

Utah

Compliance Program: Code of Conduct

This is a supplement to Kindred's Employee Handbook for employees who work in Utah. 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 Utah False Claims Act 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 Utah laws apply to Medicaid reimbursement and prohibit, among other things:

- Billing Utah's Medicaid program for services or goods not provided;
- Billing Utah'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 Utah's Medicaid program for services that are medically unnecessary;
- Characterizing non-covered services or costs in a way that secures reimbursement from Utah'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 and 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 these Utah laws may result in restitution for any improper payments plus civil penalties between \$5,000 and \$10,000 per claim, three times the amount of damages sustained by the state government, payment of the government's expenses to pursue reimbursement, 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 15 years and a fine up to \$10,000. Corporations who violate these laws may be guilty of crimes punishable by a fine up to \$20,000, plus additional sanctions of notifying the persons or public affected by the crime and/or disqualification of company officers involved in the crime from serving in a similar capacity for any company for up to five years.

Civil Lawsuits

Currently, unlike the Federal False Claims Act, Utah 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, Utah law prohibits state employers from retaliating, discriminating or harassing any state employee who communicates in good faith a violation of a state law, rule or regulation. Utah 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 Utah Laws

The Utah laws summarized above include: (1) False Claims Act, Utah Code Ann. §§ 26-20-1 to 26-20-13; (2) Civil Penalties, Utah Code Ann. § 26-20-9.5; (3) Criminal Penalties, Utah Code Ann. §§ 26-20-9, 76-3-203, and 76-3-301 to 76-3-303; and (4) Protection of Public Employees Act, Utah Code Ann. §§ 67-21-1 to 67-21-9. 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.