

1 AN ACT concerning State government.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 exclusion; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14 (4) The provision of health care services.

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

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

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

7 (1) Murder.

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

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

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

14 (5) A crime of fraud or dishonesty.

15 (6) A crime involving a controlled substance.

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

1           this Code, as provided in Article VIIIA.

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

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

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

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

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

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

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

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

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

1 the bond.

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

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

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

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

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

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

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

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



1 complete records, including, but not limited to, records  
2 relating to recipients under the medical assistance  
3 program for the most recent 6 years, in accordance with  
4 Section 140.28 of Title 89 of the Illinois Administrative  
5 Code, and other information for the purpose of audits,  
6 investigations, or other program integrity functions,  
7 after reasonable written request by the Inspector General;  
8 this subsection (E) does not require vendors to make  
9 available the medical records of patients for whom services  
10 are not reimbursed under this Code or to provide access to  
11 medical records more than 6 years old; (iv) when the vendor  
12 has knowingly made, or caused to be made, any false  
13 statement or representation of a material fact in  
14 connection with the administration of the medical  
15 assistance program; or (v) when the vendor previously  
16 rendered services while terminated, suspended, or excluded  
17 from participation in the medical assistance program or  
18 while terminated or excluded from participation in another  
19 state or federal medical assistance or health care program.  
20 Notwithstanding any other provision to the contrary, the  
21 Department shall not seek recovery of overpayments,  
22 adjustments, or other amounts due that are more than 6  
23 years old, except in the following circumstances: (i) there  
24 is an active investigation initiated by the Department of  
25 State Police or any other State or federal law enforcement  
26 agency during the 6-year period, in which case the 6-year

1 limitation for the recovery of overpayments, adjustments,  
2 or other amounts due is tolled for the period of time the  
3 matter is under investigation or prosecution; or (ii) the  
4 Centers for Medicare and Medicaid Services attempts to  
5 recover federal financial participation moneys from the  
6 Department resulting from an overpayment more than 6 years  
7 old and the Centers for Medicare and Medicaid Services  
8 determines that the overpayment is not discharged or  
9 uncollectible pursuant to Section 1903(d)(2)(D) of the  
10 Social Security Act.

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

21 (E-5) Civil monetary penalties.

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

23 (a) "Knowingly" means that a person, with respect  
24 to information: (i) has actual knowledge of the  
25 information; (ii) acts in deliberate ignorance of the  
26 truth or falsity of the information; or (iii) acts in

1           reckless disregard of the truth or falsity of the  
2           information. No proof of specific intent to defraud is  
3           required.

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

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

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

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

25                  (a) knowingly presents or causes to be presented to  
26                  an officer, employee, or agent of the State, a claim



1           time the service was furnished that the  
2           physician was certified in a medical specialty  
3           by a medical specialty board, when the  
4           individual was not so certified;

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

10          (v) is for a pattern of medical or other items  
11          or services that a person knows or should know are  
12          not medically necessary;

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

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

25          (d) in the case of a person who is not an  
26          organization, agency, or other entity, is excluded

1 from participating in the medical assistance program  
2 or a federal or state health care program and who, at  
3 the time of a violation of this subsection (E-5):

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

10 (ii) is an officer or managing employee of such  
11 an entity;

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

20 (f) arranges or contracts (by employment or  
21 otherwise) with an individual or entity that the person  
22 knows or should know is excluded from participation in  
23 the medical assistance program or a federal or state  
24 health care program, for the provision of items or  
25 services for which payment may be made under such a  
26 program;

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

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

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

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

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

25 (l) knows of an overpayment and does not report and  
26 return the overpayment to the Department in accordance

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



1 false statement, omission, or misrepresentation of a  
2 material fact).

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

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

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

22 (6) (a) If a person has received an overpayment, the  
23 person shall:

24 (i) report and return the overpayment to the  
25 Department at the correct address; and

26 (ii) notify the Department in writing of the reason

1           for the overpayment.

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

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

6                   (ii) the date any corresponding cost report is due,  
7                   if applicable.

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

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

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

26 Notwithstanding recovery allowed under subsection (E) or

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

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

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

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

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

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

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

18          (F-10) If the Illinois Department establishes that the  
19          vendor or alternate payee owes a debt to the Illinois  
20          Department, and the vendor or alternate payee subsequently  
21          fails to pay or make satisfactory payment arrangements with the  
22          Illinois Department for the debt owed, the Illinois Department  
23          may seek all remedies available under the law of this State to  
24          recover the debt, including, but not limited to, wage  
25          garnishment or the filing of claims or liens against the vendor  
26          or alternate payee.

1 (F-15) Enforcement of judgment.

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

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

16 (3) In any case in which any person or entity has  
17 failed to comply with a judgment ordering or imposing any  
18 fine or other sanction, any expenses incurred by the  
19 Illinois Department to enforce the judgment, including,  
20 but not limited to, attorney's fees, court costs, and costs  
21 related to property demolition or foreclosure, after they  
22 are fixed by a court of competent jurisdiction or the  
23 Director, shall be a debt due and owing the State and may  
24 be collected in accordance with applicable law. Prior to  
25 any expenses being fixed by a final administrative decision  
26 pursuant to this subsection (F-15), the Illinois

1 Department shall provide notice to the individual or entity  
2 that states that the individual or entity shall appear at a  
3 hearing before the administrative hearing officer to  
4 determine whether the individual or entity has failed to  
5 comply with the judgment. The notice shall set the date for  
6 such a hearing, which shall not be less than 7 days from  
7 the date that notice is served. If notice is served by  
8 mail, the 7-day period shall begin to run on the date that  
9 the notice was deposited in the mail.

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

21 (5) The Director may set aside any judgment entered by  
22 default and set a new hearing date upon a petition filed at  
23 any time (i) if the petitioner's failure to appear at the  
24 hearing was for good cause, or (ii) if the petitioner  
25 established that the Department did not provide proper  
26 service of process. If any judgment is set aside pursuant

1 to this paragraph (5), the hearing officer shall have  
2 authority to enter an order extinguishing any lien which  
3 has been recorded for any debt due and owing the Illinois  
4 Department as a result of the vacated default judgment.

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

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

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

21 (2) Vendors who pose a risk of fraud, waste, abuse, or  
22 harm shall submit to a fingerprint-based criminal  
23 background check on current and future information  
24 available in the State system and current information  
25 available through the Federal Bureau of Investigation's  
26 system by submitting all necessary fees and information in



1 the form and manner prescribed by the Department of State  
2 Police. The following individuals shall be subject to the  
3 check:

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

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

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

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

12 Each such vendor shall be responsible for payment of  
13 the cost of the criminal background check.

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

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

23 (A) the Department has initiated a notice of  
24 termination, suspension, or exclusion of the vendor  
25 from participation in the medical assistance program;  
26 or

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

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

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

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

16 (B) "Abuse" means provider practices that are  
17 inconsistent with sound fiscal, business, or medical  
18 practices and that result in an unnecessary cost to the  
19 medical assistance program or in reimbursement for  
20 services that are not medically necessary or that fail  
21 to meet professionally recognized standards for health  
22 care. It also includes recipient practices that result  
23 in unnecessary cost to the medical assistance program.  
24 Abuse does not include diagnostic or therapeutic  
25 measures conducted primarily as a safeguard against  
26 possible vendor liability.

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

7 (D) "Harm" means physical, mental, or monetary  
8 damage to recipients or to the medical assistance  
9 program.

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

1 introduced against such vendor; provided, however, that the  
2 vendor, or his or her counsel, shall have the opportunity to  
3 discredit, impeach, and submit evidence rebutting such  
4 evidence.

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

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

14 (1) Termination of the provider agreement.

15 (2) Temporary management.

16 (3) Denial of payment for new admissions.

17 (4) Civil money penalties.

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

20 (6) State monitoring.

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

23 The Illinois Department shall by rule establish criteria  
24 governing continued payments to a nursing facility subsequent  
25 to termination of the facility's provider agreement if, in the  
26 sole discretion of the Illinois Department, circumstances

1 affecting the health, safety, and welfare of the facility's  
2 residents require those continued payments. The Illinois  
3 Department may condition those continued payments on the  
4 appointment of temporary management, sale of the facility to  
5 new owners or operators, or other arrangements that the  
6 Illinois Department determines best serve the needs of the  
7 facility's residents.

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

20 The Illinois Department may collect interest on unpaid  
21 civil money penalties.

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

24 (J) The Illinois Department, by rule, may permit individual  
25 practitioners to designate that Department payments that may be  
26 due the practitioner be made to an alternate payee or alternate

1 payees.

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

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

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

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

1 Illinois Department finds that:

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

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

12 (3) the alternate payee has failed to furnish any  
13 information requested by the Illinois Department  
14 regarding payments claimed as an alternate payee; or

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

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

26 (a) was previously terminated, suspended, or

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

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

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



1 corporate vendor previously terminated, suspended,  
2 or excluded from participation as a vendor in the  
3 Illinois Medical Assistance Program, or was  
4 previously revoked as an alternate payee in the  
5 Illinois Medical Assistance Program, or was  
6 terminated, suspended, or excluded from  
7 participation as a vendor in a medical assistance  
8 program in another state that is of the same kind  
9 as the program of medical assistance provided  
10 under Article V of this Code, during the time of  
11 conduct which was the basis for that vendor's  
12 termination, suspension, or exclusion; or

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

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

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

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

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

25                  (d) was an owner of a sole proprietorship or  
26                  partner in a partnership which was a vendor or

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

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

18          (K) The Illinois Department of Healthcare and Family  
19          Services may withhold payments, in whole or in part, to a  
20          provider or alternate payee where there is credible evidence,  
21          received from State or federal law enforcement or federal  
22          oversight agencies or from the results of a preliminary  
23          Department audit, that the circumstances giving rise to the  
24          need for a withholding of payments may involve fraud or willful  
25          misrepresentation under the Illinois Medical Assistance  
26          program. The Department shall by rule define what constitutes

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

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

18 (1) State that payments are being withheld in  
19 accordance with this subsection.

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

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

26 (4) Inform the provider or alternate payee of the

1 right to submit written evidence for reconsideration  
2 of the withholding by the Illinois Department.

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

8 (b) All withholding-of-payment actions under this  
9 subsection shall be temporary and shall not continue after  
10 any of the following:

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

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

20 (3) The withholding of payments for a period of 3  
21 years.

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

24 (K-5) The Illinois Department may withhold payments, in  
25 whole or in part, to a provider or alternate payee upon  
26 initiation of an audit, quality of care review, investigation

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

22 (a) The Illinois Department must send notice of its  
23 withholding of program payments within 5 days of taking  
24 such action. The notice must set forth the general  
25 allegations as to the nature of the withholding action but  
26 need not disclose any specific information concerning its

1 ongoing investigation. The notice must do all of the  
2 following:

3 (1) State that payments are being withheld in  
4 accordance with this subsection.

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

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

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

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

21 (b) All withholding of payment actions under this  
22 subsection shall be temporary and shall not continue after  
23 any of the following:

24 (1) The Illinois Department determines that there  
25 is insufficient evidence of fraud, or the provider or  
26 alternate payee demonstrates clear cooperation with

1           the Illinois Department, as determined by the Illinois  
2           Department, such that the circumstances do not give  
3           rise to the need for withholding of payments; or

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

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

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

22                   (M) Notwithstanding any other provision of this Code, the  
23          Illinois Department, at its discretion, may exempt an entity  
24          licensed under the Nursing Home Care Act, the ID/DD Community  
25          Care Act, or the MC/DD Act from the provisions of subsections  
26          (A-15), (B), and (C) of this Section if the licensed entity is



1 in receivership.

2 (Source: P.A. 98-214, eff. 8-9-13; 98-550, eff. 8-27-13;

3 98-756, eff. 7-16-14; 99-180, eff. 7-29-15.)

4 Section 99. Effective date. This Act takes effect upon

5 becoming law.