the medical assistance program.

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

17 Upon termination, suspension, or exclusion of a sole  
18 proprietorship or partnership, the owner or partners during the  
19 time of any conduct which served as the basis for that vendor's  
20 termination, suspension, or exclusion are barred from  
21 participation in the medical assistance program. The owner of a  
22 terminated, suspended, or excluded vendor that is a sole  
23 proprietorship, and a partner in a terminated, suspended, or  
24 excluded vendor that is a partnership, may not transfer his or  
25 her ownership or partnership interest in that vendor to his or  
26 her spouse, child, brother, sister, parent, grandparent,



1 grandchild, uncle, aunt, niece, nephew, cousin, or relative by  
2 marriage.

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

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

19 A vendor or a prior vendor who has been terminated,  
20 excluded, or suspended from the medical assistance program, or  
21 from another state or federal medical assistance or health care  
22 program, and any individual currently or previously barred from  
23 the medical assistance program, or from another state or  
24 federal medical assistance or health care program, as a result  
25 of being an officer or a person owning, directly or indirectly,  
26 5% or more of the shares of stock or other evidences of

1 ownership in a corporate or limited liability company vendor  
2 during the time of any conduct which served as the basis for  
3 that vendor's termination, suspension, or exclusion, may be  
4 required to post a surety bond as part of a condition of  
5 enrollment or participation in the medical assistance program.  
6 The Illinois Department shall establish, by rule, the criteria  
7 and requirements for determining when a surety bond must be  
8 posted and the value of the bond.

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

23 (D) If a vendor has been suspended from the medical  
24 assistance program under Article V of the Code, the Director  
25 may require that such vendor correct any deficiencies which  
26 served as the basis for the suspension. The Director shall

1 specify in the suspension order a specific period of time,  
2 which shall not exceed one year from the date of the order,  
3 during which a suspended vendor shall not be eligible to  
4 participate. At the conclusion of the period of suspension the  
5 Director shall reinstate such vendor, unless he finds that such  
6 vendor has not corrected deficiencies upon which the suspension  
7 was based.

8 If a vendor has been terminated, suspended, or excluded  
9 from the medical assistance program under Article V, such  
10 vendor shall be barred from participation for at least one  
11 year, except that if a vendor has been terminated, suspended,  
12 or excluded based on a conviction of a violation of Article  
13 VIII A or a conviction of a felony based on fraud or a willful  
14 misrepresentation related to (i) the medical assistance  
15 program under Article V, (ii) a federal or another state's  
16 medical assistance or health care program, or (iii) the  
17 provision of health care services, then the vendor shall be  
18 barred from participation for 5 years or for the length of the  
19 vendor's sentence for that conviction, whichever is longer. At  
20 the end of one year a vendor who has been terminated,  
21 suspended, or excluded may apply for reinstatement to the  
22 program. Upon proper application to be reinstated such vendor  
23 may be deemed eligible by the Director providing that such  
24 vendor meets the requirements for eligibility under this Code.  
25 If such vendor is deemed not eligible for reinstatement, he  
26 shall be barred from again applying for reinstatement for one

1 year from the date his application for reinstatement is denied.

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

13 If a vendor has been terminated, suspended, or excluded and  
14 reinstated to the medical assistance program under Article V  
15 and the vendor is terminated, suspended, or excluded a second  
16 or subsequent time from the medical assistance program, the  
17 vendor shall be barred from participation for at least 2 years,  
18 except that if a vendor has been terminated, suspended, or  
19 excluded a second time based on a conviction of a violation of  
20 Article VIII A or a conviction of a felony based on fraud or a  
21 willful misrepresentation related to (i) the medical  
22 assistance program under Article V, (ii) a federal or another  
23 state's medical assistance or health care program, or (iii) the  
24 provision of health care services, then the vendor shall be  
25 barred from participation for life. At the end of 2 years, a  
26 vendor who has been terminated, suspended, or excluded may

1 apply for reinstatement to the program. Upon application to be  
2 reinstated, the vendor may be deemed eligible if the vendor  
3 meets the requirements for eligibility under this Code. If the  
4 vendor is deemed not eligible for reinstatement, the vendor  
5 shall be barred from again applying for reinstatement for 2  
6 years from the date the vendor's application for reinstatement  
7 is denied.

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

14 (1) Payments may be suspended, denied, or recovered  
15 from a vendor or alternate payee: (i) for services rendered  
16 in violation of the Illinois Department's provider  
17 notices, statutes, rules, and regulations; (ii) for  
18 services rendered in violation of the terms and conditions  
19 prescribed by the Illinois Department in its vendor  
20 agreement; (iii) for any vendor who fails to grant the  
21 Office of the Medicaid Inspector General timely access to  
22 full and complete records, including, but not limited to,  
23 records relating to recipients under the medical  
24 assistance program for the most recent 6 years, in  
25 accordance with Section 140.28 of Title 89 of the Illinois  
26 Administrative Code, and other information for the purpose

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

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

26 (E-5) Civil monetary penalties.

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

2 (a) "Knowingly" means that a person, with respect  
3 to information: (i) has actual knowledge of the  
4 information; (ii) acts in deliberate ignorance of the  
5 truth or falsity of the information; or (iii) acts in  
6 reckless disregard of the truth or falsity of the  
7 information. No proof of specific intent to defraud is  
8 required.

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

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

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

1           (2) Any person (including a vendor, provider,  
2 organization, agency, or other entity, or an alternate  
3 payee thereof, but excluding a recipient) who:

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

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

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

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

25           (AA) was not licensed as a physician;

26           (BB) was licensed as a physician but such



1 license had been obtained through a  
2 misrepresentation of material fact (including  
3 cheating on an examination required for  
4 licensing); or

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

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

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

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

23 (c) knowingly gives or causes to be given to any  
24 person, with respect to medical assistance program  
25 coverage of inpatient hospital services, information  
26 that he or she knows or should know is false or

1 misleading, and that could reasonably be expected to  
2 influence the decision when to discharge such person or  
3 other individual from the hospital;

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

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

15 (ii) is an officer or managing employee of such  
16 an entity;

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

25 (f) arranges or contracts (by employment or  
26 otherwise) with an individual or entity that the person

1 knows or should know is excluded from participation in  
2 the medical assistance program or a federal or state  
3 health care program, for the provision of items or  
4 services for which payment may be made under such a  
5 program;

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

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

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

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

25 (k) knowingly makes or causes to be made any false  
26 statement, omission, or misrepresentation of a

1 material fact in any application, bid, or contract to  
2 participate or enroll as a vendor or provider of  
3 services or a supplier under the medical assistance  
4 program;

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

8 shall be subject, in addition to any other penalties that  
9 may be prescribed by law, to a civil money penalty of not  
10 more than \$10,000 for each item or service (or, in cases  
11 under subparagraph (c), \$15,000 for each individual with  
12 respect to whom false or misleading information was given;  
13 in cases under subparagraph (d), \$10,000 for each day the  
14 prohibited relationship occurs; in cases under  
15 subparagraph (g), \$50,000 for each such act; in cases under  
16 subparagraph (h), \$50,000 for each false record or  
17 statement; in cases under subparagraph (i), \$15,000 for  
18 each day of the failure described in such subparagraph; or  
19 in cases under subparagraph (k), \$50,000 for each false  
20 statement, omission, or misrepresentation of a material  
21 fact). In addition, such a person shall be subject to an  
22 assessment of not more than 3 times the amount claimed for  
23 each such item or service in lieu of damages sustained by  
24 the State because of such claim (or, in cases under  
25 subparagraph (g), damages of not more than 3 times the  
26 total amount of remuneration offered, paid, solicited, or

1 received, without regard to whether a portion of such  
2 remuneration was offered, paid, solicited, or received for  
3 a lawful purpose; or in cases under subparagraph (k), an  
4 assessment of not more than 3 times the total amount  
5 claimed for each item or service for which payment was made  
6 based upon the application, bid, or contract containing the  
7 false statement, omission, or misrepresentation of a  
8 material fact).

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

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

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

1 administrative decisions of the Director.

2 (6) (a) If a person has received an overpayment, the  
3 person shall:

4 (i) report and return the overpayment to the  
5 Department at the correct address; and

6 (ii) notify the Department in writing of the reason  
7 for the overpayment.

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

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

12 (ii) the date any corresponding cost report is due,  
13 if applicable.

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

1 until the date of the final administrative decision. If a final  
2 administrative decision establishes that the disputed  
3 overpayment amount is owed to the Department, then the amount  
4 shall be immediately due to the Department. The Department  
5 shall be entitled to recover interest from the vendor on the  
6 overpayment amount from the date of the overpayment through the  
7 date the vendor returns the overpayment to the Department at a  
8 rate not to exceed the Wall Street Journal Prime Rate, as  
9 published from time to time, but not to exceed 5%. Any interest  
10 billed by the Department shall be due immediately upon receipt  
11 of the Department's billing statement.

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

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

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

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

25 (1) If the vendor or alternate payee is a corporation:  
26 an officer of the corporation or an individual who owns,



1           either directly or indirectly, 5% or more of the shares of  
2           stock or other evidence of ownership of the corporation.

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

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

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

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

24          (F-10) If the Illinois Department establishes that the  
25          vendor or alternate payee owes a debt to the Illinois  
26          Department, and the vendor or alternate payee subsequently

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

7 (F-15) Enforcement of judgment.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25           (4) The Department, or its agents, may refuse to accept  
26           requests for authorization from specific vendors who pose a

1 risk of fraud, waste, abuse, or harm, including  
2 prior-approval and post-approval requests, if:

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

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

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

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

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

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

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

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

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

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

1 without appreciable delay. Such hearing shall be held to  
2 determine whether to recommend to the Director that the  
3 vendor's medical assistance program participation be denied,  
4 terminated, suspended, placed on provisional status, or  
5 reinstated. In the hearing, any evidence relevant to the vendor  
6 constituting an immediate danger to the public may be  
7 introduced against such vendor; provided, however, that the  
8 vendor, or his or her counsel, shall have the opportunity to  
9 discredit, impeach, and submit evidence rebutting such  
10 evidence.

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

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

20 (1) Termination of the provider agreement.

21 (2) Temporary management.

22 (3) Denial of payment for new admissions.

23 (4) Civil money penalties.

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

26 (6) State monitoring.



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

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

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

26          The Illinois Department may collect interest on unpaid

1 civil money penalties.

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

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

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

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

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

25 (d) The Illinois Department may seek a revocation of  
26 any alternate payee, and all owners, officers, and

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

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

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

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

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

26 (5) the alternate payee, a person with management

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

6 (a) was previously terminated, suspended, or  
7 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; or

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

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

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

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

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

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

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

1           alternate payee engaged in practices prohibited by  
2           applicable federal or State law or regulation  
3           relating to the Illinois Medical Assistance  
4           Program; or

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

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

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

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

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

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

26 (2) State that the withholding is for a temporary



1 period, as stated in paragraph (b) of this subsection,  
2 and cite the circumstances under which withholding  
3 will be terminated.

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

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

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

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

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

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

26 (3) The withholding of payments for a period of 3

1           years.

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

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

1 Illinois Department first withholds such payments.

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

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

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

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

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

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

1           (b) All withholding of payment actions under this  
2 subsection shall be temporary and shall not continue after  
3 any of the following:

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

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

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

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

1 provider's failure to comply with this Code.

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

8 (Source: P.A. 97-689, eff. 6-14-12; 97-1150, eff. 1-25-13;  
9 98-214, eff. 8-9-13; 98-550, eff. 8-27-13; revised 9-19-13.)

10 (305 ILCS 5/12-4.25b) (from Ch. 23, par. 12-4.25b)

11 Sec. 12-4.25b. A vendor of physician services who is the  
12 subject of medical quality review by the Illinois Department  
13 shall have the right to record that portion of any Medical  
14 Quality Review Committee meeting or hearing with the Illinois  
15 Department, at which the vendor is present and participates.  
16 The recording shall be privileged and confidential and shall  
17 not be disclosed, except: (1) however if the Illinois  
18 Department initiates action to deny, suspend or terminate the  
19 vendor's participation in the Medicaid program, the recording  
20 may be disclosed to an attorney or physician consultant to  
21 prepare a defense, or (2) pursuant to an official request, the  
22 recording shall be disclosed to the Department of Financial and  
23 Professional Regulation only for use in investigations and  
24 disciplinary action proceedings with regard to a license.

25 The Medicaid Inspector General, upon making a

1 determination based upon information in the possession of the  
2 Department of Healthcare and Family Services or the Medicaid  
3 Inspector General that continuation in practice of a licensed  
4 health care professional may constitute a risk of harm to the  
5 public, that the licensed health care professional's care is  
6 grossly inferior or in excess of needs, or that there is a  
7 credible allegation of fraud by the licensed health care  
8 professional, shall submit a written communication to the  
9 Secretary of the Department of Financial and Professional  
10 Regulation indicating such determination and shall recommend  
11 that the Secretary of the Department of Financial and  
12 Professional Regulation investigate such person's license. All  
13 relevant evidence, or copies thereof, in the Illinois  
14 Department's possession may also be submitted in conjunction  
15 with the written communication. A copy of such written  
16 communication is exempt from the copying and inspection  
17 provisions of the Freedom of Information Act.

18 (Source: P.A. 87-399.)

19 (305 ILCS 5/12-4.40)

20 Sec. 12-4.40. Payment Recapture Audits. The Department of  
21 Healthcare and Family Services is authorized to contract with  
22 third-party entities to conduct Payment Recapture Audits to  
23 detect and recapture payments made in error or as a result of  
24 fraud or abuse. Payment Recapture Audits under this Section may  
25 be performed in conjunction with similar audits performed under

1 federal authorization.

2 A Payment Recapture Audit shall include the process of  
3 identifying improper payments paid to providers or other  
4 entities whereby accounting specialists and fraud examination  
5 specialists examine payment records and uncover such problems  
6 as duplicate payments, payments for services not rendered,  
7 overpayments, payments for unauthorized services, and  
8 fictitious vendors. This audit may include the use of  
9 professional and specialized auditors on a contingency basis,  
10 with compensation tied to the identification of misspent funds.

11 The use of Payment Recapture Audits does not preclude the  
12 Office of the Medicaid Inspector General or any other  
13 authorized agency employee from performing activities to  
14 identify and prevent improper payments.

15 (Source: P.A. 96-942, eff. 6-25-10; 97-333, eff. 8-12-11.)

16 (305 ILCS 5/12-13.1)

17 Sec. 12-13.1. Medicaid Inspector General.

18 (a) The Governor shall appoint, and the Senate shall  
19 confirm, a Medicaid ~~an~~ Inspector General who shall function  
20 within the Illinois Department of Public Aid (now Healthcare  
21 and Family Services) and report to the Governor. The term of  
22 the Medicaid Inspector General shall expire on the third Monday  
23 of January, 1997 and every 4 years thereafter.

24 (b) In order to prevent, detect, and eliminate fraud,  
25 waste, abuse, mismanagement, and misconduct, the Medicaid

1 Inspector General shall oversee the program integrity  
2 functions of the Department of Healthcare and Family Services  
3 and the Medicaid funded programs of Services' and the  
4 Department on Aging and Aging's the Department of Human  
5 Services. Program integrity functions, ~~which~~ include, but are  
6 not limited to, the following:

7 (1) Investigation of misconduct by employees, vendors,  
8 contractors, ~~and medical~~ providers, except for allegations  
9 of violations of the State Officials and Employees Ethics  
10 Act which shall be referred to the Office of the Governor's  
11 Executive Inspector General for investigation.

12 (2) Prepayment and post-payment audits of ~~medical~~  
13 providers related to ensuring that appropriate payments  
14 are made for services rendered and to the prevention and  
15 recovery of overpayments.

16 (3) Monitoring of quality assurance programs  
17 administered by the Department of Healthcare and Family  
18 Services, the Department on Aging, and the Department of  
19 Human Services ~~Department of Healthcare and Family~~  
20 ~~Services and the Community Care Program administered by the~~  
21 ~~Department on Aging.~~

22 (4) Quality control measurements of the programs  
23 administered by the Department of Healthcare and Family  
24 Services, the Department on Aging, and the Department of  
25 Human Services ~~Department of Healthcare and Family~~  
26 ~~Services and the Community Care Program administered by the~~



1 ~~Department on Aging.~~

2 (5) Investigations of fraud or intentional program  
3 violations committed by clients of the Department of  
4 Healthcare and Family Services, the Department on Aging,  
5 and the Department of Human Services ~~Department of~~  
6 ~~Healthcare and Family Services and the Community Care~~  
7 ~~Program administered by the Department on Aging.~~

8 (6) Actions initiated against contractors, vendors, or  
9 ~~medical~~ providers for any of the following reasons:

10 (A) Violations of the programs ~~medical assistance~~  
11 ~~program and the Community Care Program administered by~~  
12 ~~the Department on Aging.~~

13 (B) Sanctions against providers ~~brought in~~  
14 ~~conjunction with the Department of Public Health or the~~  
15 ~~Department of Human Services (as successor to the~~  
16 ~~Department of Mental Health and Developmental~~  
17 ~~Disabilities).~~

18 (C) Recoveries of assessments against hospitals  
19 and long-term care facilities.

20 (D) Sanctions mandated by the United States  
21 Department of Health and Human Services against  
22 ~~medical~~ providers.

23 (E) Violations of contracts related to any  
24 programs administered by the Department of Healthcare  
25 and Family Services, the Department on Aging, and the  
26 Department of Human Services ~~Department of Healthcare~~

1 ~~and Family Services and the Community Care Program~~  
2 ~~administered by the Department on Aging.~~

3 (7) Representation of the Department of Healthcare and  
4 Family Services at hearings with the Illinois Department of  
5 Financial and Professional Regulation in actions taken  
6 against professional licenses held by persons who are in  
7 violation of orders for child support payments.

8 (b-5) The Medicaid ~~At the request of the Secretary of Human~~  
9 ~~Services, the Inspector General shall, in relation to any~~  
10 ~~function performed by the Department of Human Services as~~  
11 ~~successor to the Department of Public Aid, exercise one or more~~  
12 ~~of the powers provided under this Section as if those powers~~  
13 ~~related to the Department of Human Services; in such matters,~~  
14 ~~the~~ Inspector General shall report his or her findings to the  
15 Secretary of Human Services and to the Directors of the  
16 Department of Healthcare and Family Services and the Department  
17 on Aging.

18 (c) Notwithstanding, and in addition to, any other  
19 provision of law, the Medicaid Inspector General shall have  
20 access to all information, personnel, and facilities of the  
21 Department of Healthcare and Family Services, and the  
22 Department of Human Services, and the Department on Aging, ~~(as~~  
23 ~~successor to the Department of Public Aid),~~ their employees,  
24 vendors, contractors, and ~~medical~~ providers and any federal,  
25 State, or local governmental agency that are necessary to  
26 perform the duties of the Office of the Medicaid Inspector

1 General as directly related to ~~public assistance~~ programs  
2 administered by those departments. No medical provider shall be  
3 compelled, however, to provide individual medical records of  
4 patients who are not clients of the programs ~~administered by~~  
5 ~~the Department of Healthcare and Family Services~~. State and  
6 local governmental agencies are authorized and directed to  
7 provide the requested information, assistance, or cooperation.

8 For purposes of enhanced program integrity functions and  
9 oversight, and to the extent consistent with applicable  
10 information and privacy, security, and disclosure laws, State  
11 agencies and departments shall provide the Office of the  
12 Medicaid Inspector General access to confidential and other  
13 information and data, and the Medicaid Inspector General is  
14 authorized to enter into agreements with appropriate federal  
15 agencies and departments to secure similar data. This includes,  
16 but is not limited to, information pertaining to: licensure;  
17 certification; earnings; immigration status; citizenship; wage  
18 reporting; unearned and earned income; pension income;  
19 employment; supplemental security income; social security  
20 numbers; National Provider Identifier (NPI) numbers; the  
21 National Practitioner Data Bank (NPDB); program and agency  
22 exclusions; taxpayer identification numbers; tax delinquency;  
23 corporate information; and death records.

24 The Medicaid Inspector General shall enter into agreements  
25 with State agencies and departments, and is authorized to enter  
26 into agreements with federal agencies and departments, under

1 which such agencies and departments shall share data necessary  
2 for medical assistance program integrity functions and  
3 oversight. The Medicaid Inspector General shall enter into  
4 agreements with State agencies and departments, and is  
5 authorized to enter into agreements with federal agencies and  
6 departments, under which such agencies shall share data  
7 necessary for recipient and vendor screening, review, and  
8 investigation, including but not limited to vendor payment and  
9 recipient eligibility verification. The Medicaid Inspector  
10 General shall develop, in cooperation with other State and  
11 federal agencies and departments, and in compliance with  
12 applicable federal laws and regulations, appropriate and  
13 effective methods to share such data. The Medicaid Inspector  
14 General shall enter into agreements with State agencies and  
15 departments, and is authorized to enter into agreements with  
16 federal agencies and departments, including, but not limited  
17 to: the Secretary of State; the Department of Revenue; the  
18 Department of Public Health; the Department of Human Services;  
19 and the Department of Financial and Professional Regulation.  
20 For purposes of enhanced program integrity functions and  
21 oversight, and to the extent consistent with applicable  
22 information and privacy, security, and disclosure laws, State  
23 agencies and departments shall provide the Office of the  
24 Medicaid Inspector General access to confidential and other  
25 information and data necessary to perform the duties of the  
26 Office upon receipt of a written request from the Medicaid

1 Inspector General notwithstanding the existence of any  
2 interagency agreement.

3 The Medicaid Inspector General shall have the authority to  
4 deny payment, prevent overpayments, and recover overpayments.

5 The Medicaid Inspector General shall have the authority to  
6 deny or suspend payment to, and deny, terminate, or suspend the  
7 eligibility of, any vendor who fails to grant the Medicaid  
8 Inspector General timely access to full and complete records,  
9 ~~including records of recipients under the medical assistance~~  
10 ~~program~~ for the most recent 6 years, ~~in accordance with Section~~  
11 ~~140.28 of Title 89 of the Illinois Administrative Code,~~ and  
12 other information for the purpose of audits, investigations, or  
13 other program integrity functions, after reasonable written  
14 request by the Medicaid Inspector General.

15 (d) The Medicaid Inspector General shall serve as the  
16 Department of Healthcare and Family Services, the Department on  
17 Aging, and the Department of Human Services' ~~Department of~~  
18 ~~Healthcare and Family Services'~~ primary liaison with law  
19 enforcement, investigatory and prosecutorial agencies,  
20 including but not limited to the following:

21 (1) The Department of State Police.

22 (2) The Federal Bureau of Investigation and other  
23 federal law enforcement agencies.

24 (3) The various Inspectors General of federal agencies  
25 overseeing the programs administered by the Department of  
26 Healthcare and Family Services.

1           (4) The various Inspectors General of any other State  
2 agencies with responsibilities for portions of programs  
3 primarily administered by the Department of Healthcare and  
4 Family Services.

5           (5) The Offices of the several United States Attorneys  
6 in Illinois.

7           (6) The several State's Attorneys.

8           (7) The offices of the Centers for Medicare and  
9 Medicaid Services that administer the Medicare and  
10 Medicaid integrity programs.

11          The Medicaid Inspector General shall meet on a regular  
12 basis with these entities to share information regarding  
13 possible misconduct by any persons or entities involved with  
14 the public aid programs administered by the Department of  
15 Healthcare and Family Services.

16          (e) All investigations conducted by the Medicaid Inspector  
17 General shall be conducted in a manner that ensures the  
18 preservation of evidence for use in criminal prosecutions. If  
19 the Medicaid Inspector General determines that a possible  
20 criminal act relating to fraud in the provision or  
21 administration of the medical assistance program has been  
22 committed, the Medicaid Inspector General shall immediately  
23 notify the Medicaid Fraud Control Unit. If the Medicaid  
24 Inspector General determines that a possible criminal act has  
25 been committed within the jurisdiction of the Office, the  
26 Medicaid Inspector General may request the special expertise of

1 the Department of State Police. The Medicaid Inspector General  
2 may present for prosecution the findings of any criminal  
3 investigation to the Office of the Attorney General, the  
4 Offices of the several United States Attorneys in Illinois or  
5 the several State's Attorneys.

6 (f) To carry out his or her duties as described in this  
7 Section, the Medicaid Inspector General and his or her  
8 designees shall have the power to compel by subpoena the  
9 attendance and testimony of witnesses and the production of  
10 books, electronic records and papers as directly related to the  
11 medical ~~public~~ assistance programs ~~administered by the~~  
12 ~~Department of Healthcare and Family Services or the Department~~  
13 ~~of Human Services (as successor to the Department of Public~~  
14 ~~Aid)~~. No ~~medical~~ provider shall be compelled, however, to  
15 provide individual medical records of patients who are not  
16 clients of the Medical Assistance Program.

17 (g) The Medicaid Inspector General shall report all  
18 convictions, terminations, and suspensions taken against  
19 vendors, contractors and medical providers to the Department of  
20 Healthcare and Family Services and to any agency responsible  
21 for licensing or regulating those persons or entities.

22 (h) The Medicaid Inspector General shall make annual  
23 reports, findings, and recommendations regarding the Office's  
24 investigations into reports of fraud, waste, abuse,  
25 mismanagement, or misconduct relating to any programs  
26 administered by the Department of Healthcare and Family

1 Services, ~~or~~ the Department of Human Services (as successor to  
2 the Department of Public Aid), and the Department on Aging to  
3 the General Assembly and the Governor. These reports shall  
4 include, but not be limited to, the following information:

5 (1) Aggregate provider billing and payment  
6 information, including the number of providers at various  
7 Medicaid earning levels.

8 (2) The number of audits of the medical assistance  
9 program and the dollar savings resulting from those audits.

10 (3) The number of prescriptions rejected annually  
11 under the Department of Healthcare and Family Services'  
12 Refill Too Soon program and the dollar savings resulting  
13 from that program.

14 (4) Provider sanctions, in the aggregate, including  
15 terminations and suspensions.

16 (5) A detailed summary of the investigations  
17 undertaken in the previous fiscal year. These summaries  
18 shall comply with all laws and rules regarding maintaining  
19 confidentiality in the public aid programs.

20 (i) Nothing in this Section shall limit investigations by  
21 the Department of Healthcare and Family Services, ~~or~~ the  
22 Department of Human Services, or the Department on Aging that  
23 may otherwise be required by law or that may be necessary in  
24 their capacity as the central administrative authorities  
25 responsible for administration of their agency's programs in  
26 this State.



1           (j) The Medicaid Inspector General may issue shields or  
2 other distinctive identification to his or her employees not  
3 exercising the powers of a peace officer if the Inspector  
4 General determines that a shield or distinctive identification  
5 is needed by an employee to carry out his or her  
6 responsibilities.

7           (Source: P.A. 97-689, eff. 6-14-12; 98-8, eff. 5-3-13.)

1 INDEX

2 Statutes amended in order of appearance

3 225 ILCS 60/23 from Ch. 111, par. 4400-23

4 305 ILCS 5/5-16.10

5 305 ILCS 5/8A-12

6 305 ILCS 5/11-5.2

7 305 ILCS 5/11-5.4

8 305 ILCS 5/12-4.25 from Ch. 23, par. 12-4.25

9 305 ILCS 5/12-4.25b from Ch. 23, par. 12-4.25b

10 305 ILCS 5/12-4.40

11 305 ILCS 5/12-13.1