

South Carolina

Compliance Program: Code of Conduct

This is a supplement to Kindred's Employee Handbook for employees who work in South Carolina. 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 South Carolina Medicaid False-Claim law imposes 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 South Carolina laws apply to Medicaid reimbursement and prohibit, among other things:

- Billing South Carolina's Medicaid program for services or goods not provided;
- Billing South Carolina'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 South Carolina's Medicaid program for services that are medically unnecessary;
- Characterizing non-covered services or costs in a way that secures reimbursement from South Carolina'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 or rebates;
- 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 South Carolina false claims laws may result in restitution for any improper payment and a civil penalty for false claims of up to \$2,000 for each excessive payment, 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 3 years and/or a fine up to \$1,000 for each offense.

Civil Lawsuits

Currently, unlike the Federal False Claims Act, South Carolina law allows civil lawsuits to recover monetary damages to be filed only by the state government and not by private citizens or employees. There is no provision for a private citizen to share a percentage of any monetary recoveries.

No Retaliation

Similar to Federal law and Kindred policy, South Carolina law prohibits state employers from retaliating against any state employee who discloses a violation of any federal, state, or local law, rule, regulation or ordinance. South Carolina law does not contain similar protections for non-governmental employees. Nevertheless, Kindred expects employees to adhere to Federal law and to Kindred's policy prohibiting retaliation.

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 South Carolina Laws

The South Carolina laws summarized above include: (1) Medicaid fraud laws, S.C. Code Ann. § 43-7-60; (2) The Provider Self-Referral Act of 1993, S.C. Code Ann. §§ 44-113-10 to 44-113-80; and (3) Public sector retaliation laws, S.C. Code Ann. §§ 8-27-10 to 8-27-50. 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.