

Georgia

Compliance Program: Code of Conduct

This is a supplement to Kindred's Employee Handbook for employees who work in Georgia. As stated in our Employee Handbook, the federal False Claims Act and similar state laws assist the federal and state governments in combating fraud and recovering losses resulting from fraud in government programs, purchases and/or contracts. These laws are some of the most important laws that govern our business. Like the federal False Claims Act, the Georgia Medicaid fraud and self-referrals laws impose liability on persons or companies that make or cause to be made false or fraudulent claims to the government for payment or who knowingly make, use or cause to be made or used, a false record or statement to get a false or fraudulent claim paid by the government. These Georgia laws apply to Medicaid reimbursement and prohibit, among other things:

- Billing Georgia's Medicaid program for services or goods not provided;
- Billing Georgia's Medicaid program for undocumented services;
- Making inaccurate, false or improper entries in medical records, cost reports and any other records used to support reimbursement;
- Billing Georgia's Medicaid program for services that are medically unnecessary or that fail to meet professionally recognized standards for health care;
- Characterizing non-covered services or costs in a way that secures reimbursement from Georgia's Medicaid program;
- Assigning an incorrect code to a service in order to obtain a higher reimbursement;
- Failing to seek payment from beneficiaries who may have other primary payment sources;
- Participating in kickbacks, rebates, or fee-splitting;
- Altering, falsifying, destroying, or concealing medical records, income and expenditure reports or any other records that support Medicaid reimbursement.

Civil and Criminal Penalties for False Claims or Statements

A violation of the Georgia false claims laws may result in restitution for any improper payment and a civil penalty for false claims of \$5,500 to \$11,000 per false claim, three times the amount of the excess payments, plus interest, and termination from the Medicaid program. In addition, any person who violates these laws may be guilty of crimes punishable by imprisonment for up to 10 years and/or a fine up to \$10,000 for each offense. A violation of Georgia's self-referral laws may result in separate civil penalties of \$15,000 for each service provided in violation of the Act, up to \$50,000 for each unlawful referral arrangement or scheme, and revocation of the provider's license, in addition to potential civil and criminal liability for false claims.

Civil Lawsuits

Like the federal False Claims Act, Georgia law also allows civil lawsuits to be filed by the state government or by private citizens, including employees. If the private citizen is successful in the lawsuit, he/she may share a percentage of any monetary recovery and receive an award for reasonable attorney's fees and costs. However, if the private plaintiff is convicted of a crime related to the legal violation that is the subject of the civil suit, the plaintiff shall be dismissed from the civil action and shall not receive any share of the proceeds of the action. If the state chooses not to join the civil suit, the private plaintiff may proceed with the action without the state's participation.

No Retaliation

Like federal law and Kindred policy, various Georgia laws prohibit public and private employers from retaliating, discriminating or harassing employees because of their lawful participation in a false claims disclosure or their refusal to assist employers in violating the law. These laws also provide for certain monetary awards and equitable relief to the prevailing plaintiff including compensation for lost wages and reinstatement to a former position.

Any employee who engages in or condones any form of retaliation against another employee because that employee either (1) reported a potential violation of violation of Kindred's Code of Conduct or regulatory violation, or (2) refused to violate Kindred's Code of Conduct or a government law or regulation, will be subject to disciplinary action up to and including separation of employment. See Kindred's Concern Resolution Procedure in the Employee Handbook for information on reporting concerns.

Copies of Georgia Laws

The Georgia laws summarized above include: (1) State False Medicaid Claims Act, Ga. Code Ann, § 49-4-146.1, and 49-4-168; (2) Patient Self-Referral Act of 1993, Ga. Code Ann. §§ 43-1B-1 to 43-1B-8; and (3) Public sector retaliation laws, Ga. Code Ann. § 45-1-4. If you have questions about any of these requirements, you may contact Kindred's Compliance Hotline at 1-800-359-7412. This summary and others are also posted on Kindred's external web site, www.kindredhealthcare.com, and Kindred's intranet site (KNECT) under the Compliance home page.