

Mvd  
3-13-99

03-22-1999



Docket No.:

7341-23533

Tab settings

To the Honorable Commissioner of Patents

100989762

attached original documents or copy thereof.

1. Name of conveying party(ies):  
**Info Systems of North Carolina, Inc.**

- Individual(s)
- General Partnership
- Corporation-State **North Carolina**
- Other
- Association
- Limited Partnership

Additional names(s) of conveying party(ies) attached?  Yes  No

3. Nature of conveyance:

- Assignment
- Security Agreement
- Other **Asset Purchase**
- Merger
- Change of Name

Execution Date: **Dec. 3, 1996**

2. Name and address of receiving party(ies):

Name: **Health Care Division, Inc.**

Internal Address: **Suite 110**

Street Address: **7512 East Independence Blvd.**

City: **Charlotte** State: **NC** ZIP: **28227**

- Individual(s) citizenship
- Association
- General Partnership
- Limited Partnership

Corporation-State **Georgia**

Other

If assignee is not domiciled in the United States, a domestic representative designation is attached:  Yes  No

(Designations must be a separate document from Assignment)

Additional name(s) & address(es) attached?  Yes  No

4. Application number(s) or registration numbers(s):

A. Trademark Application No.(s)

B. Trademark Registration No.(s)

1,501,182

Additional numbers attached?  Yes  No

5. Name and address of party to whom correspondence concerning document should be mailed:

Name: **Tammy M. Krieger**

Internal Address: **Morris, Manning & Martin, L.L.P.**

**Suite 1600**

Street Address: **3343 Peachtree Road NE**

City: **Atlanta** State: **GA** ZIP: **30326**

6. Total number of applications and registrations involved:.....

1

7. Total fee (37 CFR 3.41):.....\$ **\$40.00**

Enclosed

Authorized to be charged to deposit account

8. Deposit account number:

40.00 DP

DO NOT USE THIS SPACE

9. Statement and signature.

To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.

**Tammy M. Krieger**

Name of Person Signing

*Tammy M. Krieger*  
Signature

**March 11, 1999**

Date

Total number of pages including cover sheet, attachments, and document:

03/11/1999 JMW:MS 0000157 151182

4

TRADEMARK

REEL: 1871 FRAME: 0410

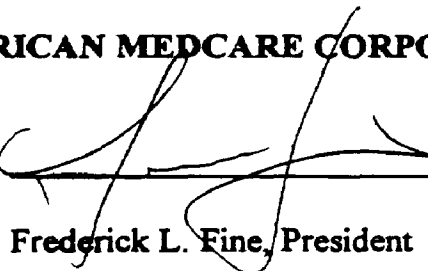
**ASSIGNMENT**

American Medicare Corporation ("AMC") hereby assigns to Health Care Division, Inc. ("HCD") all of its rights to purchase the Assets, as defined in that certain Asset Purchase Agreement ("Purchase Agreement") between AMC and Info Systems of North Carolina, Inc. dated December 3, 1996, subject to the assumption of the Assumed Obligations as defined in the Purchase Agreement.

IN WITNESS WHEREOF, AMC has executed this Assignment as of the 3 day of December, 1996.

**AMERICAN MEDICARE CORPORATION**

By: \_\_\_\_\_

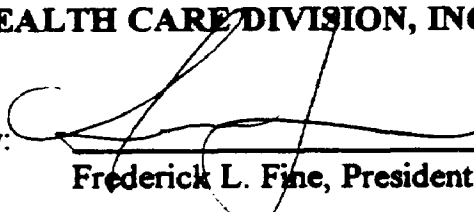


Frederick L. Fine, President

Agreed and Accepted:

**HEALTH CARE DIVISION, INC.**

By: \_\_\_\_\_



Frederick L. Fine, President

12/2/96

**ASSET PURCHASE AGREEMENT  
BETWEEN  
AMERICAN MEDCARE CORPORATION AND  
INFO SYSTEMS OF NORTH CAROLINA, INC.**

# TABLE OF CONTENTS

Page

## SECTION I

<b>DEFINITIONS</b> .....	1
1.1 <b><u>Certain Definitions</u></b> .....	1

## SECTION II

<b>PURCHASE AND SALE OF ASSETS</b> .....	4
2.1 <b><u>Purchase/Sale</u></b> .....	4
2.2 <b><u>Assumption of Liabilities and Obligations</u></b> .....	4
2.3 <b><u>No Employees of Info/Cure Group</u></b> .....	5
2.4 <b><u>Purchase Price</u></b> .....	5
2.5 <b><u>Closing</u></b> .....	6
2.6 <b><u>Effective Date</u></b> .....	7
2.7 <b><u>Calculation of Adjustments</u></b> .....	7
2.8 <b><u>Purchase Price Allocation</u></b> .....	8

## SECTION III

<b>REPRESENTATIONS AND WARRANTIES OF ISI</b> .....	9
3.1 <b><u>Corporate</u></b> .....	9
3.2 <b><u>Financial Statements</u></b> .....	10
3.4 <b><u>Absence of Certain Finance and Business Changes</u></b> .....	12
3.5 <b><u>Guaranties/Liens</u></b> .....	13
3.6 <b><u>No Undisclosed Liabilities</u></b> .....	13
3.7 <b><u>Accounts Receivable</u></b> .....	13
3.8 <b><u>Ownership of Intellectual Property</u></b> .....	14
Software .....	14
Other Intellectual Property Rights Relating to the Software .....	14
Trademark .....	15
Software Developers .....	15
Rights of Licensees .....	16
No Infringements .....	16
Licensed Software .....	17
ISI Software .....	18
Supplier Software .....	18
Confidentiality .....	18
Source Code Escrow Agreements .....	19
Clear Title .....	19
3.9 <b><u>Property and Equipment</u></b> .....	19
3.10 <b><u>License Agreements</u></b> .....	19
3.11 <b><u>Consulting and Development Agreements</u></b> .....	20

3.12	<u>Maintenance/Commitments</u>	21
3.13	<u>All Intangible Assets Used in the Business</u>	22
3.14	<u>Employees/Consultants/Directors</u>	22
3.15	<u>Assumed Agreements</u>	22
3.16	<u>Litigation and Adverse Events</u>	23
3.17	<u>Compliance with Applicable Law</u>	23
3.20	<u>Brokers and Finders</u>	24
3.21	<u>No Untrue Statements</u>	24
3.22	<u>Representations Regarding Note</u>	25

**SECTION IV.**

	<b>REPRESENTATIONS AND WARRANTIES OF AMC</b>	26
4.1	<u>Organization and Standing of AMC</u>	27
4.2	<u>Authorization - AMC</u>	27
4.3	<u>Brokers and Finders</u>	28
4.4	<u>No Untrue Statements</u>	28

**SECTION V.**

	<b>CONDITIONS TO THE OBLIGATIONS OF AMC</b>	28
5.1	<u>Representations and Warranties: Performance</u>	28
5.2	<u>Third Party Consents</u>	29
5.3	<u>Opinion of ISI's Counsel</u>	29
5.4	<u>Authorization</u>	29
5.5	<u>Bill of Sale</u>	29
5.6	<u>Management Agreement</u>	30
5.7	<u>Distributor Agreement</u>	30
5.8	<u>ISI Software License Agreement</u>	30
5.9	<u>Update Disclosure Schedule</u>	30

**SECTION VI.**

	<b>CONDITIONS TO THE OBLIGATIONS OF ISI</b>	30
6.1	<u>Representations and Warranties: Performance</u>	30
6.2	<u>Opinion of Counsel to AMC</u>	31
6.3	<u>Note</u>	31
6.4	<u>Authorization</u>	31
6.5	<u>Assumption Agreement</u>	31
6.6	<u>Management Agreement</u>	31
6.7	<u>Distributor Agreement</u>	32
6.8	<u>ISI Software License Agreement</u>	32

**SECTION VII.**

	<b>CONDUCT OF BUSINESS</b>	32
7.1	<u>Conduct of Business</u>	32

Maintain Corporate Existence, Etc .....	32
Disposition of Assets .....	33
Full Access .....	33

**SECTION VIII**

<b>CONFIDENTIALITY AND SECURITY .....</b>	<b>33</b>
<b>8.1 <u>Confidentiality</u> .....</b>	<b>33</b>

**SECTION IX.**

<b>INDEMNIFICATION .....</b>	<b>38</b>
<b>9.1 <u>Indemnification by ISI</u> .....</b>	<b>38</b>
<b>9.2 <u>Indemnification by AMC</u> .....</b>	<b>41</b>
<b>9.3 <u>Reimbursement</u> .....</b>	<b>43</b>
<b>9.4 <u>Claims</u> .....</b>	<b>44</b>
<b>9.5 <u>Resolution of Disputes</u> .....</b>	<b>45</b>

**SECTION X.**

<b>COVENANT NOT TO COMPETE .....</b>	<b>46</b>
--------------------------------------	-----------

**SECTION XL**

<b>TERMINATION AND ABANDONMENT .....</b>	<b>47</b>
<b>11.1 <u>Termination and Abandonment</u> .....</b>	<b>47</b>
<b>11.2 <u>Rights and Obligations on Termination</u> .....</b>	<b>49</b>

**SECTION XII**

<b>MISCELLANEOUS PROVISIONS .....</b>	<b>49</b>
<b>12.1 <u>Investigations: Survival of Warranties</u> .....</b>	<b>49</b>
<b>12.2 <u>Headings</u> .....</b>	<b>50</b>
<b>12.3 <u>Further Assurances</u> .....</b>	<b>50</b>
<b>12.4 <u>Force Majeure</u> .....</b>	<b>50</b>
<b>12.5 <u>Cumulative Remedies</u> .....</b>	<b>51</b>
<b>12.6 <u>Entire Agreement</u> .....</b>	<b>51</b>
<b>12.7 <u>Specific Performance</u> .....</b>	<b>51</b>
<b>12.8 <u>Notices</u> .....</b>	<b>51</b>
<b>12.9 <u>Non-Waiver of Default</u> .....</b>	<b>52</b>
<b>12.10 <u>Partial Invalidity</u> .....</b>	<b>52</b>
<b>12.11 <u>Duplicate Originals</u> .....</b>	<b>53</b>
<b>12.12 <u>Assignment</u> .....</b>	<b>53</b>
<b>12.13 <u>Fees and Expenses</u> .....</b>	<b>53</b>
<b>12.14 <u>Governing Law</u> .....</b>	<b>53</b>
<b>12.15 <u>Counterparts and Exhibits</u> .....</b>	<b>53</b>
<b>12.16 <u>Publicity</u> .....</b>	<b>54</b>

**ASSET PURCHASE AGREEMENT  
BETWEEN  
AMERICAN MEDCARE CORPORATION AND  
INFO SYSTEMS OF NORTH CAROLINA, INC.**

**THIS ASSET PURCHASE AGREEMENT** ("Agreement") is made as of the 3rd day of December, 1996 by and between American Medicare Corporation, a Delaware corporation ("AMC") and Info Systems of North Carolina, Inc., a North Carolina corporation ("ISP").

**WHEREAS**, ISI desires to sell the business conducted by its division generally known as the Info/Cure Group and the assets used in such business.

**WHEREAS**, AMC is willing to acquire such business and assets upon the terms and conditions set forth in this Agreement.

**NOW THEREFORE**, in consideration of the mutual promises herein made and of other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

**SECTION I  
DEFINITIONS**

**1.1 Certain Definitions**

- (a) "Affiliate" or "Affiliate of ISI" means any person, corporation, subsidiary, or other business entity which, whether directly or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with, ISI.
- (b) "Copyright" means all copyright ownership of the Software and Documentation.

and records as of the Closing, which reserves have been established in a manner which is consistent with past practices.

### **3.8 Ownership of Intellectual Property**

- (a) **Software.** ISI is the sole and exclusive owner throughout the world of the Software, including (i) the software and software code developed or being developed by or on behalf of or at the request of ISI or the Info/Cure Group (regardless of the state of the development of the software and whether it has been released); and (ii) all software used and/or licensed in the conduct of the business of the Info/Cure Group, except for the Licensed Software and the other software ("Supplier Software") listed in Section 3.8(a) of the Disclosure Schedule.
- (b) **Other Intellectual Property Rights Relating to the Software.** ISI is the sole and exclusive owner throughout the United States of (i) all Copyrights, whether or not registered, including but not limited to the moral rights; (ii) all other Intellectual Property rights, including, without limitation, trade secrets, know-how, inventions (patented and unpatented), and discoveries embodied in or used in the development of the Software, or any part thereof, and the screen displays generated by the Software; and (iii) all Documentation; except with respect to the Licensed Software and Supplier Software used in the development of the Software listed on Section 3.8(b)(i) of the Disclosure Schedule or as otherwise provided in Section 3.8(a) of the Disclosure Schedule. Section 3.8(b)(ii) of the Disclosure



Schedule contains a correct and complete list of all registered Copyrights, the date of registration and jurisdiction of such registrations. ISI has not filed any patent applications and does not hold any patents applicable to the business of the Info/Cure Group.

- (c) Trademarks. The Info/Cure Group is the sole and exclusive owner of the Trademarks which include all identifying names and marks which are associated with the Software or the Licensed Software or which are otherwise used in the Business conducted by the Info/Cure Group. A complete and correct list of all the Trademarks is set forth in Section 1.03 of the Disclosure Schedule. Section 1.03 of the Disclosure Schedule also lists the date of registration, registration number, and jurisdiction of such registration of each Trademark or date of application if the trademark application is pending.
- (d) Software Developers. Section 3.8(d) of the Disclosure Schedule sets forth the list of all persons and entities (other than full time employees) that have assisted at any time, directly or indirectly, in the design, development, correction, improvement, modification, and/or enhancement of the Software, Copyrights and/or Trademarks. Section 3.8(d) of the Disclosure Schedule also identifies the written agreements and describes all oral agreements pursuant to which each such person or entity assigned or licensed its rights in such intellectual property to ISI or acknowledged ISI's ownership rights therein. Correct and complete copies of each such

agreement or assignment has been furnished to AMC. The employees and former employees of ISI do not have any right, title or interest in the Software, ISI Software, Licensed Software, Copyrights, Trademarks, or other Intellectual Property. Section 3.8(d) of the Disclosure Schedule sets forth the current form of the standard ISI agreements with its employees.

(e) Rights of Licensees. The ownership rights of ISI in Intellectual Property and Software set forth above are subject only to the non-exclusive licenses granted to end users and distributors by ISI as described in Paragraph 3.10 of this Agreement.

(f) No Infringements. The Software, Licensed Software, ISI Software, Documentation, Copyrights, Trademarks, and other Intellectual Property do not, and did not at any time, violate or infringe any copyright, patent, trade secrets, know-how, trademarks or other intellectual property rights of any third party, are not in the public domain, have not been licensed and/or permitted to be duplicated except as disclosed in this Agreement or provided by law and, to the knowledge of the Management of ISI, have not been duplicated except as permitted under the applicable licenses and law, have not been reverse compiled or engineered and there are no claims or actions pending or threatened or which have been brought asserting such violation or infringement or that any Software, Licensed Software, ISI Software, Documentation, Copyrights, Trademarks, or other Intellectual

Property used in the Business of the Info/Cure Group is in the public domain.

- (g) Licensed Software. ISI has the exclusive rights to use, market, distribute, copy, sublicense, modify, update, and service the Licensed Software and has not granted any rights to use, market, distribute, copy, sublicense, modify, update, and service the Licensed Software to anyone except (i) licenses to end users heretofore entered into to use and copy the Licensed Software and (ii) the rights heretofore granted to Distributors (as hereinafter defined). The entire rights and obligations of ISI with respect to the Licensed Software with the owner of certain code included in the Licensed Software are set forth in the License and Exclusive Distributorship Agreement dated June 5, 1986 between Rickie D. Graham ("Licensor") and ISI, as licensee, and the Security Agreement dated as of June 5, 1986 between Licensor and ISI (collectively "Licensed Software Agreements"). Neither ISI nor, to the knowledge of ISI Management, Licensor is in default of its obligations under the Licensed Software Agreements. Pursuant to the Licensed Software Agreements, ISI has the right, power and authority to grant to AMC the exclusive rights set forth in the distributor agreement ("Distributor Agreement") set forth in Exhibit C hereto without royalty subject to the rights heretofore granted to Distributors. Upon the execution and delivery of the Distributor Agreement, such agreement will constitute a valid and binding agreement

of ISI enforceable in accordance with its terms. ISI will promptly disclose the Distributor Agreement to Licensor as required under the Licensed Software Agreements. A correct and complete copy of the Licensed Software Agreements have been previously provided to AMC.

- (h) **ISI Software.** ISI is the exclusive owner of the software described in Section 3.8(h) of the Disclosure Schedule (“ISI Software”) and has the power and authority to enter into and to grant to AMC the royalty free non-exclusive license and right to use, market, distribute, copy, sublicense, modify, update, and service the ISI Software in the health care industry as set forth in Exhibit D and such grant upon execution and delivery constitutes a valid and binding agreement of ISI enforceable in accordance with its terms.
- (i) **Supplier Software.** ISI licenses and has licensed as licensee for use in the conduct of the Business of the Info/Cure Group as currently conducted only the Supplier Software and the Licensed Software, including class libraries and tools, solely for the purposes set forth therein, and the Supplier Software and the Licensed Software is the only software of others used by the Info/Cure Group or used in the conduct of the Business as currently conducted.
- (j) **Confidentiality.** ISI has taken reasonable commercial efforts and has required its employees, consultants, and licensees to take reasonable

**12.15 Counterparts and Exhibits**

This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

The Disclosure Schedule is made a part of this Agreement.

**12.16 Publicity**

ISI shall make no public announcement of the entering into of this Agreement or the terms and conditions hereof without the prior written consent of AMC thereto. ISI acknowledges that AMC, as a publicly-held company, may be required or deem it desirable to make such public disclosure of the execution of this Agreement and the terms and conditions hereof at any time hereafter. With respect to any disclosure prior to the Closing, AMC shall provide ISI with a copy of any such disclosure promptly after it is made and, to the extent practical, will review any proposed press release with ISI before it is released. After the Closing, the parties shall have no obligations to the other under this paragraph 12.16.

**INFO SYSTEMS OF NORTH CAROLINA, INC.**

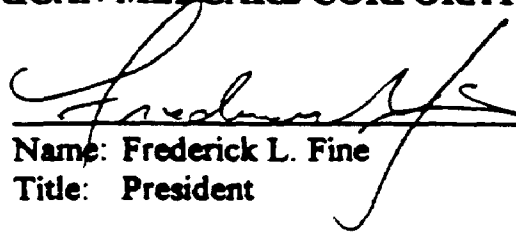
By: James J. Kenney  
Name: JAMES J. KENNEY  
Title: SR. V.P.

**Address for Notice:**

Address: 7500 EAST INDEPENDENCE BLVD.  
CHARLOTTE NC 28227  
Telecopy No.: (704) 567-8958  
Attention: JAMES KENNEY

**AMERICAN MEDCARE CORPORATION**

By:

  
Name: Frederick L. Fine  
Title: President

**Address for Notice:**

Address: 2970 Clairmont Road, Suite 950  
Atlanta, Georgia 30329  
Telecopy No.: 404/636-7525  
Attention: President